AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.41—No.126
6–29–76

PAGES
26669–26842

# federal register

TUESDAY, JUNE 29, 1976




## highlights

PART I:

**PRIVACY ACT**
HEW issues notice of modified systems of records..... 26735

**OCCUPATIONAL SAFETY AND HEALTH**
Occupational Safety and Health Review Commission proposes changes in rules of practice and procedure; comments by 8–16–76..... 26707

**BLACK LUNG**
HEW/SSA proposes regulations on benefits appeals review; comments by 7–29–76..... 26705

**TRADE POLICY REVIEW GROUP**
Office of the Special Representative for Trade Negotiations terminates petition review on alleged unfair trade practices by Guatemala..... 26758

**MEDICAL CARE**
OMB issues notice of rates for treatment furnished by U.S..... 26757

**FISHERIES**
Commerce/NOAA provides for protective fees for vessels seized by foreign countries; effective 6–29–76..... 26693

**BOLL WEEVIL**
USDA/APHIS announces availability of environmental impact statement on eradication program..... 26730

**FARM BENEFITS**
USDA/FmHA issues regulations on certain programs and applications; effective 6–30–76..... 26676

**PESTICIDES**
HEW/FDA and EPA set tolerance for glyphosate in animal feeds administered by EPA (2 documents); effective 6–29–76..... 26743
EPA proposes tolerance for ceptafol in agricultural commodities; comments by 7–29–76..... 26707

**CONSUMER PRODUCT WARRANTIES**
FTC modifies enforcement policy..... 26757

**FOREIGN EXCHANGE**
Treasury eliminates certain report forms; effective 6–30–76..... 26680

**INCOME TAXES**
Treasury/IRS proposes denial of DISC benefits to energy resources and other products; comments by 8–6–76..... 26695

CONTINUED INSIDE

# reminders

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

**Rules Going Into Effect Today**

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

**List of Public Laws**

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S.J. Res. 201..... Pub. Law 94–318
Joint resolution to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake dredging operations for Operation Sail.
(June 25, 1976; 90 Stat. 708)

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Twelve 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 |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/PSOO | LABOR | | DOT/PSOO | 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.

**ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5284. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.**

federal register
Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

**TRUST FUNDS**
Treasury/Comptroller adopts regulations on filing requirements for annual reports; effective 6–29–76..... 26678

**BANKS**
FRS issues regulations on automated payments and use of cash items in process of collection..... 26679

**COMMUNITY ACTION**
CSA issues regulations on grant programs (3 documents); effective on and comments by 7–29–76.. 26685–26689

**SMALL BUSINESS**
SBA proposes provisions for idle funds deposited in savings accounts; comments by 7–29–76..... 26716

**AIR FORCE ACADEMY**
DOD/AF proposes revised criteria for appointments; comments by 7–30–76..... 26698

**VETERANS BENEFITS**
VA issues regulations on education and on effective dates of awards (2 documents); effective 6–21 and 6–23–76 ..... 26681

**TRANSFORMERS**
USDA/REA revises specifications; effective 1–1–77..... 26675

**HEALTH MANPOWER**
HEW/PHS amends regulations for grants to areas with physician shortages; effective 6–29–76..... 26684

**NEW ANIMAL DRUGS**
HEW/FDA and EPA announce transfer of pesticidal drugs from dual jurisdiction to sole authority of FDA; (2 documents), Information requested from registrants by 8–30–76..... 26734, 26743
HEW/FDA withdraws approval of ferromycin and denies request for hearing; effective 6–29–76..... 26731

**TUNA**
Commerce/NOAA announces season closure for Atlantic fisheries; effective 6–29–76..... 26694

**AGRICULTURAL WORKERS**
Labor/OSHA clarifies regulations on sanitary facilities; comments by 7–20–76..... 26716

**MEETINGS—**
CSC: Federal Employees Pay Council, 7–30–76..... 26741
Defense Nuclear Agency: Scientific Advisory Group on Effects, 8–10 thru 8–12–76..... 26742
Labor/W&H: Sheltered Workshops Advisory Committee, 7–14–76..... 26773
EPA: State-Federal Water Programs Advisory Committee, 7–14–76..... 26746
SBA: Hartford District Advisory Council, 7–15–76..... 26764

**PART II:**

**FARM LABOR**
Labor establishes regulations for contractor registration; effective 7–29–76..... 26819

**PART III:**

**CHILD LABOR**
Labor/W&H revises regulations on employment, records and certificates of age; effective 6–29–76..... 26833

**PART IV:**

**OIL ALLOCATION**
FEA issues entitlement notice for April 1976..... 26837

**PART V:**

**CHLOROFORM**
HEW/FDA prohibits use in human drugs and cosmetics; effective 7–29–76..... 26841

# contents

**AGRICULTURAL MARKETING SERVICE**

**Rules**

Grain standards:
Fresh fruits, vegetables, nuts, etc.; correction..... 26674
Wheat ..... 26670
Lemons grown in Calif. and Ariz.. 26675

**Proposed Rules**

Milk marketing orders:
Middle Atlantic area..... 26705
Peaches grown in Wash..... 26703
Pears, plums and peaches grown in Calif..... 26703
Prunes grown in Wash. and Oreg.. 26704
Tobacco inspection and price support services; extension..... 26701

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service; Packers and Stockyards Administration; Rural Electrification Administration; Soil Conservation Service.

**AIR FORCE DEPARTMENT**

**Proposed Rules**

U.S. Air Force Academy; methods of application, requirements and procedures for apportionment.. 26698

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

**Notices**

Environmental statements, availability, etc:
Trial boll weevil eradication program ..... 26730

**CIVIL AERONAUTICS BOARD**

**Notices**

*Hearings, etc.:*
Hawaiian Airlines, Inc..... 26740
Smyth Worldwide Movers Inc.. 26741

**CIVIL SERVICE COMMISSION**

**Rules**

Excepted service:
Defense Department..... 26669
Environmental Protection Agency ..... 26669
National Foundation on the Arts and the Humanities..... 26669
State Department..... 26669

**Notices**

Meetings:
Federal Employees Pay Council.. 26741
Noncareer executive assignments:
Commerce Department..... 26741
Defense Department (2 documents) ..... 26741

**COAST GUARD**

**Rules**

Security zones:
Delaware ..... 26680

**COMMERCE DEPARTMENT**

*See* National Oceanic and Atmospheric Administration.

**COMMUNITY SERVICES ADMINISTRATION**

**Rules**

Community action programs; funding (3 documents).. 26685–26689

COMPTROLLER OF THE CURRENCY

Rules

Trust funds; annual reports filing requirement ..... 26678

DEFENSE DEPARTMENT

*See* Air Force Department; Defense Nuclear Agency.

DEFENSE NUCLEAR AGENCY

Notices

Meetings:
Scientific Advisory Group on Effects ..... 26742

DRUG ENFORCEMENT ADMINISTRATION

Notices

Hearing:
New Seabury Pharmacy ..... 26718

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Unemployment compensation, emergency; Federal supplemental benefits; ending periods:
Kentucky ..... 26765
Tennessee ..... 26765
West Virginia ..... 26766

ENVIRONMENTAL PROTECTION AGENCY

Rules

Bidders, ineligible; cancellation of regulation ..... 26684

Proposed Rules

Air quality implementation plans; various States, etc.:
District of Columbia ..... 26706
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Captafol ..... 26707
Toxic pollutants; effluent standards; correction ..... 26706

Notices

Meetings:
State-Federal Water Programs Advisory Committee ..... 26746
Pesticide/new animal drugs, transfer of authority to Food and Drug Administration; cross reference ..... 26743
Pesticide chemicals in or on raw agricultural commodities; tolerances, exemptions, etc.:
Glyphosate ..... 26743
Pesticide registration:
Applications ..... 26743
Indiana and Puerto Rico, interim certification ..... 26745
Pesticides, experimental use permit:
Forest Service, methyl 2-benzimidazole-carbamate hydrochloride on elm trees ..... 26746
Pesticides, mercurial; order granting motion for reconsideration in case of Chapman Chemical Co. et al ..... 26742

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed Rules

706 Agencies; proposed designation ..... 26707

FARMERS HOME ADMINISTRATION

Rules

Applications; receipt and processing ..... 26676
Timesaving and program improvement; settlement statements ..... 26676
Truth in lending; real estate settlement procedures ..... 26677

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster area:
Georgia ..... 26740

FEDERAL ENERGY ADMINISTRATION

Notices

Canadian Allocation Program; correction ..... 26746
Old oil allocation program, 1976; entitlement notices:
April ..... 26837

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Aquino Shipping Co., Inc ..... 26746
Sharrott, Howard C ..... 26746
*Agreements filed, etc.:*
Continental North Atlantic Westbound Freight Conference ..... 26746
Thailand/Pacific Freight Conference ..... 26748

FEDERAL POWER COMMISSION

Notices

*Hearings, etc.:*
Alpha Oil & Gas Co. et al ..... 26749
Cities Service Gas Co. (2 documents) ..... 26749
City of Falfurrias, Tex. and National Gas Pipeline Co. of America ..... 26749
Colorado Interstate Gas ..... 26750
Columbia Gulf Transmission Co ..... 26753
Eastern Shore Natural Gas Co ..... 26751
Kansas Power and Light Co ..... 26751
Maguire, Robert E ..... 26753
Mid Louisiana Gas Co ..... 26751
Mississippi River Transmission Corp. et al ..... 26753
Natural Gas Pipeline Co. of America ..... 26751
North Penn Gas Co ..... 26752
Sea Robin Pipeline Co ..... 26752
Texas Gas Transmission Corp ..... 26752
United Gas Pipe Line Co ..... 26752
Willamette River Basin ..... 26752

FEDERAL RESERVE SYSTEM

Rules

Process of collection; automated payment and use of cash items ..... 26679

Notices

Actions of the board; applications and reports ..... 26753
*Applications, etc.:*
Bank Shares Inc ..... 26756
Rogers Billings, Inc ..... 26756
Security Pacific Corp ..... 26756

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
J. Kurtz & Sons, Inc., et al.; correction ..... 26679

Notices

Magnuson-Moss Warranty Act; modification of implementation and enforcement policy ..... 26757

FISCAL SERVICE

Notices

Surety companies acceptable on Federal bonds:
Trinity Universal Insurance Co ..... 26718

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Lacreek National Wildlife Refuge, S. Dak ..... 26693
Hunting:
Ul Bend-Bowdoin National Wildlife Refuges, Mont ..... 26693

Notices

Endangered species permits; applications:
Atlanta Zoological Park ..... 26719
Hawaii National Park ..... 26720
Peninsula Humane Society ..... 26721
University of Alaska ..... 26724
Vernon E. Turner ..... 26723

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Glyphosate ..... 26679
Human drugs:
Chloroform ..... 26841

Notices

Animal drugs:
Iron dextrin complex with neomycin sulfate; denial of hearing; withdrawal of approval ..... 26731
Pesticide/new animal drug products; request for information ..... 26734

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Lake Five Planning Unit ..... 26730

GEOLOGICAL SURVEY

Notices

Known leasing area (coal); Nucla, Colo ..... 26725
Known leasing area (coal); Rawlins, Wyo ..... 26725

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

*See also* Food and Drug Administration; Public Health Service; Social Security Administration.

**Notices**

Privacy Act; systems of records and proposed routine uses ..... 26735

**HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT**

**Notices**

Applications, etc.:
- Bigwood Coal Co ..... 26727
- Christopher Coal Co ..... 26727
- Island Creek Coal Co ..... 26727
- M, S & M Coal Co ..... 26728
- Musketeer Coal Co ..... 26728
- Oliver Coal Co ..... 26729
- Richard Coal Co ..... 26729
- Tripple B. Mining Co., Inc ..... 26730

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

*See* Federal Disaster Assistance Administration.

**INTERIOR DEPARTMENT**

*See* Fish and Wildlife Service; Geological Survey; Hearings and Appeals Office; Land Management Bureau; National Park Service.

**INTERNAL REVENUE SERVICE**

**Proposed Rules**

Energy resources and certain other products; denial of DISC benefits ..... 26695

**INTERSTATE COMMERCE COMMISSION**

**Rules**

Rail car service orders:
- Chicago & Eastern Railroad Co ..... 26692

**Notices**

Agreements under section 5b, applications for approval, etc.:
- Alaska Rail-Water Agreement ..... 26773
- Tidewater Coal Demurrage Agreement ..... 26775

Fourth section application for relief ..... 26774

Hearing assignments ..... 26774

Motor carriers:
- Transfer proceedings (2 documents) ..... 26774

**JUSTICE DEPARTMENT**

*See* Drug Enforcement Administration.

**LABOR DEPARTMENT**

*See also* Employment and Training Administration; Occupational Safety and Health Administration; Wage and Hour Division.

**Rules**

Farm labor; contractor registration ..... 26819

**Notices**

Adjustment assistance:
- Ampex Corp ..... 26767
- Cyclops Corp ..... 26767
- Fulton Clothes Co ..... 26768
- General Electric Co ..... 26768
- Jones & Laughlin Steel Corp ..... 26768
- Mack Shirt Co ..... 26769
- Magnavox Co ..... 26769
- Nevada Northern Railway Co ..... 26772
- Pattin Manufacturing Co ..... 26770
- Republic Corp. et al ..... 26770
- Republic Steel Corp ..... 26770
- Rockwell International Corp ..... 26773
- Stagg Zipper Corp ..... 26771
- Superior Plastics, Inc ..... 26771
- TRW, Inc ..... 26771
- Zimmer Manufacturing Industries, Inc ..... 26772

**LAND MANAGEMENT BUREAU**

**Notices**

Applications, etc.:
- New Mexico ..... 26719

Classification of lands:
- Blackfeet Indian Reservation, Mont., transfer of submarginal lands ..... 26718

**MANAGEMENT AND BUDGET OFFICE**

**Notices**

Cost of hospital and medical care and treatment furnished by the U.S.; certain rates regarding recovery from tortiously liable third persons ..... 26757

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**Rules**

Fisherman's protection; fees ..... 26693

Tuna, Atlantic fisheries ..... 26694

**NATIONAL PARK SERVICE**

**Notices**

Meetings:
- Advisory Board on National Parks, historic sites, buildings and monuments ..... 26726

National Register of historic places; notification of pending nominations ..... 26726

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

**Proposed Rules**

Agricultural workers; sanitary facilities ..... 26716

Rules of procedure; internal staff revisions ..... 26707

**Notices**

State plans; development, enforcement, etc.:
- Wyoming ..... 26766

**PACKERS AND STOCKYARDS ADMINISTRATION**

**Notices**

Posting and deposting of stockyards:
- Overland Stock Yards, Hansford, Calif., et al ..... 26731

**POSTAL SERVICE**

**Rules**

Postal Service Manual; incorporation by reference; extension ..... 26684

**PUBLIC HEALTH SERVICE**

**Rules**

Physician shortage areas; scholarship grants ..... 26684

**RURAL ELECTRIFICATION ADMINISTRATION**

**Rules**

Transformers, pad mounted; specifications ..... 26675

**SECURITIES AND EXCHANGE COMMISSION**

**Rules**

Accounting matters; interpretative release; correction ..... 26679

**Notices**

*Applications, etc.:*
- Black Thunder Coal Co. et al ..... 26758
- Government Employees Insurance Co ..... 26760
- Midwest Stock Exchange, Inc. (2 documents) ..... 26760
- Nuveen Income Fund and John Nuveen & Co. Inc ..... 26760
- Ohio Electric Co ..... 26761
- Philadelphia Stock Exchange, Inc. (2 documents) ..... 26762, 26763
- Varied Industry Plan, Inc., et al ..... 26763

**SMALL BUSINESS ADMINISTRATION**

**Proposed Rules**

Small business investment companies:
- Funds to licensees ..... 26716

**Notices**

Disaster areas:
- Illinois ..... 26764
- Northern Mariana Islands of the Pacific ..... 26764
- SCDF Investment Corp ..... 26764

Meetings:
- Hartford District Advisory Council ..... 26764

**SOCIAL SECURITY ADMINISTRATION**

**Proposed Rules**

Health insurance for aged and disabled:
- Appeals Council review; recommendation ..... 26705

**SOIL CONSERVATION SERVICE**

**Rules**

National offices; organization ..... 26674

**Notices**

Environmental statements on watershed projects; availability, etc.:
- Flint Creek, N.Y ..... 26731
- Short Creek, Ohio ..... 26731

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS OFFICE

Notices

Trade Policy Review Group; termination of petition ..... 26758

TREASURY DEPARTMENT

*See also* Comptroller of the Currency; Fiscal Service.

Rules

Foreign exchange; elimination of certain report forms ..... 26680

Notices

Antidumping:

Multi-metal lithographic plates from Mexico ..... 26718

VETERANS ADMINISTRATION

Rules

Awards; effective dates ..... 26681

Education; courses, approval and certification ..... 26681

WAGE AND HOUR DIVISION

Rules

Child labor; employment, records, and certificates of age ..... 26833

Wage orders; Puerto Rico, Virgin Islands, American Samoa ..... 26680

Notices

Meetings:

Sheltered Workshops Advisory Committee ..... 26773

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 22997, June 8, 1976)

RESERVATIONS: BILL SHORT, 523–5282

# list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

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

5 CFR

213 (4 documents) ..... 26669

7 CFR

26 ..... 26670
51 ..... 26674
600 ..... 26674
910 ..... 26675
1701 ..... 26675
1801 ..... 26676
1890t ..... 26676
1901 ..... 26677

PROPOSED RULES:

29 ..... 26701
917 ..... 26703
921 ..... 26703
924 ..... 26704
1004 ..... 26705

12 CFR

9 ..... 26678
204 ..... 26679

13 CFR

PROPOSED RULES:

107 ..... 26716

16 CFR

13 ..... 26679

17 CFR

211 ..... 26679

20 CFR

PROPOSED RULES:

404 ..... 26705
410 ..... 26705
416 ..... 26705

21 CFR

310 ..... 26838
561 ..... 26679
700 ..... 26838

26 CFR

PROPOSED RULES:

1 ..... 26695

29 CFR

40 ..... 26820
511 ..... 26680
570 ..... 26834
579 ..... 26834

PROPOSED RULES:

1601 ..... 26707
1928 ..... 26716
2200 ..... 26707

31 CFR

128 ..... 26680

32 CFR

PROPOSED RULES:

901 ..... 26698

33 CFR

127 ..... 26680

38 CFR

3 ..... 26681
21 ..... 26681

39 CFR

111 ..... 26684

40 CFR

PROPOSED RULES:

52 ..... 26706
129 ..... 26706
180 ..... 26707

41 CFR

15–1 ..... 26684

42 CFR

57 ..... 26684

45 CFR

1067 (3 documents) ..... 26685–26689

49 CFR

1033 ..... 26692

50 CFR

32 ..... 26693
33 ..... 26693
258 ..... 26693
285 ..... 26694

## CUMULATIVE LIST OF PARTS AFFECTED DURING JUNE

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.**

### 3 CFR

PROCLAMATIONS:

4444 ..... 22237
4445 ..... 24101

EXECUTIVE ORDERS:

April 26, 1859 (Revoked in part by PLO 5585) ..... 22939
July 21, 1871 (Revoked in part by PLO 5585) ..... 22939
11077 (Amended by EO 11922) ..... 24573
11490 (Amended by EO 11921) ..... 24293
11522 (Superseded by EO 11921) ..... 24293
11556 (Superseded in part by EO 11921) ..... 24293
11643 (Amended by EO 11917) ..... 22239
11649 (Amended by EO 11916) ..... 22031
11746 (Superseded by EO 11921) ..... 24293
11916 ..... 22031
11917 ..... 22239
11918 ..... 22329
11919 ..... 23663
11920 ..... 23665
11921 ..... 24293
11922 ..... 24573
11923 ..... 24689

MEMORANDUMS:

May 31, 1976 ..... 22331
June 2, 1976 ..... 23179
June 9, 1976 ..... 25879

### 4 CFR

400 ..... 22241
402 ..... 24691
410 ..... 22241
414 ..... 22241

### 5 CFR

213 ..... 22549, 23667, 24107, 24692, 24975, 26669
332 ..... 22549
752 ..... 22549, 23667
771 ..... 22550
1300 ..... 24682

PROPOSED RULES:

890 ..... 22096
1303 ..... 24610

### 7 CFR

0 ..... 24107
1 ..... 22333
2 ..... 22333
5 ..... 22333
26 ..... 22826, 26670
28 ..... 22923
29 ..... 24575, 24692
51 ..... 26674
52 ..... 25987
54 ..... 23681, 24693
70 ..... 23681, 24693, 26565
210 ..... 22923, 23695
226 ..... 26179
245 ..... 26192
246 ..... 22070
250 ..... 24694, 26192
265 ..... 22070
271 ..... 26192
401 ..... 22251, 23387–23389
402 ..... 22252
600 ..... 26674

### 7 CFR—Continued

650 ..... 24975
656 ..... 23181
731 ..... 22550
905 ..... 23184, 24575
907 ..... 22333, 23389
908 ..... 22550, 23697, 24109, 24576, 25994
910 ..... 22826, 23697, 24697, 25881, 26193, 26675
911 ..... 22827, 23698, 23929, 24697, 24698, 26194
915 ..... 24977
916 ..... 22070, 24698
917 ..... 22071, 23185, 24577
932 ..... 22551
944 ..... 23186, 24577
953 ..... 22071
1006 ..... 24337
1012 ..... 24337
1013 ..... 24337
1207 ..... 22072
1250 ..... 22923, 23930
1260 ..... 25881
1421 ..... 22334, 23930
1434 ..... 24337
1475 ..... 22551
1701 ..... 26675
1801 ..... 26676
1807 ..... 24109
1822 ..... 25885
1823 ..... 25995
1824 ..... 22255
1831 ..... 23390, 23698, 24699
1832 ..... 23390, 23699
1871 ..... 23392, 24700
1890t ..... 26676
1901 ..... 22256, 23186, 26677
2006 ..... 22928

PROPOSED RULES:

25 ..... 24385
29 ..... 26701
35 ..... 24715
51 ..... 22832
52 ..... 26021
107 ..... 24594
250 ..... 23719, 26228
271 ..... 23720
411 ..... 24382
912 ..... 22568, 24716
914 ..... 22569
915 ..... 22075
916 ..... 23207
917 ..... 22952, 25017, 26576, 26577, 26703
921 ..... 26576, 26703
922 ..... 24716, 26576
923 ..... 22278
924 ..... 26577, 26704
945 ..... 25017, 26225
958 ..... 23408
981 ..... 22075
984 ..... 22084
989 ..... 22569
1004 ..... 26705
1006 ..... 24382
1012 ..... 24382
1013 ..... 24382
1033 ..... 26577
1099 ..... 25909
1201 ..... 22579

### 7 CFR—Continued

PROPOSED RULES—Continued

1464 ..... 22580, 24894
1701 ..... 24137, 24717
1806 ..... 23410
1823 ..... 23718

### 8 CFR

212 ..... 22556, 24338
252 ..... 24700

PROPOSED RULES:

100 ..... 23718

### 9 CFR

73 ..... 22556, 26194
76 ..... 22033, 23699
78 ..... 22034, 24338, 26194
92 ..... 24701
94 ..... 23699, 24701
308 ..... 23700
314 ..... 23701
318 ..... 23701
325 ..... 22557, 22929, 23700
354 ..... 23702
362 ..... 23714
381 ..... 23700

PROPOSED RULES:

317 ..... 26027
319 ..... 26227

### 10 CFR

Ch. II ..... 25886
9 ..... 25997
50 ..... 23931
205 ..... 22341
210 ..... 24518, 24520
211 ..... 24338, 24518, 24520, 26565
212 ..... 24110, 24518, 24520, 26197
213 ..... 22341
215 ..... 24521
420 ..... 24410
700 ..... 22036, 23212

PROPOSED RULES:

40 ..... 26032
210 ..... 24188
211 ..... 22591, 24188
212 ..... 22591, 22959, 24188, 24609
215 ..... 22591
420 ..... 24410
700 ..... 24724

### 11 CFR

Ch. I ..... 23373

PROPOSED RULES:

121 ..... 22912
140 ..... 26396
141 ..... 26397
142 ..... 26397
143 ..... 26398
144 ..... 26398
145 ..... 26398
146 ..... 26399

### 12 CFR

9 ..... 26678
203 ..... 23931
204 ..... 26197–26200, 26679
217 ..... 26197–26200
221 ..... 23667

12 CFR—Continued

225 ... 22260
271 ... 22261
329 ... 24978
335 ... 25887, 25888
544 ... 24978
545 ... 24978
571 ... 24979

PROPOSED RULES:

9 ... 26223
202 ... 22592
208 ... 26231
225 ... 26231
335 ... 25032
545 ... 26031
561 ... 25035
571 ... 26031
615 ... 24914

13 CFR

107 ... 26201
108 ... 26202
119 ... 26202
120 ... 26203
122 ... 26203
123 ... 26203
301 ... 23373
307 ... 23373
314 ... 26566

PROPOSED RULES:

107 ... 24915, 26716
120 ... 22103, 23731
121 ... 22847

14 CFR

39 ... 22044–22050, 22343, 22809, 23373–23375, 23939, 23940, 24578, 24879, 24880, 25997–25999, 26567
71 ... 22050, 22344, 22809, 23376, 24579–24581, 24881, 24882, 26567
75 ... 24581
91 ... 24582
95 ... 25999
97 ... 22809, 23376, 24882, 26008
298 ... 25889
1213 ... 22930

PROPOSED RULES:

1 ... 26579
25 ... 24607
39 ... 22094, 22842, 23419–23420, 23977, 24608, 24902, 26578
71 ... 22095, 22370, 22843–22845, 23421, 24608, 24902, 26028
73 ... 22844
75 ... 22095, 22845
191 ... 26579
221a ... 25020
232 ... 23978
249 ... 24903
250 ... 22280
372a ... 22096
378b ... 24903
389 ... 24903

15 CFR

376 ... 22931
378 ... 23668
803 ... 23606
805 ... 23392
908 ... 23394

15 CFR—Continued

PROPOSED RULES:

270 ... 24391

16 CFR

13 ... 22810, 22811, 23377–23379, 24341, 24342, 24582, 24583, 24979–24991, 26679
1030 ... 25890
1207 ... 23186
1109 ... 26575
1500 ... 22931
1507 ... 22931
1700 ... 22261, 23187

PROPOSED RULES:

3 ... 24416
451 ... 24724
454 ... 22593
455 ... 22847, 26032
704 ... 22099
1605 ... 22956

17 CFR

211 ... 26679
230 ... 24701
240 ... 22820, 241114
241 ... 23668
249 ... 23983, 24701

PROPOSED RULES:

150 ... 22547
201 ... 23588
210 ... 24727
230 ... 24729
240 ... 22595, 22847, 22959, 23423, 26588
249 ... 23423
275 ... 22101, 25917

18 CFR

101 ... 24993
104 ... 24994
141 ... 24992
154 ... 24995
201 ... 24995
204 ... 24997

PROPOSED RULES:

Ch. I ... 22591
Ch. III ... 24909
2 ... 26583
35 ... 25914
141 ... 23723
154 ... 25914, 26583
157 ... 22104, 26583
250 ... 22104
803 ... 22598

19 CFR

1 ... 24702
12 ... 23398
103 ... 22936
153 ... 26203
159 ... 23669, 24702, 24703

PROPOSED RULES:

1 ... 22952, 26224, 26225
10 ... 22952
111 ... 24889

20 CFR

200 ... 22557
260 ... 22558
266 ... 22558
405 ... 22502, 22560

20 CFR—Continued

PROPOSED RULES:

404 ... 26705
405 ... 22835
410 ... 26705
416 ... 26705
602 ... 25017
901 ... 22101, 25914

21 CFR

2 ... 24262, 26636
5 ... 24262
6 ... 24262
7 ... 24262
8 ... 26636
53 ... 24342
121 ... 22267, 22812, 23940, 26557
123 ... 23379, 26568
193 ... 26568
310 ... 26838
430 ... 26635
436 ... 24704, 24883
448 ... 24883
452 ... 24883
510 ... 22267
520 ... 24884, 24999
522 ... 24347, 24884
546 ... 23947
558 ... 22267
561 ... 26679
700 ... 26838
1308 ... 26568

PROPOSED RULES:

4 ... 22581
11 ... 24896
19 ... 24603
128d ... 24897
207 ... 22835
212 ... 22202, 25911
436 ... 24899, 26228
500 ... 25911
701 ... 24899
1050 ... 23973

22 CFR

41 ... 22560

PROPOSED RULES:

901 ... 22828
902 ... 22829
903 ... 22829
904 ... 22829
905 ... 22829
906 ... 22830
907 ... 22830
908 ... 22831

23 CFR

630 ... 22812, 24347
655 ... 23380
656 ... 26215
663 ... 23380
712 ... 24347
1204 ... 23948
1250 ... 23948

PROPOSED RULES:

640 ... 23421
1204 ... 23422, 24070
1910 ... 24718

24 CFR

275 ... 22276, 23302, 24704
280 ... 24968
804 ... 22814
845 ... 23292

24 CFR—Continued

891 ... 25982
899 ... 22814
1914 ... 22277, 22949, 23949, 24584, 24585
1915 ... 23187, 26402
1916 ... 22814, 22815
1917 ... 22950, 22951, 23382–23384
1920 ... 22036–22039, 24347–24349
2700 ... 23298
3282 ... 24969, 24971
3500 ... 22560, 22702, 23673

PROPOSED RULES:

10 ... 22583
250 ... 22682
260 ... 24678
1917 ... 22279, 22365–22369, 22835–22840, 22954, 22955, 23207, 23417–23418, 24137–24153, 24394–24410

25 CFR

221 ... 22560
252 ... 22936

PROPOSED RULES:

41 ... 26021
43h ... 22566, 25911

26 CFR

1 ... 22267, 22561, 23669, 26568
31 ... 26216
301 ... 22561
601 ... 24704

PROPOSED RULES:

1 ... 24357, 24889, 26695

27 CFR

18 ... 23399
275 ... 23950

PROPOSED RULES:

5 ... 23971

28 CFR

0 ... 22815, 23198
2 ... 22344
4 ... 24349
4a ... 24349

PROPOSED RULES:

16 ... 23206

29 CFR

40 ... 26820
94 ... 26338
95 ... 26346
96 ... 26362
97 ... 24120
98 ... 26371
511 ... 26680
570 ... 26834
579 ... 26834
697 ... 24121
1910 ... 24272
1928 ... 22267, 22561
1952 ... 22561, 23670–23672, 26217
2509 ... 24999

PROPOSED RULES:

570 ... 25020
1601 ... 26707
1910 ... 22953, 23721, 24718, 25019, 26029, 26229
1915 ... 23721

29 CFR—Continued

PROPOSED RULES—Continued

1916 ... 23721
1926 ... 23721
1928 ... 26716
1960 ... 23722
1952 ... 22580, 24154, 25019
2200 ... 24724, 26707
2602 ... 23212, 23731

30 CFR

55 ... 23612
56 ... 23613
57 ... 23615
75 ... 23199
250 ... 25891
251 ... 25891

PROPOSED RULES:

832 ... 23971

31 CFR

128 ... 26680

32 CFR

Ch. 1 ... 24122
736 ... 26008
770 ... 22344
1286 ... 25897
2000 ... 22268

PROPOSED RULES:

901 ... 26698

32A CFR

Ch. I ... 22562
Ch. VI ... 22562
Ch. VII ... 22562
Ch. VIII ... 22562
Ch. XV ... 22562
Ch. XVIII ... 22562
Ch. XIX ... 22563

33 CFR

82 ... 23400
84 ... 23400
117 ... 23400, 24585, 26009
127 ... 22346, 26570, 26571, 26680
173 ... 23400
174 ... 23400
175 ... 23951
207 ... 24123, 24350
273 ... 22346
401 ... 22563

PROPOSED RULES:

Ch. I ... 24604
110 ... 23419, 24901
117 ... 23977, 26026
164 ... 26578
183 ... 26027

35 CFR

5 ... 26148

36 CFR

7 ... 23958, 24123
200 ... 24350
221 ... 22815
606 ... 26218

PROPOSED RULES:

5 ... 24892
7 ... 24718

36 CFR—Continued

PROPOSED RULES—Continued

213 ... 26578
231 ... 26578
261 ... 26578
1150 ... 23598

37 CFR

PROPOSED RULES:

1 ... 24995, 26578
3 ... 24895, 26578
4 ... 24895, 26578

38 CFR

1 ... 24705
2 ... 24709
3 ... 26681
21 ... 26681

PROPOSED RULES:

3 ... 22103

39 CFR

111 ... 22039, 26684
232 ... 23955
243 ... 23955
257 ... 23955
266 ... 24709

PROPOSED RULES:

111 ... 22375, 24725

40 CFR

51 ... 24709
52 ... 22349, 22351, 22816, 23200, 23716, 24585, 24586, 24885, 25898, 25899
60 ... 24124, 24885
61 ... 24885
120 ... 25000
124 ... 24709
125 ... 24709
180 ... 22937, 23384–23366, 23716, 24885, 25001
422 ... 25974
436 ... 23552

PROPOSED RULES:

35 ... 25912
52 ... 22845, 23208, 24913, 26706
55 ... 23979, 23980, 25025–25028
60 ... 23060
129 ... 23576, 24410, 26706
180 ... 22113, 25913, 26707
220 ... 26644
221 ... 26644
222 ... 26644
223 ... 26644
224 ... 26644
225 ... 26644
226 ... 26644
227 ... 26644
228 ... 26644
229 ... 26644
436 ... 23561

41 CFR

1–7 ... 22816
1–12 ... 22817
3–3 ... 22351
3–26 ... 22040
4–1 ... 26009
9–53 ... 26219
14–1 ... 26571
14–3 ... 24586
15–1 ... 26684

### 41 CFR—Continued

50–250 ..... 26221
60–250 ..... 26386
101–25 ..... 25899
101–32 ..... 23203
101–35 ..... 22938
101–38 ..... 22938
101–42 ..... 22268
101–43 ..... 22268
101–44 ..... 22271
101–45 ..... 22273
101–46 ..... 22273
101–47 ..... 22354
114–25 ..... 24124
114–26 ..... 26571
114–27 ..... 24124
114–38 ..... 24124, 24587, 26571
114–39 ..... 24124
114–41 ..... 24125
114–46 ..... 24125

PROPOSED RULES:

8–7 ..... 22599
8–18 ..... 22599
60–1 ..... 26229
60–2 ..... 26229

### 42 CFR

51 ..... 23852
51c ..... 23852
54b ..... 26010
57 ..... 26684
122 ..... 23386
123 ..... 22524

### 43 CFR

18 ..... 22563
2900 ..... 22939, 22940
3200 ..... 23386

PUBLIC LAND ORDERS:

3520 ..... 22051
5499 ..... 23672
5568 ..... 24588
5585 ..... 22939
5586 ..... 23672
5587 ..... 23672
5588 ..... 24588
5589 ..... 26572

PROPOSED RULES:

3520 ..... 23206
9230 ..... 23206

### 45 CFR

46 ..... 26572
99 ..... 24662
115 ..... 26320
121k ..... 24125
123 ..... 23860
124 ..... 24886
190 ..... 23874
205 ..... 23387
248 ..... 22055
249 ..... 22055
250 ..... 22055, 23673, 26221
1067 ..... 26685–26689
1607 ..... 25899
1608 ..... 25900
1610 ..... 25901

### 45 CFR—Continued

PROPOSED RULES:

115 ..... 26330
248 ..... 24604
249 ..... 24717
1611 ..... 23727
1613 ..... 23728
1614 ..... 23729
1615 ..... 23730
1616 ..... 23730

### 46 CFR

105 ..... 23401
111 ..... 26013
148 ..... 23401
391 ..... 23960
536 ..... 24712, 26573

PROPOSED RULES:

1 ..... 26126
2 ..... 26126
24 ..... 26126
30 ..... 26126
31 ..... 26126
32 ..... 26126
33 ..... 22840
39 ..... 26126
40 ..... 26126
42 ..... 26126
70 ..... 26126
75 ..... 22840
90 ..... 26126
94 ..... 22840
98 ..... 26126
110 ..... 26126
151 ..... 26126
153 ..... 26126
160 ..... 22840
192 ..... 22840
206 ..... 22094
207 ..... 22094
502 ..... 24724

### 47 CFR

0 ..... 22563, 26014
1 ..... 22817, 25002
2 ..... 22563, 25902
43 ..... 24886
63 ..... 22274
73 ..... 22055, 22940, 23673–23675, 23955–23956, 24127, 24131, 24352, 24353, 24712, 25003, 25906, 26573–26575
74 ..... 23957, 25905
76 ..... 22274, 23678, 25003
81 ..... 22059, 22066
83 ..... 22877, 25009
87 ..... 22066, 22944
89 ..... 26222
91 ..... 26222
93 ..... 26222
94 ..... 22274
97 ..... 25013

PROPOSED RULES:

2 ..... 22370, 23723, 24155, 24719, 24914
13 ..... 24155
15 ..... 22280, 23723, 24719, 25032
18 ..... 24719
73 ..... 22281, 23209, 24186–24188, 24719
76 ..... 23210

### 47 CFR—Continued

PROPOSED RULES—Continued

78 ..... 22096, 23210
81 ..... 24155
83 ..... 24155, 24719, 24914
87 ..... 22370, 23723
89 ..... 22096
91 ..... 22096
93 ..... 22096
97 ..... 23723

### 49 CFR

1 ..... 25015
10 ..... 22564, 24822
25 ..... 24588
171 ..... 26014
172 ..... 26014
173 ..... 26014
174 ..... 26014
175 ..... 26014
176 ..... 26014
177 ..... 26014
192 ..... 23679, 26016
195 ..... 26016
301 ..... 22355
310 ..... 23957
385 ..... 22355
386 ..... 22355
389 ..... 22356
571 ..... 22356, 24592, 24886
575 ..... 24592
802 ..... 22357
1000 ..... 26018
1005 ..... 25906
1033 ..... 22067, 22274, 22564, 22819, 26692
1062 ..... 22275
1124 ..... 22944, 24887
1307 ..... 22067, 24713

PROPOSED RULES:

Ch. II ..... 26580
258 ..... 22222, 23423
260 ..... 22228, 23423
391 ..... 22584
393 ..... 24608
571 ..... 24070, 24718
1109 ..... 24192
1201 ..... 23172

### 50 CFR

17 ..... 22041, 24062, 26019
26 ..... 22361
28 ..... 22565
32 ..... 26693
33 ..... 23204, 23958, 26693
216 ..... 22565, 23204, 23680
225 ..... 24354
245 ..... 23680
258 ..... 26693
260 ..... 22818, 25015
280 ..... 24888
285 ..... 22818
295 ..... 26019

PROPOSED RULES:

13 ..... 22916
14 ..... 22831
17 ..... 22073, 22916, 23406, 24367, 24378, 24524
33 ..... 22568
216 ..... 22580, 24398
228 ..... 24380

## FEDERAL REGISTER PAGES AND DATES—JUNE

| Pages | Date |
|---|---|
| 22031–22236 | June 1 |
| 22237–22327 | 2 |
| 22329–22547 | 3 |
| 22549–22807 | 4 |
| 22809–22922 | 7 |
| 22923–23177 | 8 |
| 23179–23371 | 9 |
| 23373–23662 | 10 |
| 23663–23928 | 11 |
| 23929–24099 | 14 |
| 24101–24336 | 15 |
| 24337–24572 | 16 |
| 24573–24688 | 17 |
| 24689–24877 | 18 |
| 24879–24974 | 21 |
| 24975–25877 | 22 |
| 25879–25985 | 23 |
| 25987–26177 | 24 |
| 26179–26563 | 25 |
| 26565–26667 | 28 |
| 26669–26842 | 29 |

# 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 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of Defense

Section 213.3306 is amended to show that the title of the Assistant (Scheduling) to the Secretary is changed to Assistant to the Secretary. This section is further amended to show a change in title from: Special Assistant to the Secretary to Assistant to the Secretary.

Effective June 29, 1976, § 213.3306 (a) (1) and (a) (77) are revised as set out below:

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.*

(1) One Special Assistant, one Personal Assistant, one Assistant, and three Private Secretaries to the Secretary.

* * * * *

(77) One Assistant to the Secretary of Defense.

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

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

[FR Doc.76-18842 Filed 6-28-76;8:45 am]

---

### PART 213—EXPECTED SERVICE

#### Department of State

Section 213.3304 is amended to show that one position of Secretary (Steno) to the Deputy Secretary of State is excepted under Schedule C.

Effective June 29, 1976, § 213.3304(a) (21) is added as set out below:

**§ 213.3304 Department of State.**

(a) *Office of the Secretary.*

* * * * *

(21) One Secretary (Steno) to the Deputy Secretary.

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

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

[FR Doc.76-18845 Filed 6-28-76;8:45 am]

---

### PART 213—EXCEPTED SERVICE

#### Environmental Protection Agency

Section 213.3318 is amended to show that one additional position of Special Assistant to the Administrator is excepted under Schedule C.

Effective June 29, 1976, § 213.3318(a) (1) is revised as set out below:

**§ 213.3318 Environmental Protection Agency.**

(a) *Office of the Administrator.*

(1) Ten Special Assistants to the Administrator.

* * * * *

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

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

[FR Doc.76-18843 Filed 6-28-76;8:45 am]

---

### PART 213—EXCEPTED SERVICE

#### National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that all current Schedule A authorities of the National Foundation on the Arts and the Humanities are extended until September 30, 1980.

Effective June 29, 1976, § 213.3182 (a) (2) to (5), (11) to (17) and (19) to (29), and (b) (3) to (14), and (17) to (27) is revised as set out below:

**§ 213.3182 National Foundation on the Arts and the Humanities.**

(a) *National Endowment for the Arts.*

* * * * *

(2) Until September 30, 1980, Director of State and Community Operations, when filled at GS–15 and below.

(3) Until September 30, 1980, eight Program Directors.

(4) Until September 30, 1980, one Assistant Director for Theatre Programs.

(5) Until September 30, 1980, one Director of Folk Arts Programs.

* * * * *

(11) Until September 30, 1980, four Project Evaluators.

(12) Until September 30, 1980, one Director of Museum Programs.

(13) Until September 30, 1980, two Assistant Directors for State and Community Operations.

(14) Until September 30, 1980, one Assistant Director of Music Programs.

(15) Until September 30, 1980, one Director of Developing Arts Programs.

(16) Until September 30, 1980, one Director for Public Media Programs.

(17) Until September 30, 1980, one Assistant to the Chairman.

* * * * *

(19) Until September 30, 1980, one Director, Interdisciplinary Programs.

(20) Until September 30, 1980, one Director of Special Projects.

(21) Until September 30, 1980, one Assistant Director of Expansion Arts Programs.

(22) Until September 30, 1980, one Assistant Director of Public Media Programs.

(23) Until September 30, 1980, one Assistant Director of Architecture and Environment Arts Programs.

(24) Until September 30, 1980, one Assistant Director of Dance.

(25) Until September 30, 1980, one Assistant Director of Visual Arts.

(26) Until September 30, 1980, one Assistant Director of Museum.

(27) Until September 30, 1980, one Assistant Director of Special Projects.

(28) Until September 30, 1980, one Crafts Coordinator.

(29) Until September 30, 1980, one Director of Performing Arts and Public Media Programs.

(b) *National Endowment for the Humanities.*

* * * * *

(3) Until September 30, 1980, Director of Planning and Analysis, when filled at GS–15 and below.

(4) Until September 30, 1980, Director of Fellowships and Stipends.

(5) Until September 30, 1980, Director of Research and Grants.

(6) Until September 30, 1980, one Special Assistant to the Chairman.

(7) Until September 30, 1980, two Program Officers, Division of Education Programs.

(8) Until September 30, 1980, three Program Officers, Division of Fellowships and Stipends.

(9) Until September 30, 1980, two Program Officers, Division of Research and Grants.

(10) Until September 30, 1980, one Assistant to the Director of Planning and Analysis.

(11) Until September 30, 1980, Director of Education Programs.

(12) Until September 30, 1980, two Program Officers, Division of Public Programs.

(13) Until September 30, 1980, Director of Public Programs.

(14) Until September 30, 1980, five Program Officers, State-Based Programs, Division of Public Programs.

* * * * *

(17) Until September 30, 1980, one Program Officer, Special Projects, Division of Public Programs.

(18) Until September 30, 1980, two Programs Officers, Museum Programs, Division of Public Programs.

(19) Until September 30, 1980, two Special Assistants to the Deputy Chairman.

(20) Until September 30, 1980, one Program Analyst, Office of Planning and Analysis.

(21) Until September 30, 1980, one Media Programs Officer, Division of Public Programs.

(22) Until September 30, 1980, one Bicentennial Coordinator, Office of the Chairman.

(23) Until September 30, 1980, one Deputy Director of Public Programs.

(24) Until September 30, 1980, one Program Officer/Deputy Director, Division of Research Grants.

(25) Until September 30, 1976, one Planning Officer, Office of Planning and Analysis.

(26) Until September 30, 1980, one Humanist Administrator, Division of Fellowships.

(27) Until September 30, 1980, one Humanist Administrator, Division of Education Programs.

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

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

[FR Doc.76-18844 Filed 6-28-76;8:45 am]

---

## Title 7—Agriculture

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

## PART 26—GRAIN STANDARDS

### United States Standards for Wheat

The United States Grain Standards Act, as amended (82 Stat. 761, 7 U.S.C. 71 et seq.), provides for official U.S. standards to designate the quality of grain for use by producers, merchandisers, and consumers in the domestic and export marketing of grain. The Act provides for an official grading service upon request and payment by the applicant of a fee to cover the cost of the service.

Pursuant to section 4 of the Act (7 U.S.C. 76), a notice concerning a proposed revision of the United States Standards for Wheat (7 CFR 26.301 et seq.) was published in the FEDERAL REGISTER (41 FR 17553) on April 27, 1976, according to the administrative procedure provisions of section 553 of Title 5, United States Code.

STATEMENT OF CONSIDERATIONS

Approximately 5,000 reprints of the notice were sent to interested persons in the grain industry. Interested persons were given until May 27, 1976, to submit data, views, or recommendations concerning the proposed revisions. Fifty-six written comments were received in response to the notice. Five comments were duplicates, and four comments were not applicable to the proposed revision of the wheat standards. Therefore, 47 comments were considered. The principal points raised with regard to the proposed changes are set forth below.

1. *Classing.* The class "Red Durum Wheat" would be deleted and a new class designated as "Unclassed Wheat" would be established. The new class would provide a classing category that would include, in addition to red durum wheat, new varieties of wheat which are pigmented in colors other than red or white or which otherwise may not be classed under other criteria.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

2. *Subclassing.* The class Hard Red Winter Wheat would be redefined by deleting all subclasses to improve marketing procedures.

Fifteen individuals and 16 national or regional organizations supported the change. Objections were expressed by eight organizations. The reasons stated were that the deletion of all subclasses in Hard Red Winter Wheat would temporarily disrupt the export trade and create a need for a mass reeducation of importers of U.S. grain. It may cause more wheat to be classed as Mixed Wheat and appears to be in response to unfavorable crop conditions that may not be repeated. It would also result in the discontinuance of the use of dark, hard, and vitreous (DH&V) content for binning purposes and for judging end-use quality.

The Department agrees that any change in the wheat standards may temporarily create some confusion until the industry becomes familiar with the changes.

Protein content is known to be a reliable indicator of quality for end-use purposes, while DH&V texture of wheat is a rough index of wheat quality. Data submitted by one commenter and supported by the Department's findings clearly shows that protein is a much better indicator of wheat quality than the percentage of DH&V kernels. Also, it shows that there is essentially no difference in the baking quality of flour made from Yellow Hard Winter and Hard Winter Wheat when the protein content is equal.

The test for protein content is an objective chemical test, whereas the analysis for DH&V texture is a subjective test. For this reason, the DH&V analysis is subject to variance attributed to human judgment. However, the analysis for DH&V texture will continue to be available upon request for those in the industry who need or prefer to use it as a quality criteria.

The Department is continually seeking methods which would improve standards and inspection procedures. In this regard, new infrared devices, now undergoing evaluation, should vastly improve the method of protein determination and further minimize the need for subjective tests such as the DH&V analysis.

The majority of the commenters, including all producers and almost all producer organizations, supported the change. Also, most of the objections are negated by the fact that a determination of DH&V content will continue to be available upon request. Based on the information available and comments received, the Department has concluded that all subclasses in Hard Red Winter Wheat should be deleted as proposed.

3. *Format changes.* Wheat and the classes would be defined first, then all other definitions would be listed in alphabetical order. The definition for "grades" would be deleted to conform to other standards. The definitions for "moisture" and "test weight per bushel" would be included under "Terms Defined."

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

4. *Damaged kernels.* The definition of "damaged kernels" is clarified by including the term "insect-bored" to identify insect-bored kernels which have been and are now considered as damaged kernels.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

5. *Distinctly low quality.* The term "distinctly low quality" is defined as it applies to wheat.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

6. *Redefine terms.* "Dockage," "moisture," "shrunken and broken kernels," and "test weight per bushel" are redefined to show additional information (e.g., approved equipment for determining such factors) that is considered significant to the meaning and application of the standards.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

7. *Other grains.* The term "other grains" is redefined to include the following grains: Guar, non-grain sorghum, popcorn, rice, safflower, sweet corn, sunflower, triticale, and wild oats to provide for the designation of those grains likely to be found in wheat.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

8. *Temporary modifications.* The section "Temporary Modifications in Equipment and Procedures" is added to provide for instances when adverse growing or harvesting conditions make the use of some routine procedures impractical.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

9. *Rounding procedure.* The term "percentages" is redefined to provide for uniformity in expressing percentages for grade determinations.

One commenter opposed the change on grounds that, if applied to dockage, it would result in jeopardy for handlers; i.e., 0.95 percent dockage would be expressed as 1.0 percent dockage, whereas current practice permits up to 0.99 percent dockage to be expressed as 0.5 percent. Dockage as stated in § 26.305(b) of the proposed standards has been and will continue to be excepted from the rounding procedure.

It is concluded that the rounding procedure change should be adopted as proposed.

10. *Determination of defects (total).* The determination of heat-damaged kernels, damaged kernels (total), and foreign material on the basis of wheat when free from dockage would be changed to the basis of wheat when free from dockage and shrunken and broken kernels to keep degrading factors from being scored against the sample more than once.

Three commenters (two from one market and one producer group) opposed the change. It was stated that, if the proposal were adopted, the additional time required in preparing a sample for analysis would be increased by 3 to 5 minutes. An informal study by the Department shows the sample preparation time may increase by a maximum of about 1½ minutes or slightly more for a single sample operation. However, on an assembly-line basis, a slight alteration in procedures presently in use will be necessary. This would result in little if any time loss. Also, the absence of shrunken and broken kernels from the analytical portion would tend to decrease the analytical time needed for damaged kernels and foreign material analyses and should give slightly more accurate results.

One commenter requested that consideration be given to exempting Soft Red Winter Wheat if the proposal were adopted, because this class of wheat normally contains only small amounts of shrunken and broken kernels. However, the Department believes that a different procedure for one class of wheat would cause confusion in the application of the standards; particularly since Soft Red Winter Wheat is grown in several geographic areas of the country under variable environmental and cultural conditions. Soft Red Winter Wheat grown under diverse conditions may contain variable amounts of shrunken and broken kernels.

One commenter concluded that the shrunken and broken material would be added to the dockage. The current dockage procedure remains unchanged; therefore, the shrunken and broken kernels and the dockage will not be combined.

It is therefore concluded that the change be adopted as proposed, and it would apply to all classes of wheat.

11. *Heat damage.* The limits for heat-damaged kernels in grades U.S. Nos. 1 and 2 would be changed from 0.1 and 0.2 percent, respectively, to 0.2 percent for both grades to increase inspection accuracy.

Two commenters opposed the change. One commenter, who appeared to misunderstand the proposal, expressed concern that the limits are being tightened to the point where inspection accuracy would suffer. The intent is to adjust the limits to increase inspection accuracy. Another commenter who is an importer stated that the change would, in effect, degrade the quality of No. 1 wheat to that of No. 2 wheat. The difference in the limits of 0.1 and 0.2 percent is very narrow. Information shows that grades based on such a narrow margin are not statistically sound. Also, wheat exported for milling purposes is generally U.S. No. 2 quality; so the change would not adversely affect the importer.

It is concluded that the change should be adopted as proposed.

12. *Special grade "Heavy wheat."* The special grade "Heavy wheat" would be deleted to remove a requirement which has been of little benefit to producers.

No commenters opposed the change. It is concluded that the change should be adopted as proposed.

13. *Certification.* The components and percentages thereof for the subclass "Western White Wheat" and the classes "Unclassed Wheat" and "Mixed Wheat" would be shown under "Remarks" on the inspection certificate to reduce the amount of information shown on the grade line and to provide useful marketing information in the "Remarks" section.

No commenters opposed the change. It is concluded that the change be adopted as proposed.

14. *Definition of Sample grade.* The definition of Sample grade is changed to more closely coincide with the limits established by the Food and Drug Administration and to include factors which are presently considered under "otherwise of distinctly low quality."

One commenter opposed the change, stating that tightening rodent pellet limits from 3 to 2 would increase actions by the FDA and would result in greater economic loss to the producer and the grain industry. It is the curent practice for official inspection personnel under a FDA–USDA agreement to notify FDA whenever a lot of wheat is found to contain 2 or more rodent pellets in a 1,000-gram sample. Therefore, there would not be an increase in the current number of actions by FDA as a result of the proposed change.

It is concluded that the change should be adopted as proposed.

15. *Special grade "Ergoty Wheat."* The special grade "Ergoty wheat" would be redefined as wheat which contains ergot in excess 0.10 percent—to restrict further the presence of this toxic material.

Seven comments received on this proposal favored adoption. Ten comments expressed objection.

The commenters who objected to the proposal stated that ergoty wheat is caused by growing conditions which are largely beyond the control of the producer. Furthermore, available cleaning equipment can remove up to 40 percent or more of ergot in wheat and the tightened limits would produce analytical results which may not be repeatable. Tightened limits would also result in increased inspection time and possible increased fees. Waldron, a variety of wheat grown in North Dakota, is susceptible to ergot but has other agronomic and economic advantages which make it very popular among producers. It was also stated that current procedures are available for buyers who demand wheat which contains little or no ergot.

The Department recognizes that ergot is a natural field condition and that some varieties are more susceptible than others. Therefore, through utilization of varieties which are resistant to ergot, the incidence of ergot in wheat could be reduced.

The proposal requires that the percentage of ergot be determined and shown to the nearest hundredth percent. Some importers have specified a maximum of 0.1 percent of ergot in their contracts. When a maximum of 0.1 percent is specified, current inspection procedures require the analysis of a 1,000-gram portion. This sample size provides satisfactory inspection accuracy, but it would result in increased inspection time.

It is true that the proper equipment can remove some of the ergot found in wheat; and it is correct that, in certain years, a large percentage of the crop may require cleaning. However, when ergot is removed from wheat, there is a shrinkage loss to the handler. Contracting for wheat which contains less than the permissible levels of ergot is not uncommon and is practiced by some buyers.

The comments, however, do not address the question of the toxicity and the undesirability of the presence of ergot in flour and in feed. Precise information is not available on the amount of toxic material remaining in flour milled from wheat containing a given amount of ergot. It is not known what level of ergot an adult or child can tolerate if ergot is consumed regularly in small amounts. Some research has been conducted on the effects of ergot when present in the feed of certain animals. The results showed that signs to toxicity from ergot begin to appear at about the .06 percent level.

Even on the basis of the limited data, the Department believes that the reduction of the ergot limit from 0.3 to 0.10 percent is necessary to reduce the amount of toxicity present in wheat. However, based on the comments received and the limited research data available, the Department has concluded that the proposal should not be adopted at this time and that a study will be initiated to further evaluate the effect of ergot in wheat. Interested persons in the wheat industry are invited to participate in the study and research.

16. *Special grade "Tough wheat."* The special grade "Tough wheat" would be deleted, because it is not a good indicator of storability.

Ten comments favored adoption of the proposal. Five comments expressed objection. The commenters who objected stated that the deletion of the special grade would create confusion in establishing a basis for discounts on high moisture wheat and that contracts would need to include additional language to provide for moisture content. It was also stated that the special grade is preferred as a means of identifying wheat that may not be storable and that the term is customarily used to denote wheat that may not be of millable quality. In addition, it is used on warehouse receipts which are used in financing and in the futures market.

The establishment of a basis for discounts for moisture should remain unaf-

fected, whether or not the special grade "Tough wheat" is deleted; because the actual moisture content is shown on the certificate and discounting is applied on the actual percentage of moisture, not the "tough" designation. The deletion of the special grade may require buyers and sellers to include additional language in their contracts specifying maximum moisture content. This practice is followed in other grains, especially corn, and apparently does not create undue hardship upon seller or buyer. It is emphasized that the moisture content of wheat is required to be shown on the inspection certificate when the moisture content is equal to or exceeds 12.5 percent. Moisture content at any level is required to be shown on all export inspection certificates.

The most satisfactory indicator of the storability of wheat is moisture content. Depending on circumstances, wheat in some areas may be safely stored at levels above the 13.5 percent level of "tough wheat," while in other areas wheat below 13.5 percent may not be safely stored. The special grade "Tough wheat" serves as a "flag" to indicate that the moisture content is above the 13.5 percent level. It does not, in itself, indicate the precise moisture content of the wheat.

It is concluded that the change should be adopted as proposed.

After consideration of all written comments and other information available to the Department, all proposals are hereby adopted, with the exception of the change in limits for the special grade "Ergoty wheat."

The U.S. Standards for Wheat §§ 26.301, 26.302, 26.303, 26.304, 26.305, 26.306, 26.307, 26.308, and 26.309, of Part 26, of Title 7 of the Code of Federal Regulations are revised to read as set forth below:

UNITED STATES STANDARDS FOR WHEAT[1]

TERMS DEFINED

**§ 26.301 Definition of wheat.**

The grain of common wheat (*Triticum aestivum L.*), club wheat (*T. compactum* Host), and durum wheat (*T. durum* Desf.) which, before the removal of the dockage, consists of 50 percent or more of one or more of these wheats and not more than 10 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of the dockage, contains 50 percent or more of whole kernels of one or more of these wheats. Wheat shall be divided into the following seven classes: Hard Red Spring Wheat, Durum Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat, Unclassed Wheat, and Mixed Wheat.

(a) *Hard Red Spring Wheat.* All varieties of hard red spring wheat. This class shall be divided into the following three subclasses:

(1) *Dark Northern Spring Wheat.* Hard red spring wheat with 75 percent or more of dark, hard, and vitreous kernels.

(2) *Northern Spring Wheat.* Hard red spring wheat with 25 percent or more but less than 75 percent of dark, hard, and vitreous kernels.

(3) *Red Spring Wheat.* Hard red spring wheat with less than 25 percent of dark, hard, and vitreous kernels.

(b) *Durum Wheat.* All varieties of white (amber) durum wheat. This class shall be divided into the following three subclasses:

(1) *Hard Amber Durum Wheat.* Durum wheat with 75 percent or more of hard and vitreous kernels of amber color.

(2) *Amber Durum Wheat.* Durum wheat with 60 percent or more but less than 75 percent of hard and vitreous kernels of amber color.

(3) *Durum Wheat.* Durum wheat with less than 60 percent of hard and vitreous kernels of amber color.

(c) *Hard Red Winter Wheat.* All varieties of hard red winter wheat. There are no subclasses in this class.

(d) *Soft Red Winter Wheat.* All varieties of soft red winter wheat. There are no subclasses in this class.

(e) *White Wheat.* All varieties of white wheat. This class shall be divided into the following four subclasses:

(1) *Hard White Wheat.* White wheat with 75 percent or more of hard kernels. It may contain not more than 10 percent of white club wheat.

(2) *Soft White Wheat.* White wheat with less than 75 percent of hard kernels. It may contain not more than 10 percent of white club wheat.

(3) *White Club Wheat.* White club wheat containing not more than 10 percent of other white wheat.

(4) *Western White Wheat.* White wheat containing more than 10 percent of white club wheat and more than 10 percent of other white wheat.

(f) *Unclassed Wheat.* Any variety of wheat which is not classifiable under other criteria provided in the wheat standards. There are no subclasses in this class. This class shall include:

(1) Red durum wheat.

(2) Any wheat which is other than red or white in color.

(g) *Mixed Wheat.* Any mixture of wheat which consists of less than 90 percent of one class and more than 10 percent of one other class, or a combination of classes which meets the definition of wheat.

**§ 26.302 Definition of other terms.**

For the purpose of these standards, the following terms shall have the meanings stated below:

(a) Contrasting classes shall be:

(1) Durum Wheat, White Wheat, and Unclassed Wheat in the classes Hard Red Spring Wheat and Hard Red Winter Wheat.

(2) Hard Red Spring Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat, and Unclassed Wheat in the class Durum Wheat.

(3) Durum Wheat and Unclassed Wheat in the class Soft Red Winter Wheat.

(4) Hard Red Spring Wheat, Durum Wheat, Hard Red Winter Wheat, and Unclassed Wheat in the class White Wheat.

(b) *Damaged kernels.* Kernels, pieces of wheat kernels, and other grains that are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged, in the sample after the removal of dockage and shrunken and broken kernels.

(c) *Defects.* Damaged kernels, foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for the factor "Defects (total)" for each numerical grade.

(d) *Distinctly low quality.* Wheat which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be graded properly by use of the other grading factors provided in the standards. Distinctly low quality shall include any objects too large to enter the sampling device; i.e., large stones, wreckage, etc.

(e) *Dockage.* All matter other than wheat which can be removed readily from a test portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[3] Also, underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and which cannot be recovered by properly rescreening or recleaning. (See also § 26.305 and § 26.307.) For the purpose of this paragraph, "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(f) *Foreign material.* All matter other than wheat which remains in the sample after the removal of dockage and shrunken and broken kernels.

(g) *Heat-damaged kernels.* Kernels, pieces of wheat kernels, and other grains that are materially discolored and damaged by heat which remain in the sample after the removal of dockage and shrunken and broken kernels.

---

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provision of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The following publications are referenced in these standards. Copies may be obtained from the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(a) Equipment Manual, GR Instruction 916-6, effective September 25, 1968, as amended, U.S. Department of Agriculture, Agricultural Marketing Service.

(b) Grain Inspection Manual, GR Instruction 918-6, effective August 28, 1972, as amended, U.S. Department of Agriculture, Agricultural Marketing Service.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(h) *Moisture.* Water content in wheat as determined by an approved device in accordance with procedures prescribed in the Equipment Manual.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(i) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower, sweet corn, triticale, and wild oats.

(j) *Shrunken and broken kernels.* All matter which can be removed from a test portion of the dockage-free sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph, "approved device" shall be the 0.064 x 3/8 oblong-hole sieve.[3]

(k) *Sieve, 0.064 x 3/8 oblong-hole.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 (3/8) inch.

(l) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(m) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a dockage free test portion of the original sample using an approved device in accordance with instructions in the Grain Inspection Manual.[2] Test weight per bushel shall be expressed to the nearest tenth of a pound. For the purpose of this paragraph, "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

**§ 26.303 Basis of determination.**

(a) *Distinctly low quality.* The determination of distinctly low quality shall be made on the basis of the lot as a whole at the time of sampling when a condition exists that may not appear in the representative sample and/or the sample as a whole.

(b) *Certain Sample grade factors.* Each determination of rodent pellets, bird droppings, other animal filth, castor beans, crotalaria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, odor, temperature, an unknown foreign substance, and a commonly recognized harmful or toxic substances shall be upon the basis of the sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage; except that the determination of heat-damaged kernels, damaged kernels (total), and foreign material shall be upon the basis of the grain when free from dockage and shrunken and broken kernels.

**§ 26.304 Temporary modifications in equipment and procedures.**

The equipment and procedures referred to in the wheat standards are applicable to wheat produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of wheat may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Grain Division Field Offices, official inspection agencies, and interested parties in the grain trade will be notified promptly in writing of the modification. Adjustments in interpretations (i.e., identity, class, quality, and condition) are excluded and shall not be made.

**§ 26.305 Percentages.**

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., state 0.46 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., state 0.54 as 0.5.

(3) When the figure to be rounded is even and is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and is followed by the figure 5, round the figure to the next higher number; e.g., state 0.45 as 0.4; state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of wheat, the class, the subclass, and the percentage of dockage and/or ergot. The percentage when determining the identity of wheat, the class, and the subclass shall be stated to the nearest whole percent. The percentage of dockage when equal to one-half percent or more shall be stated in terms of half percent, whole percent, or whole and half percent, as the case may be, with other fractions disregarded as shown in the following examples: Dockage ranging from 0.5 to 0.9 percent shall be expressed as 0.5 percent, from 1.0 to 1.4 percent as 1.0 percent, from 1.5 percent to 1.9 percent as 1.5 percent, etc. The percentage of ergot shall be stated to the nearest hundredth percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

**§ 26.306 Grades and grade requirements.**

*Wheat*

(a) Grades and grade requirements for all classes of wheat, except Mixed wheat. (See also sec. 26.308.)

| Grade | Minimum test weight per bushel (pounds) | | Percent maximum limits of— | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | Wheat of other classes [1] | |
| | Hard Red Spring wheat or White Club wheat | All other classes and subclasses | Heat-damaged kernels | Damaged kernels (total) [1] | Foreign material | Shrunken and broken kernels | Defects (total) [2] | Contrasting classes | Wheat of other classes (total) [4] |
| U.S. No. 1 | 58 | 60 | 0.2 | 2 | 0.5 | 3 | 3 | 1 | 3 |
| U.S. No. 2 | 57 | 58 | .2 | 4 | 1.0 | 5 | 5 | 2 | 5 |
| U.S. No. 3 | 55 | 56 | .5 | 7 | 2.0 | 8 | 8 | 3 | 10 |
| U.S. No. 4 | 53 | 54 | 1.0 | 10 | 3.0 | 12 | 12 | 10 | 10 |
| U.S. No. 5 | 50 | 51 | 3.0 | 15 | 5.0 | 20 | 20 | 10 | 10 |
| U.S. sample grade | U.S. sample grade shall be wheat which:<br>(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or<br>(2) Contains a quantity of smut so great that 1 or more of the grade requirements cannot be determined accurately; or<br>(3) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 3 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 g of wheat; or<br>(4) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or<br>(5) Is heating or otherwise of distinctly low quality. | | | | | | | | |

[1] Includes heat-damaged kernels.
[2] Defects (total) include damaged kernels (total), foreign material, and shrunken and broken kernels. The sum of these 3 factors may not exceed the limit for defects.
[3] Unclassed wheat of any grade may contain not more than 10 pct of wheat of other classes.
[4] Includes contrasting classes.

(b) *Grades and grade requirements for Mixed Wheat.* (See also § 26.308.) Mixed Wheat shall be graded according to the U.S. numerical and U.S. Sample grade requirements of the class of wheat which predominates in the mixture, except that the factor "wheat of other classess" shall be disregarded.

**§ 26.307 Grade designations.**

The grade designations for wheat shall include in the following order: (a) the letters "U.S."; (b) the number of the grade or the words "Sample grade"; (c) the subclass, or in the case of Hard Red Winter Wheat, Mixed Wheat, Soft Red Winter Wheat, and Unclassed Wheat, the class; (d) each applicable special grade (See also § 26.309); and (e) when applicable, the word "dockage" together with the percentage thereof. In the case of Western White Wheat, there shall be included under "Remarks" on the inspection certificate, the name and percentage of white club wheat and other white wheat in the mixture. In the case of Unclassed Wheat, there shall be included under "Remarks" on the inspection certificate the color or other characteristics which describe the wheat, together with the percentage thereof. In the case of Mixed Wheat, there shall be included under "Remarks" on the inspection certificate the name and percentage of the classes that comprise the mixture.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

**§ 26.308 Special grades and special grade requirements.**

A special grade, when applicable, is supplemental to the grade assigned under § 26.306. Such special grades are established and determined as follows:

(a) *Ergoty wheat.* Wheat which contains more than 0.30 percent of ergot.

(b) *Light garlicky wheat.* Wheat which contains in a 1,000-gram portion two or more, but not more than six, green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets.

(c) *Garlicky wheat.* Wheat which contains in a 1,000-gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Light smutty wheat.* Wheat which has an unmistakable odor of smut, or which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(e) *Smutty wheat.* Wheat which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(f) *Weevily wheat.* Wheat which is infested with live weevils or other insects injurious to stored grain. As applied to wheat, the meaning of the term "infested" is set forth in the Grain Inspection Manual.[3]

(g) *Treated wheat.* Wheat which has been scoured, limed, washed, sulfured, or treated in such a manner that the true quality is not reflected by either the U.S. numerical grade or the U.S. Sample grade designation alone.

**§ 26.309 Special grade designations.**

Special grade designations shall be made in addition to all other information prescribed in § 26.307.

(a) The grade designation for ergoty, light garlicky, garlicky, light smutty, smutty, and weevily wheat shall include in the order listed, following the applicable class or subclass, the word(s) "Ergoty," "Light garlicky," "Garlicky," "Light smutty," "Smutty," and "Weevily," as warranted, and all other information prescribed in § 26.307.

(b) The grade designation for treated wheat shall include, following the applicable class or subclass and any of the above applicable special grade designations, the word "Treated," followed by a statement indicating the kind of treatment (e.g., scoured, limed, washed, sulfured, etc.).

*Certification.* For a period of 6 months after the adoption of these amendments, official inspection personnel shall, upon request, show on inspection certificates the grade under both the "old" and "new" standards.

Effective date. The foregoing United States Standards for Wheat shall become effective May 1, 1977.

Done at Washington, D.C. on: June 23, 1976.

DONALD E. WILKINSON,
*Administrator.*

[FR Doc.76-18786 Filed 6-28-76;8:45 am]

## PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

### United States Standards for Grades of Fresh Fruits, Vegetables, Nuts and Other Special Products

*Correction*

In FEDERAL REGISTER Document (76-15175) appearing in the issue of Tuesday, May 25, 1976, (41 FR 21335). In § 51.100, the definition of grade name "U.S. No. 2"—"Intermediate quality between U.S. No. 1 and U.S. No. 2; noticeably superior to U.S. No. 3" appearing in column two of page 21336, is corrected to read "Intermediate quality between U.S. No. 1 and U.S. No. 3; noticeably superior to U.S. No. 3."

Dated: June 23, 1976.

WILLIAM T. MANLEY,
*Deputy Administrator,*
*Program Operations.*

[FR Doc.76-18787 Filed 6-28-76;8:45 am]

## CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

## PART 600—ORGANIZATION

### Policy and Procedures

On December 17, 1973, there was published in the FEDERAL REGISTER, 38 FR 241, a notice of organization and functions of the Soil Conservation Service, U.S. Department of Agriculture. This was published in Chapter VI of Title 7 of the Code of Federal Regulations. It is now necessary to change § 600.2 to reflect current organizational structure of the Soil Conservation Service at the national office level.

Dated: June 22, 1976.

R. M. DAVIS,
*Administrator,*
*Soil Conservation Service.*

Section 600.2 is revised to read as follows:

**§ 600.2 National Office.**

(a) Administrator. The Administrator is responsible for the development of rules, policies, and procedures and the general direction and supervision of the programs assigned to SCS.

(b) Associate Administrator. The Associate Administrator assists the Administrator and serves as Acting Administrator in his absence.

(c) Deputy Administrators. Three deputy administrators assist the Administrator as follows:

(1) Deputy Administrator for Administration. This deputy is responsible for activities in management and planning and evaluation.

(2) Deputy Administrator for Technical Services. This deputy is responsible for activities in soil survey and field services.

(3) Deputy Administrator for Programs. This deputy is responsible for activities in land resources and water resources.

(d) Assistant Administrators. Six assistant Administrators assist the Deputy Administrators as follows:

(1) Assistant Administrator for Management. This assistant is responsible to the Deputy Administrator for Administration for the activities of the Administrative Services, Budget and Finance, Management Evaluation, and Personnel divisions.

(2) Assistant Administrator for Planning and Evaluation. This assistant is responsible to the Deputy Administrator for Administration for the activities of the Legislative Affairs, Policy Analysis, and Program Evaluation divisions.

(3) Assistant Administrator for Soil Survey. This assistant is responsible to the Deputy Administrator for Technical Services for the activities of the Soil Survey Classification and Correlation, Soil Survey Interpretations, Soil Survey Investigations, and Soil Survey Operations divisions.

(4) Assistant Administrator for Field Services. This assistant is responsible to the Deputy Administrator for Technical Services for the activities of the Cartographic, Economics, Engineering, Environmental Services, Inventory and Monitoring, and Planning Support divisions.

(5) Assistant Administrator for Land Resources. This assistant is responsible to the Deputy Administrator for Programs for the activities of the Conservation Operations, and Resource Development divisions.

(6) Assistant Administrator for Water Resources. This assistant is responsible to the Deputy Administrator for Programs for the activities of the River Basins, and Watersheds divisions.

(e) Director of Information. This director is responsible for providing assistance to the Administrator on information activities.

(f) Field Representatives. Each field representative represents the Administrator in coordinating and integrating SCS programs. Each field representative also serves as director of a technical service center.

5 U.S.C. 552

[FR Doc.76-18795 Filed 6-28-76;8:45 am]

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

[Lemon Regulation 44, Amendment 1]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period June 20-26, 1976. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

**§ 910.344 Lemon Regulation 44.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 44 (41 FR 24697). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and his amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.344 (Lemon Regulation 44 (41 FR 24697)) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period June 20, 1976, through June 26, 1976, is hereby fixed at 360,000 cartons."

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

Dated: June 23, 1976.

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

[FR Doc.76-18788 Filed 6-28-76;8:45 am]

## CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

## PART 1701—PUBLIC INFORMATION

### Appendix A—REA Bulletins; Revision of REA Specification U-5 for Pad Mounted Transformers

Appendix A to Part 1701, Title 7, is hereby amended to provide for the revision of Specification U-5, "Specifications for Pad-Mounted Transformers (Single and Three Phase)," included in REA Bulletin 44-1, "Specifications and Standards for Materials and Equipment."

In accordance with proposed rulemaking procedures, the proposed revision of Specification U-5 was published in the FEDERAL REGISTER on March 5, 1976 (41 FR 9556-9557). Interested persons were given 30 days in which to submit written data, views, or comments. The public comments received and the consideration of them by REA are as follows:

1. *Comment:* Several commenters suggested that the bushing spacings listed for three-phase transformers were unnecessary and that these spacings would raise the costs unnecessarily.

*Response:* No change was made in the specification. It was felt desirable to standardize bushing heights in order to facilitate the changeout of transformers. The standardized height made minimum spacings necessary and standardized spacing desirable. It was deemed appropriate to adopt the ANSI standard bushing heights and spacings rather than to specify a complete new set.

2. *Comment:* A comment was received that there is no standardized measurement method for TIF (telephone influence factor) for three-phase transformers and that the requirement should be dropped.

*Response:* There is no standardized method for measuring TIF on three, four, or five leg core three-phase transformers. The TIF of triplex design cores can be measured in the same manner as for single-phase transformers. The requirement for TIF measurement for three-phase transformers has been dropped. It will be reinstated at such time as a standardized method is recognized.

3. *Comment:* Several comments were received to the effect that automatic pressure relief is desirable in pad-mounted transformers.

*Response:* A requirement for provision for automatic pressure relief has been added.

The revised REA Specification U-5, the effective date of which will be January 1, 1977, is as follows:

REA SPECIFICATION U-5

Accepted: May 13, 1976.
Effective: January 1, 1977.

REA SPECIFICATIONS FOR PAD-MOUNTED TRANSFORMERS (SINGLE AND THREE-PHASE)

1. All single-phase, pad-mounted transformers are to conform to the requirements of ANSI C57.12.25-1975 except as otherwise noted. All three-phase, pad-mounted transformers are to conform to the requirements of ANSI C57.12.26-1975 except as otherwise noted.

2. Bushing arrangements of three-phase, pad-mounted transformers shall meet the requirements of Figures 7, 8 and either 5 or 6 of ANSI C57.12.26-1975.

3. TIF requirements for single-phase transformers are the same as in Specification D-10, Item IV 9.

4. Suitable provision for automatic pressure relief is required.

5. In addition to the regular locking provision, all access doors shall be secured by a recessed, captive, pentahead bolt equivalent to that shown in REA Drawing A3759. The inside diameter of the recess shall be as small as possible and not over 1.25 inches. The depth of the recess shall be not less than .625 inches and as shown in the detail. The recess is to be nonrotating. If all doors may be secured with a single bolt, one bolt will be sufficient.

6. The secondary phase terminals for pad-mounted transformers 167 kVA and smaller single-phase and 500 kVA and smaller three-phase shall conform to one of the following:

a. Figure 3c of ANSI C57.12.25-1975 for single-phase transformers or Figure 9c of ANSI C57.12.26-1975 for three-phase transformers.

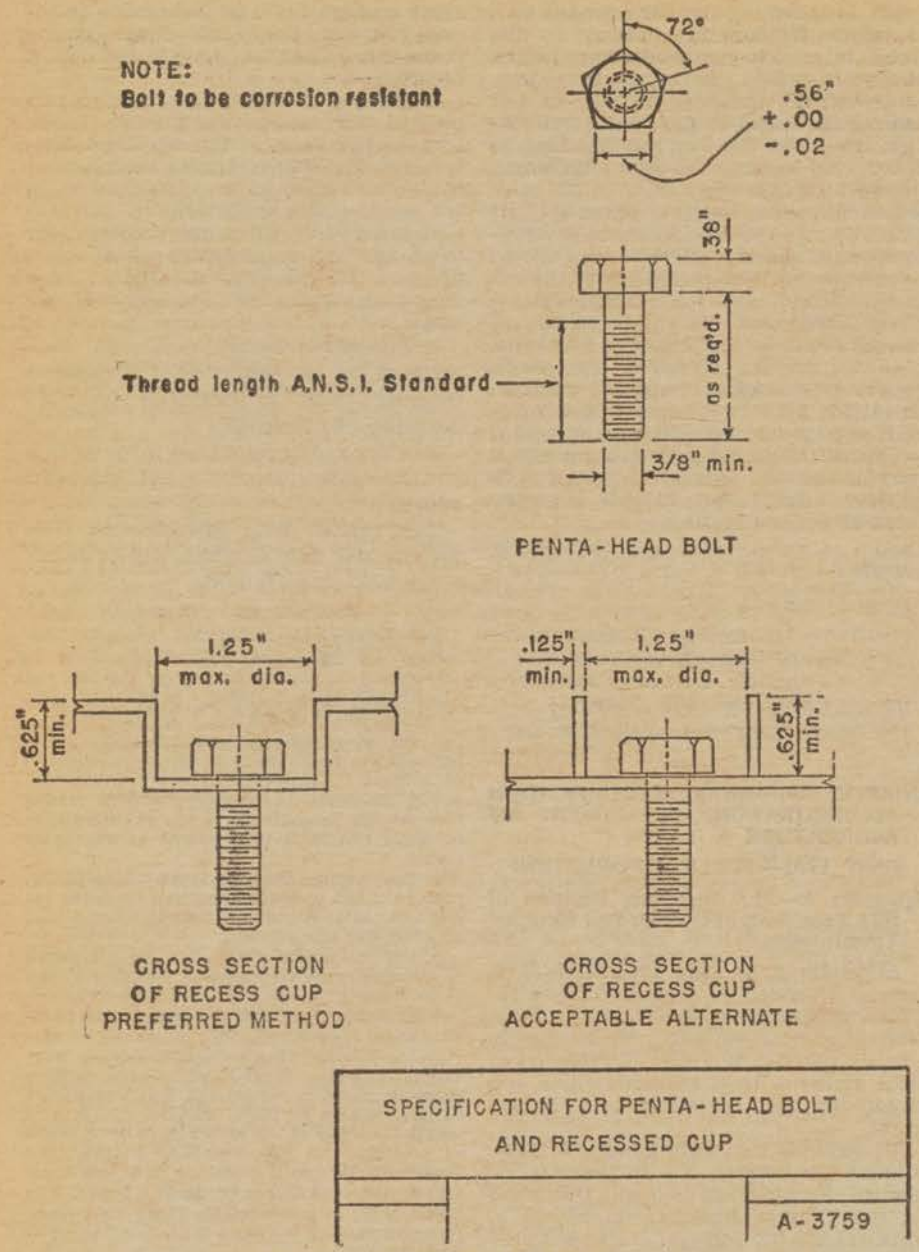
b. Premounted dead-front secondary connectors or cable leads when accepted by the REA Standards Committee.

7. Unit residential transformers shall meet the requirements of 3, 4, 5 and 6 above and the safety and electrical requirements of ANSI C57.12.25. Unit residential transformers are pad-mounted transformers 25 kVA and below intended for use on a single residence.

8. REA Drawing A3759 (attached) is a part of this specification.

Dated: June 22, 1976.

DONALD E. RUNYON,
*Acting Administrator.*




[FR Doc.76-18779 Filed 6-28-76;8:45 am]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 410.1]

### PART 1801—RECEIVING AND PROCESSING APPLICATIONS

#### Receiving and Processing Applications

Section 1801.2 of Subpart A, Part 1801 of Chapter XVIII, Title 7, Code of Federal Regulations (36 FR 15737, Redesignated at 38 FR 4772) is amended. This amendment is required to comply with the revised Real Estate Settlement Procedures Act and the Department of Housing and Urban Development's Regulations.

This amendment adds a provision requiring that a "Special Information Booklet" and estimate of closing costs either be given to an applicant at the time the completed application is received or mailed to the applicant no later than three (3) business days after receipt of the application.

This amendment is not published for proposed rulemaking because its effect is to provide for FmHA compliance with the Real Estate Settlement Procedures Act and regulations issued by the Department of Housing and Urban Development pursuant thereto.

§ 1801.2 is amended to add new paragraphs (l) (1) and (2) to redesignate the present paragraphs (j), (k), and (l) as (i), (j), and (k) respectively without change. As amended, § 1801.2 reads as follows:

**§ 1801.2 Receiving applications.**

* * * * *

(l) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit or purchase of a building site and construction of 1 to 4 family residential units, the real estate booklet entitled "Special Information Booklet" will be hand-delivered to the applicant when the application is received or mailed to the applicant within three (3) business days after receipt of the application in the County Office.

(1) Exhibit A to FmHA Instruction 1901-I entitled "Attachment to Special Information Booklet" will be completed by the County Supervisor and delivered to the applicant with the booklet.

(2) A record of the date and method of delivery of the booklet and the attachment will be kept in the running record of the case file.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 40; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date: This amendment is effective on June 30, 1976.

Dated: June 22, 1976.

FRANK W. NAYLOR, JR.,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.76-18864 Filed 6-28-76;8:45 am]

### SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Administration Letter 92(427)]

### PART 1890t—TIMESAVING AND PROGRAM IMPROVEMENT

#### Amendment

Section 1890t.2(c) of Part 1890t, Title 7, Code of Federal Regulations is amended to provide for:

(1) Completion of the "Settlement Statement" by the appropriate loan closing agent.

(2) Availability of the "Settlement Statement" for inspection by the applicant 1 day before settlement, and

(3) The giving of a copy of the "Settlement Statement" to both the borrower and the seller at the time of closing or settlement, or the mailing of such a copy soon afterwards.

This amendment is not published for proposed rulemaking because its effect is to provide for FmHA compliance with the Real Estate Settlement Procedures Act and regulations issued by the Department of Housing and Urban Development pursuant thereto.

Section 1890t.2 is amended by adding new paragraphs (c)(4), (c)(4)(i) and (ii).

§ 1890t.2 **Procedure for implementation by May 31, 1972.**

* * * * *

(c) *Escrow Agent's responsibilities in loan closing.* * * *

(4) After making disbursements and collections to carry out title clearance and closing, the closing agent, will make an accurate accounting of costs and prepare Form FmHA 440–59 (HUD–1), "Settlement Statement."

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the Settlement Statement, completed for those items which are then known to the closing agent.

(ii) A copy of the Settlement Statement will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Effective date. This amendment is effective June 30, 1976.

Dated: June 22, 1976.

FRANK W. NAYLOR, Jr.,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.76–18865 Filed 6–28–76;8:45 am]

---

SUBCHAPTER H—GENERAL

## PART 1901—PROGRAM-RELATED INSTRUCTIONS

### Subpart I—Truth in Lending—Real Estate Settlement Procedures

Sections 1901.401 and 1901.406 of Subpart I, Part 1901 of Chapter XVIII, Title 7, Code of Federal Regulations (41 FR 16159) are amended. This amendment is required to comply with the revised Real Estate Settlement Procedures Act and with the Department of Housing and Urban Development's Regulation X. It also clarifies when the Truth in Lending Disclosure Forms are to be used.

Specifically, this amendment makes the following changes:

(1) § 1901.401, paragraphs (d) (1) and (2) are amended to provide for the giving of a completed copy of Form FmHA 440–41, "Disclosure Statement for Loans by Real Estate," or Form FmHA 440–41A, "Disclosure Statement for Loans Not Secured by Real Estate," to the applicant at the time of loan approval, and, in credit sale cases, for the giving of a completed copy of Form FmHA 440–42, "Credit Sale Disclosure Statement," to the applicant at the time of loan approval. These paragraphs have also been amended for editorial purposes.

(2) § 1901.406, paragraph (c), is amended to require a new "Special Information Booklet" either to be given to each applicant on the day the completed application is received or mailed to the applicant no later than three (3) business days after the receipt of the application.

(3) § 1901.406(b)(1) is amended to clarify the type of entity covered by the section.

(4) § 1901.406(b)(1)(i) is amended for editorial purposes.

(5) In § 1901.406, subparagraph (b)(2)(ii) is deleted since FmHA has no authority to finance the purchase of vacant lots. Subparagraphs (iii) and (iv) are redesignated as (ii) and (iii) respectively without change.

(6) § 1901.406 paragraph (c) is amended to provide for the giving of a "good faith" estimate or range of certain closing costs to the applicant.

(7) § 1901.406, paragraph (c)(2) has been added to clarify the use of Form FmHA 440–59, "Settlement Statement," and to require that the applicant be allowed to inspect the "Settlement Statement" during the business day immediately preceding the date of settlement.

(8) Exhibit A is added to provide the applicant a good faith estimate of closing costs and a statement as to the selection of loan closing agents.

This amendment is not published for Proposed Rulemaking because its effect is to provide for compliance with the Real Estate Settlement Procedures Act and regulations issued by the Department of Housing and Urban Development pursuant thereto, and for that reason such publication is unnecessary.

As revised Part 1901 subpart I reads as follows:

**Subpart I—Truth in Lending—Real Estate Settlement Procedures**

Sec.
1901.401 Truth in lending.
1901.402–405 [Reserved].
1901.406 Real estate settlement procedures.
1901.407–450 [Reserved].

Exhibit A Attachment to Special Information Booklet.

AUTHORITY: 7 USC 1989, 42 USC 1480, delegation of authority by the Sec. of Agr., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

### Subpart I—Truth in Lending—Real Estate Settlement Procedures

#### § 1901.401 Truth in lending.

(a) *General.* This section provides instructions for compliance with the Truth in Lending Act and Regulation Z of the Federal Reserve System to assure that individuals are informed of:

(1) The cost of credit, and

(2) Their right to rescind certain real estate transactions within a period of 3 business days following the date of completion of the transaction or disclosure of the information hereinafter specified, whichever is later.

(b) *Scope.* This section applies to all natural persons (individuals) who apply for loans, assumptions, or credit sales except applicants who are corporations, associations, cooperatives, public bodies, partnerships, or other organizations; applicants for Rural Rental Housing (RRH) loans; or applicants involved in credit transactions primarily for agricultural purposes including real property transactions in which the amount financed exceeds $25,000.

(c) *Disclosure.* (1) *Loans and assumptions.* Disclosure of the amount of loan or assumption, amount of finance charge (interest and any mortgage or loan insurance charge), other charges included in the loan or assumption, annual percentage rate of finance charge, number, amounts, and due dates of periodic payments, description of required or retained security instruments and security property, and rescission rights where applicable, is required.

(2) *Credit sales.* Disclosure of sale price, cash downpayment, finance charge, amount financed, annual percentage rate of finance charge, number, amounts, and due dates of periodic payments, description of security instruments and property, and rescission rights where applicable, is required.

(d) *Required forms.* (1) *Disclosure statement.* Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate," or Form FmHA 440–41A, "Disclosure Statement for Loans Not Secured by Real Estate," will be used, as appropriate, at time of approval, to give the applicant required information in loan and assumption cases, as indicated in the form and the Forms Manual Insert (FMI).

(2) *Credit Sale Disclosure Statement.* Form FmHA 440–42, "Credit Sale Disclosure Statement," will be used at the time of approval to give the applicant the required information in credit sale cases, as indicated in the form and the FMI.

(3) *Notice of Right to Rescind.* Form FmHA 440–43, "Notice of Right to Rescind," will be used in loan, assumption, and credit sale cases in which a mortgage or other lien is taken or retained on the real property on which the borrower resides or expects to reside. Form FmHA 440–43 will not be used, however, when a first mortgage or other first lien is taken or retained as security in the purchase or construction of the borrower's residence. This form also will be used in all Delaware and Pennsylvania cases in which the promissory note contains a confession of judgment provision. Two copies of Form FmHA 440–43 will be delivered or mailed to the persons as indicated in the form and the FMI.

(e) *Method of computing finance charges.* The interest charges to be reported on Forms FmHA 440–41, FmHA 440–41A, FmHA 440–42 for Emergency and Operating loans will be the interest computed for use on Form FmHA 441–1, "Promissory Note." See the FMI for Form FmHA 441–41 for instructions on computing interest charges to be inserted on Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–42.

#### § 1901.402–.405 [Reserved]

#### § 1901.406 Real estate settlement procedures.

(a) *General.* This section provides the instructions for compliance with the

Real Estate Settlement Procedures Act (RESPA), as amended and Regulation X of the Department of Housing and Urban Development.

(b) *Scope.* (1) This section applies to loans and credit sales, including 502 Rural Housing, 1–4 family RRH, 1–4 family Labor Housing, and Farm Ownership involving tracts of less than 25 acres, whether made to an individual, corporation, partnership, association or other entity, which meet the following requirements:

(i) The proceeds of the loan or the credit extended are used in whole or in part to finance the purchase and transfer of title of the property to be mortgaged by the borrower, and

(ii) The loan or credit sale is secured by a first lien covering real estate on which is located a structure designed principally for the occupancy of from 1–4 families, or on which a structure designed principally for the occupancy of from 1–4 families is to be constructed using proceeds of the loan.

(2) Exempt transactions include: (i) Loans for repairs, improvements, or refinancing if the proceeds are not used to finance the purchase of the property.

(ii) Loans to finance the construction of a 1–4 family structure if the lot is already owned by borrower.

(iii) Assumptions or transfers.

(c) *Actions required.* (1) The RESPA "Special Information Booklet" will be given to the applicant at the time the application is received or mailed to the applicant no later than three business days after receipt of the application in the County Office.

(i) Exhibit A, "Attachment to Special Information Booklet" contains a "good faith" statement of estimated closing costs. Exhibit A will be completed by the County Supervisor and delivered to the applicant with the Special Information Booklet. Costs will vary between geographic areas, however, information supplied on this form must be based upon (A) the County Supervisor's best estimate of charges the borrower will pay for each service in connection with the transaction, or (B) a range of charges at which such service is available to the borrower from all providers in the area.

(ii) This form (Exhibit A) does not replace Truth-In-Lending forms. Appropriate forms listed in § 1901.401 will continue to be used.

(2) Form FmHA 440–59 (HUD–1), "Settlement Statement," will be completed as indicated in the form and FMI by the designated attorney, escrow agent, or title company for all transactions described in paragraph (b) of this section. The purpose of this form is to provide a uniform settlement statement prescribed by RESPA.

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the settlement statement. Completed for those items which are then known to the closing agent.

(ii) A copy will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.

§ 1901.407–.450 [Reserved].

EXHIBIT A

UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION

---

---

(County Office Address)

ATTACHMENT TO SPECIAL INFORMATION BOOKLET

1. The following are estimates of costs incurred by borrowers in the closing of a $_____ Farmers Home Administration (FmHA) loan secured by a first priority lien on real property. If a good faith estimate of the cost of a service is not practicable, an estimate of the range of cost for that service is shown. The actual cost incurred may be different from the estimated costs listed below. You will be advised of any other costs for items such as a hazard insurance premium or a proration of real estate taxes that must be paid if a loan is made to you.

[Estimated closing costs]

| Item No. on settlement statement | Service | Estimated amount borrower is likely to pay (A) | Ranges of charges of providers of services (B) |
|---|---|---|---|
| 804 | Credit report | | |
| 808 | Real estate tax service fee | | |
| 1101 | Closing or escrow fee | | |
| 1102 | Abstract or title search | | |
| 1103 | Title examination | | |
| 1104 | Title insurance binder | | |
| 1105 | Document preparation | | |
| 1106 | Notary fees | | |
| 1107 | Attorneys fees [1] | | |
| 1108 | Title insurance policy | | |
| 1201 | Recording costs | | |
| 1202 | City/county tax stamps | | |
| 1203 | State tax stamps or transfer tax | | |
| 1301 | Survey of property lines | | |

[1] Includes above items numbered.

2. The FmHA has approved loan closing agents to provide usual loan closing services. If you have already retained an attorney, that attorney may represent you in the closing of the requested loan provided FmHA bonding and liability insurance requirements are met and FmHA title clearance and closing instructions are complied with for the transaction.

Effective date: This amendment is effective June 30, 1976.

Dated: June 22, 1976.

FRANK W. NAYLOR, Jr.,
*Acting Administrator, Farmers Home Administration.*

[FR Doc.76–18866 Filed 6–28–76;8:45 am]

---

## Title 12—Banks and Banking

## CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

## PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

### Filing Requirement for Annual Financial Reports of Collective Investment Funds

This amendment, issued pursuant to the authority conferred in section 1(j) of Public Law 87–722, 76 Stat. 668, 12 U.S.C. 92a, would remove the requirement contained in 12 CFR 9.18(b) (5) (ii) that a bank administering a collective investment fund file a copy of the annual financial report of the fund with the Comptroller of the Currency. The requirement to prepare the report will remain in effect.

Since this amendment makes no substantial regulatory change beyond the removal of a filing requirement which has been found to be no longer necessary, public procedures and delayed effectiveness are unnecessary and contrary to the public interest. The amendment will therefore become effective upon publication.

12 CFR 9.18(b) (5) (ii) is revised by deleting a filing requirement. The revised text reads as follows:

**§ 9.18 Collective investment.**

* * * * * *

(b) * * *

(5) * * *

(ii) A bank administering a collective investment fund shall at least once during period of 12 months prepare a financial report of the fund. This report, based upon the above audit, shall contain a list of investments in the fund showing the cost and current market value of each investment; a statement for the period since the previous report showing purchases, with cost; sales, with profit or loss and any other investment changes; income and disbursements; and an appropriate notation as to any investments in default.

* * * * *

Dated: June 24, 1976.

JAMES E. SMITH,
*Comptroller of the Currency.*

[FR Doc.76-18834 Filed 6-28-76;8:45 am]

## CHAPTER II—FEDERAL RESERVE SYSTEM

[Regulation D]

## PART 204—RESERVES OF MEMBER BANKS

### Automated Payment Arrangements and the Use of Cash Items in the Process of Collection

The Board of Governors has issued the following interpretation regarding the ability of a member bank to include certain automated payments in the account "cash items in the process of collection." Such payments are regarded as cash items and are permitted to be deducted from "gross demand deposits" used in computing member bank reserves. The Board has issued the interpretation based upon its statutory authority to define cash items under § 19(g) of the Federal Reserve Act, 12 U.S.C. 465, and its regulatory authority under § 204.2(b) of Regulation D (12 CFR 204.2(b)).

Section 204.118 is added to 12 CFR Part 204 as follows:

**§ 204.118 Cash items in the process of collection.**

(a) As a result of involvement in automated arrangements in which payment information is contained on magnetic tape, paper listings, etc., rather than checks, a number of member banks have inquired as to the proper reserve requirement treatment for payroll, Federal recurring payments, and other items received for credit to a customer's account in such arrangements.

(b) Where payment information is sent to a member bank prior to the date credit is passed for the item, some banks have been crediting their customers on the date prior to that payment date to ensure that such deposit is available to the depositor at opening of business on the payment date. Such procedure, however, results in an increase in reported member bank deposits even though the member bank does not itself receive credit for the funds until the next day. Some member banks have inquired as to whether the account "cash items in the process of collection" may be debited in an amount equal to the amount credited on the date prior to the payment date.

(c) Section 19(g) of the Federal Reserve Act (12 U.S.C. 465) permits a member bank to deduct "cash items in the process of collection" as defined by the Board. Section 204.2(b) of Regulation D provides that cash items may be deducted from gross demand deposits, and § 204.1(h)(3) defines cash items in the process of collection as "those customarily cleared or collected by banks as cash items." The deduction was intended, in part, to avoid the "double counting" by member banks of their deposits subject to reserves. Furthermore, due to the spread of automated arrangements, it has become customary to treat such automated payments as "cash items." Because double counting would arise in circumstances described above, and in view of the fact that automated arrangements are now customary practices, the Board believes that banks are permitted to debit the account "cash items in the process of collection" in such amounts.

(Sec. 19(g), Federal Reserve Act, 12 U.S.C. 465.)

By order of the Board of Governors, June 16, 1976.

GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.76-18757 Filed 6-28-76;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2822]

## PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

### J. Kurtz & Sons, Inc., et al.

*Correction*

In FR Doc. 76-18095 appearing in the FEDERAL REGISTER of Tuesday, June 22, 1976, on page 24986 in paragraph (c) in the ninth line, the second word should read, "worthiness".

## Title 17—Commodity and Securities Exchanges

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. No. SAB-9]

## PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

### Staff Accounting Bulletins; Publication of Staff Accounting Bulletin No. 5

*Correction*

In the issue for Thursday, June 24, 1976, FR Doc. 76-18348 appearing at page 26083 under Securities and Exchange Commission and entitled "Financial Reporting" was mistakenly printed as a notice. The document should have appeared in the Rules and Regulations section, and the heading should have read as set forth above.

## Title 21—Food and Drugs

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

### SUBCHAPTER E—ANIMAL DRUGS, FEED, AND RELATED PRODUCTS

[FRL568-5; FAP6H5118/T17]

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

### Glyphosate

On March 18, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 11349) a notice that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis MO 63116, had submitted a petition (FAP 6H5118) which proposes to amend 21 CFR 561 by the establishment of a regulation permitting the use of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] in a proposed experimental program involving application of the herbicide to growing citrus with a tolerance of 0.4 part per million for combined residues of the herbicide and its metabolite aminomethylphosphonic acid in dried citrus pulp in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). No comments or requests for referral to an advisory committee were received with regard to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit issued under FIFRA. It has further been determined that since residues of the pesticide may result in dried citrus pulp from the agricultural uses provided for by the experimental use permit, the food additive regulation requested by the petitioner should be established and should include a tolerance limitation.

Accordingly, a food additive regulation is established as set forth below. Any person adversely affected by this regulation may, on or before July 29, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, East Tower, Room 1019, 401 M St. SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on June 29, 1976, 21 CFR 561 is amended by adding the new § 561.253 as set forth below.

Dated: June 17, 1976.

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

(Sec. 409(c) (1) and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(c) (1) and (4)).)

Part 561 is amended by adding the new § 561.253 to read as follows:

§ 561.253 Glyphosate.

(a) A tolerance of 0.4 part per million is established for combined residues of the herbicide glyphosate [*N*-(phosphonomethyl) glycine] and its metabolite aminomethylphosphonic acid in dried citrus pulp resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires June 16, 1977.

(b) Residues in dried citrus pulp not in excess of 0.4 part per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental use program will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and feed additive tolerance.

(c) Monsanto Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc.76-18747 Filed 6-28-76;8:45 am]

## Title 29—Labor

### CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

### PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS AND AMERICAN SAMOA

The Office of the Director of the Caribbean Office of the Wage and Hour Division has been moved to the New Federal Office Building, Room 403, Carlos Chardon Street, Hato Rey, Puerto Rico 00918. Section 511.8 is therefore revised to reflect this change of address.

As revised, paragraph (b) of § 511.8 reads as follows:

§ 511.3 Prehearing statements.

* * * * *

(b) Any interested person who wishes to participate on his own behalf or by counsel shall file a written prehearing statement not later than ten days before the first hearing date set for any committee in a notice of hearing concerning minimum wages for Puerto Rico or the Virgin Islands, or such other period of time as may be prescribed in a notice of hearing, or other notice published in the FEDERAL REGISTER, the original and 11 copies of the prehearing statement shall be filed at the Office of the Director of the Caribbean Office of the Wage and Hour Division, United States Department of Labor, New Federal Office Building, Room 403, Carlos Chardon Street, Hato Rey, Puerto Rico 00918, and one copy at the Office of the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D.C. 20210. * * *

* * * * *

This change is effective immediately.

Signed at Washington, D.C., on this 22d day of June 1976.

WARREN D. LANDIS,
*Acting Administrator,*
*Wage and Hour Division.*

[FR Doc.76-18685 Filed 6-28-76;8:45 am]

## Title 31—Money and Finance: Treasury

### CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

### PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT AND EXPORT OF COIN AND CURRENCY

#### Reporting Forms

The Department of the Treasury herewith promulgates amendments to the Treasury Regulations on the reporting of transactions in foreign exchange, transfers of credit, and the export of coin or currency by financial institutions and other reporting firms governed by the provisions of Part 128. The changes revoke three reporting forms presently required under the Regulations. The amendments are issued pursuant to the authority conferred in section 2 of the Emergency Banking Act of 1933, 48 Stat. 1, as amended, 12 U.S.C. 95a, section 8 of the Bretton Woods Agreements Act, 59 Stat. 515, 22 U.S.C. 286f; and Executive Order 6560, January 15, 1934.

The amendments delete the following forms from the Treasury Foreign Exchange (TFEX) reporting system: (1) TFEX Form B–1 Preliminary Summary (monthly), (2) TFEX Form C–4 (annual), and (3) TFEX Form S–4 (quarterly). The amendments revoke § 128.16a, which describes TFEX Form C–4, and § 128.20, which describes TFEX Form S–4. TFEX Form B–1 Preliminary Summary is not described in the Regulations.

These amendments relieve reporting requirements in the existing Regulations and it is important that reporting firms be able to rely immediately thereon in that the forms will no longer be required to be submitted after June 30, 1976. Therefore, publication in proposed form and public comment procedures are not deemed necessary in the public interest. In addition, there is good cause to make the amendments effective June 29, 1976. The amendments shall apply to all affected transactions after June 30, 1976.

The text of the amendments is as follows:

1. TFEX Form B–1 Preliminary Summary is hereby revoked.

2. Section 128.16a is revoked as follows:

§ 128.16a Foreign Exchange Form C–4: "Short-term" liquid claims on "foreigners" in countries not listed separately on Form C–3. [Revoked]

3. Section 128.20 is revoked as follows:

§ 128.20 Foreign Exchange Form S–4: Foreign Debit and credit balances. [Revoked]

Dated: June 24, 1976.

GERALD L. PARSKY,
*Assistant Secretary*
*for International Affairs.*

[FR Doc.76-18836 Filed 6-28-76;8:45 am]

## Title 33—Navigation and Navigable Waters

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

[CGD 3-76-8]

### PART 127—SECURITY ZONES

#### Establishment of Security Zone, Wilmington Marine Terminal, Wilmington, Delaware

Notice is hereby given that E. Bizzozero, Commander, United States Coast Guard, Captain of the Port, Philadelphia, Pa., has issued the following order establishing a Security Zone at the Wilmington Marine Terminal, Wilmington, Delaware:

This amendment to the Coast Guard's Security Zone Regulations, establishes the British Naval Vessel HMS *Bacchante* and the navigable waters within 50 yards thereof as a security zone. This security zone is established to provide waterside security to protect the vessel from suspected terrorist activities.

This amendment is issued without publication of a Notice of Proposed Rule Making and this amendment is effective less than 30 days from the date of publication, because this security zone involves a foreign affairs function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.342, to read as follows:

§ 127.342 Wilmington Marine Terminal, Wilmington, Delaware.

The waters within the following boundary is a security zone. The waters of the Christina River within 50 yards of the British Naval Vessel HMS *Bacchante* while she is moored at berth 5½ at Wilmington Marine Terminal.

EFFECTIVE DATE NOTE: This amendment is effective from 9 a.m., June 25, 1976 to 9 a.m., July 1, 1976.

(40 Stat. 220, as amended, 1, 63 Stat. 503, 6(b) 80 Stat. 937; 50 U.S.C. 191, 14 U.S.C. 91, 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Dated: June 25, 1976.

R. A. RATTI,
*Chief Counsel.*

[FR Doc.76-18958 Filed 6-25-76;3:47 pm]

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

### CHAPTER I—VETERANS ADMINISTRATION

### PART 3—ADJUDICATION

### Pension, Compensation, and Dependency and Indemnity Compensation

ELIMINATION OF OBSOLETE PROVISIONS

On page 19354 of the FEDERAL REGISTER of May 12, 1976, there was published a notice of proposed regulatory development to amend § 3.6 to eliminate obsolete provisions relating to effective dates of awards of veterans' and survivors' benefits.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date: This VA Regulation is effective June 23, 1976.

Approved: June 23, 1976.

By direction of the Administrator.

ODELL W. VAUGHN,
*Deputy Administrator.*

In § 3.6, paragraphs (b)(4) and (6), (c)(3), (d)(1) and (3) and (e)(2) are revised to read as follows:

§ 3.6 **Duty periods.**

* * * * *

(b) *Active duty.* This means:

* * * * *

(4) Service at any time as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

* * * * *

(6) A person discharged or released from a period of active duty, shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for him or her to proceed to his or her home by the most direct route, and, in all instances, until midnight of the date of such discharge or release. (38 U.S.C. 106(c))

(c) *"Active duty for training".* * * *

(3) Full-time duty performed by members of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505, or the prior corresponding provisions of law or full-time duty by such members while participating in the reenactment of the Battle of First Manassas in July 1961; and

* * * * *

(d) *"Inactive duty training."* This means:

(1) Duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under 37 U.S.C. 206 or any other provision of law; and

* * * * *

(3) Duty (other than full-time duty) performed by a member of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505, or the prior corresponding provisions of law. The term "inactive duty training" does not include:

(i) Work or study performed in connection with correspondence courses,

(ii) Attendance at an educational institution in an inactive status, or

(iii) Duty performed as a temporary member of the Coast Guard Reserve.

(e) *Travel status; training duty (disability or death from injury).* Any member of a Reserve Component:

* * * * *

(2) Who is disabled or dies from an injury incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be. The Veterans Administration will determine whether such individual was so authorized or required to perform such duty, and whether the individual was disabled or died from injury so incurred. In making such determinations, there shall be taken into consideration the hour on which the individual began to proceed or return; the hour on which the individual was scheduled to arrive for, or on which the individual ceased to perform, such duty; the method of travel performed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this paragraph, the burden of proof shall be on the claimant. (38 U.S.C. 106(d))

[FR Doc.76-18859 Filed 6-28-76;8:45 am]

---

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

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

APPROVAL AND TERMINATION OF COURSES; CERTIFICATION OF ENROLLMENTS

On page 7790 of the FEDERAL REGISTER of February 20, 1976, there was published a notice of proposed regulatory development to amend Part 21 of the Code of Federal Regulations to provide new criteria for approval of courses which include internship and off-campus training, for terminating courses not leading to a college degree and for certifying enrollments.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. A total of eleven comments were received (including one comment which was submitted twice by the same person.

Three comments in opposition to the change to § 21.4264 originate from one source who submitted the duplicate comments and on whose behalf a similar comment was also submitted. Their opposition to the proposed changes is based upon the fact that there are presently part-time trainees in the programs with which they are associated and it is their opinion that such persons benefit from the training and make a significant contribution to the community as farmers. A fourth person makes a similar comment and questions the status of persons in training on the effective date of the change, who are only part-time farmers. Such persons may continue so long as they remain enrolled and in pursuit of the program to the end of the course. A fifth comment questions the authority of the Administrator to promulgate such a change under section 1684, title 38, United States Code. Actually the person intends to refer to section 1682. This provision states that the veteran must be "concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator."

The person's view is that this provision of law only allows the Administrator to determine what "type" of employment is relevant and not the relevance of the amount of time devoted to the employment. This is an erroneous interpretation of the statutory language, for in determining whether the individual is engaged in the relevant, i.e. farm employment, the amount of time devoted to the activity is partly determinative. A person, devoting only that amount of time to the endeavor that characterizes the activity as a hobby, is not "employed" in the "relevant" activity. Nor, as the comment suggests, is the intent of the law to preserve the continuity of farm families, laudable as that goal is, for the intent of the law is to pay educational benefits to those eligible persons who are engaged in farm cooperative training as defined by section 1682.

The wisdom of the proposed change and its reasonableness is borne out by the comments of two persons who support the proposal.

One of these states, "This would eliminate several persons who now qualify who are 'hobby farmers', with other substantially full-time employment." The other states, "* * * regarding the claim by some that they need to work out, I would like to emphasize that in most past situations they never seem to reach a point of full-time farming. In some cases, their interest in farming ends as soon as they use up their veteran's training eligibility." It should be noted that both of these persons appear to be associated with educational institutions engaged in such training. As one of them states, the part-time farmer may not benefit from the training because the "homework" required is impractical for the small farm, the person's economic interest in the farm is not large enough to make the adjustments taught, the off-farm employment leads to absenteeism from the training and the student is simply not seriously motivated.

The Congress has always intended that educational assistance allowances payable to veterans and other eligible persons shall be designed to provide the individual with a valid educational, professional or vocational objective. The intent has never been to permit avocational training or to provide for "self-enrichment." The part-time farmer in most cases is pursuing the activity for avocational purposes or as an incidental activity unnecessary to the person's real vocation. We do not, therefore, find grounds for canceling the proposed regulation.

One comment deals with the language that is present in both the existing and proposed § 21.4203(d)(2), which specifies that reports of the status of the student are to be made during or immediately after the end of the month in which the event occurred. Since this requirement has not been changed by the amendments proposed, but rather, the amendments are intended to indicate that such reports are to be made even if a separate or special action by the institution is necessary, we do not find the comment to be grounds for a further amendment of the proposed regulation.

The ninth suggestion objects to portions of the proposed § 21.4265. The portions objected to were formerly found in § 21.4275 and have merely been moved to the new § 21.4265 without substantial change. The person objecting believes that § 21.4265 (c)(3) and (d) are duplicative. In fact they are not, since paragraph (c)(3) training combines classroom and extern type training. Paragraph (d) courses do not have extern type training within them, but are programs of an educational institution. Different criteria govern. The person commenting also requests that § 21.4265 (g) be made clear by stating that a course which cannot be accommodated by paragraphs (a) through (f) is for consideration under paragraph (g). Such is not the case. Any nonaccredited course which meets the criteria under paragraph (g) may be measured in accordance with its terms, even if it may be qualified for other measurement under paragraphs (a) through (f). Similar objections are made to § 21.4275 and the same considerations apply. The person also objects to § 21.4275 on the grounds that all courses included therein should be measurable on the credit-hour basis, irrespective of the fact that some courses offered by the schools do not qualify for credit-hour measurement in accordance with section 1788, title 38, United States Code (as amended by Pub. L. 93–508). To do so would violate these provisions and the amendment to the regulation may not do that. The objections are rejected.

Two of the comments deal with the language of the proposed § 21.4200(g). One person objects to the new definition on grounds of inequitable weighting of the three kinds of training, i.e., classroom, laboratory, and workshop. However, there are inherent differences in the amount of outside preparation required for each of these types of training which have been ignored by the comment. Traditionally the person is required to spend a large amount of outside preparation time for classroom training, less for laboratory training and the least for workshop training. When the preparation time is considered, the minimums required by the regulation are found to be comparable and equitable. The other comment on this proposal objects to the establishment of these norms because the nontraditional course will not fit. However, that is the very reason that the regulation only prescribes what is normal, for we recognize that exceptions must be be provided for in some cases. If the rule was stated in absolute terms valid exceptional cases would be effectively barred. Neither comment is a basis for further change to this regulation.

Effective date: These VA Regulations are effective June 21, 1976.

Approved: June 21, 1976.

By direction of the Administrator.

ODELL W. VAUGHN,
*Deputy Administrator.*

1. In § 21.4135, paragraph (h)(1) is revised to read as follows:

**§ 21.4135 Discontinuance dates.**

* * * * *

(h) *Required certifications not received after certification of enrollment (§§ 21.4203 and 21.4204).* (1) If required certification of attendance of a veteran or eligible person enrolled in a course not leading to a standard college degree is not timely received, payments will be terminated date of last certification. If certification is later received, adjustment will be made based on facts found.

* * * * *

2. In § 21.4200, paragraph (g) is added to read as follows:

**§ 21.4200 Definitions.**

* * * * *

(g) *Standard class session.* The term means the amount of time a student is required, in a regular quarter or semester, to spend in class per week for one quarter or one semester hour of credit. Normally a standard class session is not less than 1 hour (or 50-minute period) of academic instruction, 2 hours of laboratory training, or 3 hours of workshop training.

3. In § 21.4203, paragraphs (b)(1) and (d) are revised to read as follows:

**§ 21.4203 Reports by schools; requirements.**

* * * * *

(b) *Entrance or reentrance.* The certification must clearly specify the course. Upon receipt of a certification of enrollment, an official authorization will be issued showing the beginning and ending dates of each period for which an allowance may be paid. The authorization will be for the period of enrollment or the extent of the eligible person's entitlement whichever is the lesser.

(1) Schools organized on a term, quarter or semester basis shall generally report enrollment for the term, quarter or semester or the complete course to the expected date of graduation. If a certification covers two or more terms the school will report the dates for the break between terms or school years if a term or school year ends and the following term or school year does not begin in the same or the next calendar month. No allowances are payable for these intervals. The school will report the period between each term, quarter or semester, if the eligible veteran or student elects not to be paid for the intervals between terms. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation. Where the student is a veteran or eligible person pursuing a program on a less than half-time basis or is a serviceman or servicewoman, a separate enrollment certification will be required for each term, quarter or semester.

* * * * *

(d) *Interruptions and terminations.* When a veteran or eligible person interrupts or terminates his or her training for whatever reason, including unsatisfactory conduct or progress, this fact must be reported promptly to the Veterans Administration.

(1) If the course does not lead to a standard college degree, the school shall submit the report required by this paragraph and paragraph (c) of this section as follows:

(i) If the quarterly certification of attendance that is normally required for the student is due to be filed during or immediately after the end of the month in which the change in status occurs the report will be included on the quarterly certification.

(ii) If no quarterly certification is due during the month in which the change of status occurs, the school shall report the change in status to the Veterans Administration, during or immediately after the end of the month in which the change occurred, including a certification of the absences of the student since the last quarterly certification was filed or the course began.

(2) If the course leads to a standard college degree the school will initiate a report of the change in the status of the student during or immediately after the end of the month in which the change occurs. The official date of change of status or interruption or termination shall be in accordance with § 21.4253(d) or 21.4254(c)(7).

* * * * *

4. In § 21.4233, paragraph (a)(1) is revised to read as follows:

**§ 21.4233 Combination.**

* * * * *

(a) *Cooperative courses.* A full-time program of education consisting of

phases of school instruction alternated with training in a business or industrial establishment with such training being strictly supplemental to the school instruction may be approved. Alternating periods may be a part-day in school and a part-day on job or may be such periods which alternate on a daily, weekly, monthly or on a term basis. For purposes of approval the school offering the course must submit to the State approving agency, with its application, statements of fact showing at least the following:

(1) That the alternate in-school periods of the course are at least as long as the alternate periods in the business or industrial establishment; where the course is approved as continuous part-time work and part-time study in combination, it shall be measured on the basis of the ratio which each portion of the training bears to full time as defined in § 21.4270 (c) and (g). The institutional portion must be at least equivalent to one-half time training and must be combined with a job training portion sufficient for the combined training to equal full time.

* * * * *

5. In § 21.4264, paragraphs (a) introduction and (b) (3) are revised to read as follows:

**§ 21.4264 Farm cooperative courses.**

(a) *General.* A farm cooperative course is an institutional agricultural course which is pursued by an individual who is concurrently engaged in substantially full-time agricultural employment which is relevant to the agricultural course. Such a course provides training on a reduced basis to those engaged in farming, compared to other types of courses. Part-time benefits are provided for students whose farming operations will not permit them to attend class at least 10 hours a week.

* * * * *

(b) *Application.* Any school desiring to enroll veterans, spouses or children in farm cooperative courses will submit to the appropriate State approving agency a written application for approval in accordance with § 21.4253 or 21.4254 as appropriate. In addition, the school must submit statements of fact showing at least the following:

* * * * *

(3) That the school itself verifies on a continuing basis that students are engaged in suitable agricultural employment which is relevant to the institutional agricultural course offered by the school and is in an area consistent with their institutional training program. Suitable agricultural employment must include employment on a farm or other agricultural establishment where the basic activity is the cultivation of the ground, such as the raising and harvesting of crops, including fruits, vegetables, pastures, or the feeding, breeding and managing of livestock, including poultry and other specialized farming. Employment in training establishments which are engaged primarily in the processing, distribution or sale of agricultural products, or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards, and florist shops, will not be considered suitable agricultural employment. Substantially full-time agricultural employment must be the principal expected source of earning the student's livelihood. However, part-time nonagricultural employment will be permitted if it is less than the total effort required in pursuit of the agricultural employment.

(38 U.S.C. 1682; 1732)

* * * * *

6. Section 21.4265 is added to read as follows:

**§ 21.4265 Practical training approved as institutional training or on-job training.**

(a) *Medical-dental internships and residencies.* Medical, osteopathic, and dental internships and residencies will be recognized as institutional courses when accredited and approved by an appropriate accrediting agency as leading to certification for a recognized professional objective. The appropriate accrediting agencies are the Council on Medical Education of the American Medical Association, the American Osteopathic Association and the Council on Dental Education of the American Dental Association. Residency programs must lead to certification by an appropriate Specialty or Subspecialty Board of the American Medical Association, the American Osteopathic Association, or the American Dental Association. Residency programs will not be approved to include a period of practice following completion of the education requirements even though the practice is required by the accrediting agency. No other medical, osteopathic, or dental internship or residency will be recognized as institutional training.

(b) *Nursing courses.* (1) Courses for the objective of registered nurse or registered professional nurse will be assessed as institutional training when they are provided in autonomous schools of nursing, hospital schools of nursing, or schools of nursing established in other schools or departments of colleges and universities, if they are accredited by a nationally recognized accrediting agency or if they meet the requirements of the licensing body of the State in which the school is located. The hospital or fieldwork phase of a nursing course, including a course leading to a degree in nursing, will be assessed as an institutional course when the hospital or fieldwork phase is an integral part of the course, the completion thereof is a prerequisite to the successful completion of the course, the student remains enrolled in the school during the period, and the training is under the direction and supervision of the school.

(2) Courses offered by schools which lead to the objective of practical nurse, practical trained nurse, or licensed practical nurse will be assessed as institutional training including both the academic subjects and the clinical training if the clinical training is offered by an affiliated or cooperating hospital and the student is enrolled in and supervised by the school during the period of such clinical training. Also they must be accredited by a nationally recognized accrediting agency or meet the requirements of the licensing body of the State in which the school is located.

(3) Enrollment in an institutional course for the objective of nurse's aid or in a nonaccredited nursing course which does not meet the licensing requirements in the State where the course is offered will not be authorized.

(c) *Medical and dental specialty courses.* (1) Required clinical training included in a school course given in an affiliated hospital, clinic, laboratory or medical center as a part of a medical or dental specialty course whether accredited or nonaccredited offered by a school such as X-ray technician, medical technician, medical records administrator, physical therapist or dental technician shall be assessed as institutional training provided:

(i) The student remains enrolled in the course during the clinical period; and

(ii) The clinical training is:

(*a*) An integral part of the course;

(*b*) A prerequisite to the successful completion of the course; and

(*c*) Under the direction and supervision of the school.

(2) Medical and dental specialty courses offered in hospitals, clinics, laboratories, or medical centers which are accredited as institutional courses by a nationally recognized accrediting agency will be assessed as institutional training.

(3) Clinical training included in a school course given in a physician's office or a dentist's office, also called externship, will be recognized as part of the institutional training if the course is accredited by a nationally recognized accrediting agency and meets the other requirements of paragraph (c) (1) of this section. If the course is not so accredited such practical or on-the-job training or experience in a physician's office may not be included unless the program is approved as a cooperative course.

(4) Nonaccredited courses offered in hospitals, clinics, laboratories, or medical centers will be considered on-the-job training when the courses meet the requirements of § 21.4262.

(d) *Medical and dental assistants courses.* Programs offered by an institution to qualify a person for the position of full-time physician's assistant or dentist's assistant will be regarded as institutional training.

(e) *Professional training courses.* (1) Any non-medically related professional internship program, such as a clinical pastoral course, will be recognized as an institutional course when it is accredited as an institutional course by a nationally recognized accrediting agency, and

(2) The approved facility for such a course must be the institution or other facility where the training is given.

(f) *Other practical training courses.* (1) Other off-campus job experience in-

cluded in a school course, variously described by schools as internship, residency, practicum, externship, et cetera, may be included as a part of a cooperative program when the course meets the requirements of § 21.4233(a).

(2) However, such off-campus courses may be considered as resident institutional training only if all of the following conditions are met. The course is:

(i) Accredited by a nationally recognized accrediting agency or is offered by a school that is accredited by one of the regional accrediting associations;

(ii) A part of the approved curriculum of the school;

(iii) Directly supervised by the school;

(iv) Measured in the same unit as other courses;

(v) Required for graduation; and

(vi) Has a planned program of activities described in the school's official publication which is approved by the State approving agency and which is institutional in nature as distinguished from training on-the-job. The description shall include at least:

(*a*) A unit subject description;

(*b*) A provision for an assigned instructor;

(*c*) A statement that the planned program of activities is controlled by the school, not by the officials of the job establishment;

(*d*) A requirement that class attendance on at least a weekly basis be regularly scheduled to provide for interaction between instructor and student;

(*e*) A statement that appropriate assignments are required for completion of the course;

(*f*) A grading system similar to the system used for other resident subjects offered by the school; and

(*g*) A schedule of time required for the training which demonstrates that the student shall spend at least as much time in preparation and training as is normally required by the school for its other resident courses.

(g) *Nonaccredited courses.* Any nonaccredited internship program not given in a school will be recognized as other on-the-job training when it meets the requirements of § 21.4262 and when the program is required for licensure by the State in which it is offered. (See § 21.4275 for measurement.)

7. Section 21.4275 is revised to read as follows:

**§ 21.4275 Practical training courses; measurement.**

(a) *Medical, osteopathic, and dental internships and residencies.* Medical, osteopathic, and dental internship and residency courses will be measured as fulltime training if accredited and approved as fulltime is accordance with § 21.4265 (a).

(b) *Nursing courses.* (1) Courses for the objective of registered nurse or registered professional nurse will be measured on the basis of credit hours or clock hours of attendance, whichever is appropriate. The clock hours of attendance may include academic class time, clinical training, and supervised study periods.

(2) Courses offered by schools which lead to the objective of practical nurse, practical trained nurse, or licensed practical nurse will be measured on credit hours or clock hours of attendance per week whichever is appropriate.

(c) *Medical and dental specialty courses.* (1) Medical and dental specialty courses offered by a school whether accredited or nonaccredited, shall be measured on the basis of credit hours or clock hours of attendance, whichever is appropriate.

(2) Medical and dental specialty courses offered in hospitals, clinics, laboratories or medical centers which are accredited by a nationally recognized accrediting agency shall be measured on the basis of clock hours of attendance per week.

(d) *Medical and dental assistants courses.* These programs will be measured on a credit-hour or clock-hour basis as appropriate. Programs including classroom and practical training, will be considered full time if 30 clock hours of attendance per week are required. Part-time measurement shall be in accordance with the provisions of § 21.4270 (a) or (c) as appropriate.

(e) *Professional training courses.* Nonmedically related professional training courses, such as the clinical pastoral course, shall be measured in semester hours of attendance or clock hours of attendance per week, whichever is appropriate.

(f) *Other practical training courses.* These courses will be measured in semester hours of credit or clock hours of attendance per week, whichever is appropriate, if approved under § 21.4265 (f). (See § 21.4265 for approval.)

[FR Doc.76-18858 Filed 6-28-76;8:45 am]

## Title 39—Postal Service

### CHAPTER I—UNITED STATES POSTAL SERVICE

### PART 111—GENERAL INFORMATION ON POSTAL SERVICE

#### Incorporation by Reference

EDITORIAL NOTE: The Director of the Federal Register has approved an extension until September 1, 1976 of the incorporation by reference of the Postal Service Manual as provided in 39 CFR 111.4 (a). In addition, publication of the 1976 revision of Title 39 of the CFR has been postponed from July 1 to September 1.

## Title 41—Public Contracts and Property Management

### CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

[FRL 557-5]

### PART 15-1—GENERAL

#### Subpart 15-1.6—Debarred, Suspended, and Ineligible Bidders

CANCELLATION OF ERRONEOUS REVISION

In FR. Doc. 75-29635, appearing at 40 FR 51196, November 4, 1975, §§ 15-1.602-1(b) and 15-1.603 were revised. These revisions were unnecessary, having already been made by FR. Doc. 74-21915, appearing at 39 FR. 33799, September 20, 1974. Therefore, FR. Doc. 75-29635 is corrected by cancelling it in its entirety.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

Effective Date: This cancellation will become effective on June 29, 1976.

Dated: June 23, 1976.

RUSSELL E. TRAIN,
*Administrator.*

[FR Doc.76-18874 Filed 6-28-76;8:45 am]

## Title 42—Public Health

### CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

#### Physician Shortage Area Scholarship Grants

In the FEDERAL REGISTER of January 29, 1976 (41 FR 4295) the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare proposed to amend Subpart W of 42 CFR Part 57, "Physician Shortage Area Scholarship Grants," as set forth below. The purpose of the proposed amendment was to permit an individual who, in addition to receiving scholarship support under section 784 of the Act, receives a Public Health and National Health Service Corps Scholarship under section 225 of the Act, to defer the practice required under section 784 of the Act until after completion by such individual of the service obligation under section 225 of the Act.

Section 784 of the Public Health Service Act (42 U.S.C. 295g-21) authorizes the Secretary of Health, Education, and Welfare to award scholarship grants to students of medicine and osteopathy who agree to engage in the full-time practice of primary care for a prescribed period of time (a) in a physician shortage area or (b) in such manner as to assure that of the patients receiving medical care in such practice a substantial portion will consist of migratory agricultural workers or members of their families. Regulations implementing this authority (42 CFR Part 57, Subpart W) were adopted on August 9, 1974 (39 FR 28730).

Section 57.2209 of Subpart W, as adopted on August 9, 1974, provided that any individual who receives a scholarship grant under such subpart must complete the practice required as a condition of the scholarship grant within a period beginning on the date of completion by the individual of his professional training, as determined by the Secretary, and not to exceed the prescribed period of practice, plus six months.

Section 225 of the Act authorizes the Secretary to award scholarships to students pursuing an approved course of

study leading to a degree in medicine, dentistry, or other designated health-related specialty in order to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Public Health Service. Under the statute and implementing regulations (42 CFR Part 62), a scholarship recipient is required to serve for one year as a Commissioned Officer in the Service or as a civilian member of the National Health Service Corps following completion of academic training for each academic year of support or fraction thereof, with a minimum service obligation of two years. Such period of obligated service commences upon completion of the individual's academic training, although the commencement of service may be deferred for internship and residency training for individuals receiving a degree in medicine, osteopathy, or dentistry. (42 CFR 62.7).

Although an individual can not receive scholarship support concurrently under sections 784 and 225 of the Act, it is possible that an individual may at different times during the period of his academic training receive support under the two programs. Under the terms of the service obligations discussed above, it would be virtually impossible for an individual who has incurred service obligations under sections 784 and 225 to fulfill them both. Thus the amendment set forth below is necessary in order to resolve this potential conflict. Adoption of the amendment will enable an individual to accept a scholarship award under section 225 or section 784 with the knowledge that fulfillment of the service obligation incurred thereunder will be possible regardless of whether he has received or will later receive a scholarship under the other program.

Interested persons were afforded the opportunity to submit written comments on the proposed amendment on or before March 1, 1976. No comments were received.

Accordingly, the amendment is adopted with an editorial change, as set forth below.

Effective Date: This amendment is effective on June 29, 1976.

Dated: May 27, 1976.

JAMES F. DICKSON,
*Acting Assistant Secretary for Health.*

Approved: June 23, 1976.
DAVID MATHEWS,
*Secretary.*

In 42 CFR Part 57, § 57.2209, paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f) respectively, a new paragraph (c) is added, and paragraph (b) is revised to read as follows:

**§ 57.2209 Conditions of scholarship grant.**

* * * * *

(b) Subject to the provision of § 57.2211(f) and except as provided in paragraph (c) of this section, any individual to whom the conditions of this section apply must complete the practice required by paragraph (a) of this section within a period beginning on the date of completion by the individual of his professional training, as determined by the Secretary, and not to exceed the period of practice determined in accordance with such paragraph (a) of this section, plus 6 months.

(c) Where an individual to whom the conditions of this section apply is currently performing an active duty service obligation under section 235 of the Act, the individual must complete the practice required by paragraph (a) of this section within a period beginning on the date of completion by the individual of his service obligation under section 225 of the Act or completion of his internship and residency training (not to exceed four years) if not previously received, whichever comes later, and not to exceed the period of practice determined in accordance with paragraph (a) of this section, plus 6 months.

* * * * *

[FR Doc.76-18784 Filed 6-28-76;8:45 am]

---

## Title 45—Public Welfare

## CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

## PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

### Applying for a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–6)

In the past CSA has had no application procedures specifically designed for applicants for funds under Title VII of the Community Services Act, but rather had adapted policies and procedures developed for applications under other Titles of the Act. The Community Services Administration is now issuing a consolidation of these procedures to be published specifically for Title VII applicants.

The Community Services Administration welcomes comments on these regulations. Comments received prior to July 29, 1976, will be considered and regulations revised if warranted. Address all comments to: Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street N.W., Washington, D.C. 20506

Effective date: July 29, 1976.

SAMUEL R. MARTINEZ,
*Director.*

1. The table of contents to Part 1067 is amended by adding the following subpart.

**Subpart—Applying for a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–6)**


Sec.
1067.15–1 Applicability.
1067.15–2 Purpose.
1067.15–3 Background.
1067.15–4 Overview of grant application process.
1067.15–5 Initial inquiry.
1067.15–6 Funding guidance and specific instructions.
1067.15–7 Submission of formal application for funding.
1067.15–8 OED review of application.
1067.15–9 On-site visit.
1067.15–10 Rejection or preliminary approval.
1067.15–11 Revision/supplementation of grant application.
1067.15–12 Grant approval and post-grant requirements.


2. The following subpart is added to read as follows:

**Subpart—Applying for a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–6)**

AUTHORITY: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

**§ 1067.15–1 Applicability.**

This subpart applies to all applications for community economic development grants under Title VII of the Community Services Act of 1974.

**§ 1067.15–2 Purpose.**

This subpart prescribes the requirements and procedures for applying for both initial and refunding grants under Title VII of the Community Services Act. Procedures for requesting amendments (see § 1067.15–7 of this part for the distinction between refundings and amendments) to existing grants and guidelines on grantee budget and program flexibility allowed without requesting amendments may be found in § 1067.16–1 through § 1067.16–7 (CSA Instruction 6710–7). Instructions for preparing grant budgets may be found in § 1067.17–1 through § 1067.17–5 (CSA Instruction 6710–8).

**§ 1067.15–3 Background.**

(a) Title VII of the Community Services Act authorizes the Director of the Community Services Administration (CSA) to provide financial assistance in the form of grants for a variety of community economic development programs "by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large * * *, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits."

(b) Such programs include Special Impact Programs for private community development corporations and affiliated groups, Special Rural Programs, and Supportive Programs and Activities such as training and technical assistance, evaluation and research, and planning grants. All grant programs under Title VII are administered by CSA's Office of Economic Development (OED), and all inquiries about and applications for Title VII grants should be addressed directly to OED in CSA headquarters in Washington, as specified in § 1067.15–5 and § 1057.15–7.

**§ 1067.15–4 Overview of grant application process.**

(a) The grant application process for Title VII programs consists of the fol-

lowing steps, which, except as noted, apply to all initial and refunding grants:

(1) Initial inquiry (initial grants only: see § 1067.15–5).

(2) Receipt of funding guidance and specific application instructions/guidelines (see § 1067.15–6).

(3) Submission of formal application for funding (see § 1067.15–7).

(4) OED review of grant application (see § 1067.15–8).

(5) On-site visit to applicant (optional: see § 1067.15–9),

(6) Preliminary decision to fund or rejection of application (see § 1067.15–10).

(7) Revision/supplementation of grant application (where preliminary decision to fund is made, as required; see § 1067.-15–11).

(8) Approval of grant and post-grant requirements (see § 1067.15–12).

**§ 1067.15–5 Initial inquiry.**

(a) Applicants for Title VII grant who are not currently funded under Title VII should make an initial inquiry to OED, by either letter or telephone, *prior* to submitting a written application. Such inquiry is essential to determine the appropriate Title VII program authority under which application should be made, the availability of funds, funding timetables and deadlines, special requirements for particular programs, specific instructions and procedures for submitting a formal application. All inquiries should be directed to:

(1) Program Management and Support Division, Office of Economic Development, Community Services Administration, 1200 19th Street N.W., Washington, D.C. 20506, (202) 254–6180.

(b) Initial inquiries will normally not be necessary for current recipients of Title VII grants since OED will be in contact with the grantee with regard to the refunding of the grant. Any inquiries on refunding, however, should be addressed directly to the appropriate OED division responsible for the grant.

**§ 1067.15–6 Funding guidance and specific instructions.**

(a) Either in response to initial inquiries (initial grants) or on its own initiative (refundings) OED will provide the applicant with specific funding guidance and application instructions.

(b) In the case of initial grants, such guidance will include a determination of whether the proposed program is eligible for Title VII funding, and if so, whether for a community development corporation planning grant, a research grant, or for funding under some other Title VII program authority; whether funds are available at all for new grants or when such funds are anticipated to become available; the non-Federal share (i.e., matching local funds) requirements, if any; and the deadline(s) for submitting applications.

(c) At this time the applicant will also be provided copies of necessary forms, and any written guidelines or special instructions pertaining to the Title VII program authority under which the proposed grant would be fundable. In some instances, applicants for initial grants (e.g. research grants) may be asked to submit a preliminary project proposal prior to a formal written application.

(d) In the case of current grantees, the funding guidance will include an indication by OED as to whether the program will be considered for refunding, and, if such is the case, the maximum dollar amount of any possible refunding. Specific instructions on the content and deadlines for written applications will also be provided at this time.

**§ 1067.15–7 Submission of formal application for funding.**

(a) Following receipt of funding guidance from OED (or, in the case of some initial grants, following review of a preliminary project proposal), applicants for Title VII grants will submit a formal written application in accordance with the deadlines and procedures specified by OED. For refundings the deadline is normally 120 days prior to the termination date of the current grant. For initial grants, the deadline will vary, depending on the nature of the proposed program and the status of OED funding plans.

(1) *Note:* Prior to submitting a formal application to OED for funding of a *planning grant* or for *refunding of certain community development corporation grants*, the application or a summary thereof must be submitted to the appropriate state and/or areawide or metropolitan clearinghouse(s) for review and comment, in accordance with CSA Instruction 6710–3a. (All other Title VII grant applications are exempt from clearinghouse review). The application or summary must be submitted to the clearinghouse(s) at least 60 days prior to submission to OED (see paragraph (f) (1) of this section and CSA Instruction 6710–3a).

(b) All applications for initial grants and refundings shall consist, except as noted, of the following numbered forms and unnumbered documents:

(1) Standard Form 424, Financial Assistance.

(2) CSA Form 301, Applicant Certifications.

(3) OEO Form 315a (for refundings only).

(4) CSA Form 325, Budget Summary.

(5) CSA Form 325a, Budget Support Sheet (Parts I and II).

(6) OEO Form 393, Certificate of Applicant's Attorney (initial grants only).

(7) Narrative Project Description.

(8) Personnel Policies (for initial grants if available or prior to any refunding).

(9) Biographical Data on Principal Personnel (all initial grants; refundings as appropriate).

(10) List of Property.

(11) Articles of Incorporation and By-Laws.

(c) Copies of the numbered forms may be found in Appendix A to this subpart.

(1) Note: Before preparing a written application for refunding, current grantees should first determine with OED whether the proposed action is a refunding or an amendment, since the documentary requirements for an amendment action are substantially smaller. Generally, a refunding is any grant action which adds funds to an existing grant and which extends the current grant more than four months beyond the current termination date. An extension of the grant for more than 12 months is also considered a refunding even if no funds are added. Grant actions which add funds to an existing grant without extending the grant period or which extend the grant period for four months or less, or grant actions which add no funds and which extend the grant for less than 12 months, are treated as amendments.

(d) An original and seven copies of all initial and refunding grant applications, regardless of the OED division which monitors the project, should be mailed to:

(1) Program Management and Support Division, Office of Economic Development, Community Services Administration, 1200 19th Street NW., Washington. D.C. 20506.

(e) Distribution of copies to the OED project manager and other appropriate CSA/OED personnel will be handled by the Program Management and Support Division.

(f) Specific instructions on the preparation of these forms and documents are provided in paragraphs (f) (1) through (8) of this section:

(1) *Standard Form 424, Financial Assistance.*—SF 424 serves as both a summary cover sheet (all applications) and as the mechanism for notifying state and substate clearinghouses of the applicant's intent to apply for CSA funding (those applications subject to clearinghouse review as provided in CSA Instruction 6710–3a). The form is generally self-explanatory. More specific instructions may be found in CSA Instruction 6710–3a.

(2) *CSA Form 301, Applicant Certifications.*—CSA Form 301 is self-explanatory. It includes a number of certifications and must be signed by all Title VII applicants.

(3) *CSA Form 325, Budget Summary; CSA Form 325a, Budget Support Sheet (Parts I and II).*—(i) CSA Form 325a should be completed first, detailing the cost basis for each budget cost category. Additional copies of the CSA Form 325a should be used as continuation sheets to complete Part II (or, in unusual cases where the number of different positions exceeds the number of lines on the form, to complete Part I). Once the CSA Form 325a is completed, the totals should then be summarized on the CSA Form 325.

(ii) Detailed instructions on how to prepare a budget and CSA Forms 325 and 325a may be found in § 1067.17–1 through § 1067.17–5 (CSA Instruction 6710–8).

(4) *OEO Form 393, Certificate of Applicant's Attorney.*—(i) This form is required for all applicants for initial grants. When necessary to prevent undue delays, the OEO Form 393 may be

submitted separately at a later date. However, no grant can be approved without it.

(ii) Normally, the OEO Form 393 is not required for refunding applications unless there has been or will be major changes in the scope of the applicant's operations.

(5) *Narrative Project Description.*—This is the most significant portion of the application for funding. However, because of the different purposes and requirements of the various funding authorities under Title VII, the format and content of the Narrative Project Description will vary with the type of program for which funding is requested. Detailed instructions and/or written guidelines on what to include in the Narrative Project Description will be provided to the applicant by OED along with the funding guidance.

(6) *Biographical Data on Principal Personnel.*—(i) All applications for initial grants shall include biographical summaries (education, work experience, other qualifications) for principal personnel who will be directly involved in carrying out the grant. These should include the project director, other key staff, and the chairman of the applicant's board of directors.

(ii) Applicants for refundings shall submit updated biographical summaries of current key staff. If changes are anticipated in the grantee's principal personnel during the proposed refunding period, biographical summaries on the new personnel must be submitted.

(7) *List of Property.*—(i) Applicants for initial grants should include a list of all personal property needed to carry out the proposed program, whether or not all such property will be purchased with grant funds (for example, some items may be rented, donated, or acquired at no cost from GSA Excess Federal Property inventories).

(ii) Applicants for refundings must provide an inventory of all personal property on hand, in accordance with 45 CFR X Part 1071 (OEO Instruction 7001–01a) as well as a list of all additional personal property needed during the refunding period.

(8) *Articles of Incorporation and By-Laws.*—These are required for all initial grant applications. Applicants for refunding shall submit a complete set of current by-laws, including any amendments approved since the last funding, together with any additional amendments which they are proposing, subject to OED approval, for the refunding period.

### § 1067.15–8 OED review of application.

Upon receipt of a formal written application for funding, the application will be reviewed by appropriate OED staff. (In the case of initial grant applications, review of the applications may be postponed until the availability of funds for new grants has been confirmed.) Refunding applications are reviewed by the OED project manager and supervisory staff. Initial grant applications are reviewed by one or more individuals in the OED division responsible for that particular category of Title VII programs or by an inter-divisional panel of OED staff.

### § 1067.15–9 On-site visit.

Following the in-house review of the applicant's written application, a team of OED staff may make an on-site visit to the applicant to conduct a field review (or "prereview") of the applicant's program. Field reviews are normally conducted for all refundings of operational grants, and in some instances for refundings of research grants as well. Field reviews are conducted for initial grant applications only where OED has determined, based on the in-house review of the written application, that the program is worthy of further serious consideration and that funds are available.

### § 1067.15–10 Rejection or preliminary approval.

Based on its in-house review of the application and, where applicable, the on-site field review, OED will either reject the application or give preliminary approval to the initial funding or refunding. In either case the applicant will be informed of the decision in writing. Where a preliminary decision is made to fund an initial grant a member of the OED staff will be assigned at this point to serve as the project manager for the program and thereafter will be the applicant's primary point of contact with OED.

### § 1067.15–11 Revision/supplementation of grant application.

Where a preliminary decision to fund is reached, the applicant may be asked to revise the written application or to submit supplementary information or documentation. All such revised and supplementary materials should be submitted in an original and seven copies and should be mailed to OED's Program Management and Support Division, regardless of the OED division assigned responsibility for the grant. The Program Management and Support Division will again make the necessary distribution of copies received.

### § 1067.15–12 Grant approval and post-grant requirements.

(a) Upon OED approval of a grant, CSA's Finance and Grants Management Division (not part of OED) will send a grant package to the grantee consisting of the following forms and documents:

(1) *CSA Form 314, Statement of CSA Grant.*—This is the basic action document, signed by OED, indicating approval of the grant.

(2) *CSA Form 325, Budget Summary.*—This form, submitted initially by the grantee as part of the grant application, is returned as part of the grant package with Column F completed by OED showing the approved budget. In the case of initial grants, the total budget approved in Column F will equal the amount of the grant on the 314. In the case of refundings, the total budget approved in Column F will be reduced by any unexpended balances to derive the amount of the grant on the 314.

(3) *OED Form 325c, Explanation of Budget and Work Program Changes.*—This form is part of the grant package only if OED has made changes in the budget or work program requested by the grantee. It will specify and explain such changes.

(4) *General Conditions.*—All grants funded by CSA under the Community Services Act (including all grants funded by OED under Title VII) are subject to certain general conditions. Special Impact Program grants under Section 712 of Title VII are also subject to additional, or addendum, general conditions. A copy of the general conditions and, in the case of Special Impact program grants, a copy of the addendum general conditions are attached to the CSA Form 314 as part of the grant package. The general conditions and addendum general conditions may be found in § 1067.5–1 through § 1067.5–3 (CSA Instruction 7050–1).

(5) *CAP Form 29, Special Conditions.*—Many OED grants are approved subject to special conditions in addition to the general (and addendum general) conditions. Often these special conditions for grants awarded under Sections of Title VII other than Section 712 (Special Impact Program) are a modified version of the addendum general conditions for Section 712 grants. In other cases such special conditions are devised to meet specific circumstances unique to the grantee. Where the grant is subject to special conditions such conditions will be listed on a CAP Form 29 attached to the 314 as part of the grant package.

(b) Following approval of a grant, the grantee must meet certain additional requirements before funds can actually be released. These requirements will include: (1) Acceptance by the grantee of the grant as approved by OED, including any budget or work program changes and all general and special conditions, by signing and returning the CSA Form 314.

(2) Certification by a certified public accountant or duly licensed public accountant that the grantee's accounting system meets CSA's criteria of adequacy.

(3) Submission by the grantee of written assurance of necessary bonding coverage.

(4) Evidence, as required in grant conditions, of compliance with any special conditions to which release of funds was subject.

(5) Submission by the grantee of signature cards with necessary signatures.

(c) Complete details on these post-grant requirements will be provided the grantee at the time the grant is approved.

[FR Doc.76–18831 Filed 6–28–76;8:45 am]

---

## PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

### Amending a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–7)

In the past CSA has had no procedures covering the amending of Title VII

grants, specifically designed for applicants for funds under Title VII of the Community Services Act, but rather had adapted policies and procedures developed for amendments to grants under other Titles of the Act. The Community Services Administration is now issuing a consolidation of these procedures to be published specifically for Title VII applicants.

CSA welcomes comments on these regulations. Comments received prior to July 29, 1976 will be considered and regulations revised if warranted. Address all comments to: Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506.

Effective date: July 29, 1976.

SAMUEL R. MARTINEZ,
*Director.*

1. The table of contents to part 1067 is amended by adding the following subpart:

**Subpart—Amending a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–7)**

Sec.

1067.16–1 Applicability.
1067.16–2 Definitions.
1067.16–3 Purpose.
1067.16–4 Grant changes requiring prior OED approval.
1067.16–5 Changes allowable without OED approval.
1067.16–6 Submission of amendment requests to OED for approval.
1067.16–7 Amendment approval/disapproval and post-approval requirements.

2. The following subpart is added to part 1067 as follows:

## Subpart—Amending a Grant Under Title VII of the Community Services Act (CSA Instruction 6710–7)

AUTHORITY: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

### § 1067.16–1 Applicability.

This subpart applies to all community economic development grants under Title VII of the Community Services Act of 1974.

### § 1067.16–2 Definitions.

(a) *Amendment.*—Any budgetary or programmatic change in a grant which requires prior CSA approval and which is not a refunding.

(b) *Refunding.*—An extension of an existing grant for (1) more than four months beyond its current termination date which obligates additional CSA funds, or (2) more than 12 months even if no additional CSA funds are obligated.

### § 1067.16–3 Purpose.

This subpart identifies the kinds of budgetary and programmatic changes in Title VII grants which constitute amendments and prescribes the procedures for requesting prior approval from CSA's Office of Economic Development (OED) for such amendments. Procedures for requesting OED approval for grant extensions which constitute refundings may be found in § 1067.15–1 through § 1067.15–12 (CSA Instruction 6710–6). Grantees who are in doubt as to whether proposed grant changes require prior OED approval or whether the procedures in this subpart or in § 1067.15–1 through § 1067.15–12 (CSA Instruction 6710–6) should be followed should consult with the OED project manager for the grant.

### § 1067.16–4 Grant changes requiring prior OED approval.

Grant changes which constitute amendments, and which therefore require prior OED approval, fall into two basic categories; those involving changes in the grant program and those involving changes in the grant budget.

(a) *Programmatic Changes which Constitute Amendments.*—(1) Basic changes in the overall strategy, objectives, milestones, implementation plan, or major activities of the project as approved by OED.

(2) Significant changes in the number or type of participants or beneficiaries.

(3) Changes in the target area served (if any) under the grant.

(4) Changes in delegate agencies, if any.

(5) Changes in the grantee's articles of incorporation or by-laws.

(6) Changes in or waiver of grant conditions.

(7) Uses of Investment Capital funds for purposes other than those approved by OED or than as provided in a venture autonomy agreement approved by OED or in CSA Instructions.

(8) Changes in the duration of the approved funding period or in the length of time the project will operate.

(9) Restoration of personnel positions or program elements specifically disapproved by OED, or deletion of positions or program elements specifically added by OED, as specified on the OEO Form 325c or special conditions attached to the grant.

(b) *Budgetary Changes Which Constitute Amendments.*—(1) Changes which will increase the CSA-funded program costs (i.e., the approved grant budget as shown in Column F (1) of the CSA Form 325) for the current funding period, regardless of whether such increased cost will:

(i) Require increased (i.e., supplemental) OED funds; or

(ii) Require no additional OED funds because of the availability of larger than anticipated unexpended balances from prior funding periods (Note: the availability of unexpended funds from prior funding periods does not constitute the authority to spend them).

(2) Changes in the expenditure rate for continuing costs such that total grant funds will be expended prior to the termination date of the current grant, thereby necessitating refunding (where applicable) prior to the scheduled date.

(3) Changes in the expenditure rate for continuing costs such that even if total funds will not be expended prior to the termination date of the current grant the annualized costs in subsequent funding periods will be significantly higher.

(4) Any increase or decrease in the OED-approved budget for cost category 2.5, Investment Capital, by shifting funds from or to other cost categories.

(5) Any increase in the OED-approved budget for cost category 3.0, Indirect Costs, where applicable.

(6) Any initial salary, or any increase in salary, for any position which exceeds CSA limitations on salary increases or CSA wage comparability standards as prescribed in (OEO Instruction 6900–01 and 6900–02).

(i) (NOTE: even if OED has approved a given salary level for a position, depending upon his/her prior salary levels a given incumbent of that position may be proscribed from receiving that maximum salary by OEO Instruction 6900–01).

### § 1067.16–5 Changes allowable without OED approval.

Except as provided in § 1067.16–4 or as prohibited by CSA grant conditions or regulations, Title VII grantees may make other programmatic and budgetary changes in their approved grants without prior OED approval (in accordance, of course, with their own bylaws, published personnel policies, regulations, etc.). Such changes include: (a) Creation or abolishment of staff positions, or changes in duties.

(b) Increases or decreases in salaries for individual positions.

(c) Increases or decreases in budget cost categories 1.1–2.4 and 2.6, or decreases in cost category 3.0, by shifting funds among such cost categories.

### § 1067.16–6 Submission of amendment requests to OED for approval.

(a) Any programmatic or budgetary change constituting an amendment (see § 1067.16–4) may *not* be made by a Title VII grantee without prior OED approval. Such approval must be in writing and may be given only by the Director of OED or his Deputy (the only OED officials authorized to approve Title VII grants). Oral "authorization" by any OED employee or written "authorization" by any OED employee other than the director or his deputy shall not constitute OED approval. Moreover no grant amendment may become effective until the date the written approval is signed.

(b) The documentary requirements for amendment requests are relatively simple. An amendment request consists of from one to four numbered forms as follows:

(1) OEO Form 315a Grantee Quarterly Financial Report (requests for no-cost extension in excess of 4 months).

(2) CSA Form 325b, Request for Amendment to Grant (all requests).

(3) CSA Form 325, Budget Summary (requests for budgetary changes).

(4) CSA Form 325a Budget Support Sheets (requests for budgetary charges).

(c) Copies of these forms may be found in Appendix A to this subpart.

(d) An original and seven copies of *all* amendments requests, regardless of the OED division that monitors the projects, should be mailed to:

(1) Program Management and Support Division, Office of Economic Development, Community Services Administration, 1200 19th Street N.W., Washington, D.C. 20506.

(e) Distribution of copies to the OED project manager and other appropriate CSA/OED personnel will be handled by the Program Management and Support Division.

(f) Specific instructions on the preparation of these forms are provided in paragraphs (f)(1) through (4) of this section:

(1) *OEO Form 315a, Grantee Quarterly Financial Report.*—See CSA Instruction 6807–2.

(2) *CSA Form 325b, Request for Amendment to Grant.*—This form is used for all amendment requests. Where the request involves no budgetary changes, the CSA Form 325b is the only form required. The form is self-explanatory; it provides essentially for a narrative description of the programmatic and/or budget changes requested. Blank sheets should be used to complete any continuation pages. If the amendment involves changes in the grantee target area, by-laws, etc., appropriate documents such as maps, new proposed by-laws, etc., should be attached to the CSA Form 325b.

(3) *CSA Form 325, Budget Summary.*—This form is used when the requested amendment involves an increase in the total program cost (whether or not supplementary funds are required), an increase or decrease in the Investment Capital cost category, an increase in the Indirect Cost category (if applicable), or an extension of the funding period without additional funds (a "no-cost extension") for four to twelve months beyond current termination date (NOTE: no-cost extensions of four months or less require only the CSA Form 325b; no-cost extension of more than 12 months are refundings, subject to CSA Instructions 6710–6). Detailed instructions on how to complete CSA Form 325 for amendment requests may be found in CSA Instruction 6710–8.

(4) *CSA Form 325a, Budget Support Sheets (Parts I and II).*—(i) This form will normally be used in any amendment request involving an increase in program costs (whether or not supplementary funds are requested), or a no-cost extension for more than four months. It may even be necessary for certain requests to shift funds among budget cost categories. However, there may be fairly simple amendment requests where the necessary budgetary back-up justification can be provided directly in the narrative on the CSA Form 325b, in which case the CSA Form 325a will be unnecessary.

(ii) Where the CSA Form 325a is used, it will provide the detailed cost basis for each budget cost category affected by the requested amendment. The figures on the CSA Form 325a will then be summarized, by cost category on the CSA Form 325. Detailed instructions on how to prepare grant budgets and CSA Form 325a may be found in CSA Instruction 6710–8.

**§ 1067.16–7 Amendment approval/disapproval and post-approval requirements.**

(a) Upon receipt of an amendment request it will be reviewed by the appropriate OED staff and either approved or disapproved. If the request is disapproved, the "Disapproved" box will be checked on the bottom of the CSA Form 325b, and the form will be signed and dated by the OED director or deputy director and returned (together with any supporting forms and documents) to the grantee.

(b) If the request is approved, the procedure followed by OED will depend on the nature of the amendment request, as follows:

(1) *Amendments Which Neither Obligate New Funds Nor Extend the Grant Period.*—OED approval will be indicated by checking the "Approved" box on the bottom of the CSA Form 325b, and by signing, dating, and returning the form (together with any supporting forms and documents) to the grantee. If any modifications are made in the amendment as approved, such modifications will be indicated on the CSA Form 325b or on attached conditions or explanatory materials. If the amendment involves a budgetary change, OED will complete Column F of the CSA Form 325 submitted by the grantee with the amendment request and will return the 325 along with the 325b to the grantee. The CSA Form 325, with Column F completed, will now constitute the official, approved grant budget as amended.

(2) *Supplemental Grants and No-Cost Extensions.* OED approval of grant amendments involving the obligation of additional funds or extending the funding period beyond the current termination date is indicated in the same way as the initial grant or refunding, by executing a CSA Form 314, Statement of CSA Grant. For this group of amendments OED approval is not shown on the CSA Form 325b, and that form is therefore not returned to the grantee. If the approved amendment involves a supplemental grant, the amount of the *new* funds awarded will be shown on the CSA Form 314 (not the total grant as amended). If the amendment is a no-cost extension, the CSA Form 314 will show zero (0) funds awarded but will indicate the new, extended termination date for the grant. If the amendment both supplements *and* extends the grant, the CSA Form 314 will indicate both the amount of new funds awarded and the new, extended termination date. For supplemental grants and no-cost extensions of four to 12 months, the CSA Form 325, with Column F completed by OED, will be attached to the CSA Form 314 to indicate the new revised budget (for either the current grant period as amended or for the new extended period) as approved by OED. For no-cost extensions of four months or less, the grantee was not required to submit a CSA Form 325 and therefore no such form will be attached to the CSA Form 314. If OED approval of the amendment is contingent on certain conditions or modifications, special conditions or an explanation of program or budget changes will be attached to the CSA Form 314.

(c) Following receipt by the grantee of a signed CSA Form 325b approving an amendment which neither obligates new funds nor extends the grant, the grantee need take no further action, unless the amendment was approved subject to certain conditions requiring action by the grantee. Following receipt by the grantee of a signed CSA Form 314 approving a supplemental grant or no-cost extension, the grantee must sign the CSA Form 314, as in the case of the initial or refunding grant, and return it to OED to signify official acceptance of the grant or extension. If any special conditions are attached, the grantee must also take such action as is indicated.

[FR Doc.76–18832 Filed 6–28–76;8:45 am]

---

## PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

### Preparing a Budget for a Title VII Grant Under the Community Services Act (CSA Instruction 6710–8)

In the past CSA has had no budget procedures specifically designed for applicants for funds under Title VII of the Community Services Act, but rather had adapted policies and procedures developed for preparing a budget under other Titles of the Act. The Community Services Administration is now issuing a consolidation of these procedures to be published specifically for Title VII applicants.

CSA welcomes comments on these regulations. Comments received prior to July 29, 1976 will be considered and regulations revised if warranted. Address all comments to: Louis Ramirez, Associate Director, Office of Economic Development, Community Services Administration, 1200 19th Street N.W., Washington, D.C. 20506.

Effective date: July 29, 1976.

SAMUEL R. MARTINEZ,
*Director.*

1. The table of contents to part 1067 is amended by adding the following subpart.

**Subpart—Preparing a Budget for a Title VII Grant Under the Community Services Act (CSA Instruction 6710–8)**

Sec.

1067.17–1 Applicability.
1067.17–2 Purpose.
1067.17–3 Preparation of budget forms for grant action.
1067.17–4 CSA Form 325a, budget support sheet (parts I and II).
1067.17–5 CSA Form 325, budget summary.

2. The following subpart is added to part 1067 as follows:

## Subpart—Preparing a Budget for a Title VII Grant Under the Community Services Act (CSA Instruction 6710–3)

AUTHORITY: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

### § 1067.17–1 Applicability.

This subpart applies to all applications for community economic development grants under Title VII of the Community Services Act of 1974.

### § 1067.17–2 Purpose.

This subpart prescribes the requirements and procedures for preparing a budget for Title VII applicants.

### § 1067.17–3 Preparation of budget forms for grant action.

(a) Budgets must be submitted for the following types of grant actions:

(1) Initial and Refunding Grants, See CSA Instruction 6710–6.

(2) Budget Amendments. See CSA Instruction 6710–7.

(b) CSA Form 325, Budget Summary, is required to describe the proposed budget. The budget detail should, in most cases, be presented on CSA Form 325a, Budget Support Sheet. Salaries and wages are listed in Part I of the CSA Form 325a, and other expenses are listed in Part II. They should be grouped by the following budget categories:

BUDGET CATEGORY

(1) 1.1 Salaries and wages.
(2) 1.2 Fringe Benefits.
(3) 1.3 Consultants and Professional Services.
(4) 2.1 Travel.
(5) 2.2 Space Costs and Rentals.
(6) 2.3 Consumable Supplies.
(7) 2.4 Lease and Purchase of Equipment and Property.
(8) 2.5 Investment Capital.
(9) 2.6 Other Direct Costs.
(10) 3.0 Indirect Costs.

### § 1067.17–4 CSA Form 325a, Budget Support Sheet (Parts I and II).

(a) This form will be used in all initial and refunding grants and normally in any amendment request involving an increase in program costs (whether or not supplementary funds are requested) or a no-cost extension for more than four months.

(b) It may even be necessary for certain amendment requests to shift funds among budget cost categories. However, there may be fairly simple amendment requests where the necessary budgetary back-up justification can be provided directly in the narrative on the CSA Form 325b, Request for Amendment to Grant, in which case the CSA Form 325a will be unnecessary.

(c) The CSA Form 325a should be completed before CSA Form 325, detailing the cost basis for each budget cost category. Under Part II more than one category may be shown on the same page if space allows. Additional copies of the 325a should be used as continuation sheets to complete Part II (or in unusual cases where the number of personnel exceeds the number of lines on the form, to complete Part I). Once the 325a is completed, the totals should be carried over to column D or E, depending on the type of grant action, of section I on the 325.

(1) *Part I (Salaries and wages: Budget category 1.1).*—Items 1, 2, and 3 are self-explanatory. Under items 4 and 5 enter the salary, wage or the valuation of services of all paid employees and volunteers participating in the program.

(i) *Paid personnel.*—(A) All salaries of grantee employees paid with CSA project funds must be established as a part of a structured salary plan which sets salaries or salary ranges for each position or group of positions based on the responsibilities of the position, its relationship to other positions, and the salaries of comparable positions in other public or private non-profit agencies.

(B) Any person hired to fill a CSA funded position must be paid at a rate no higher than the rate established for that position in accord with most appropriate local comparability or at a rate comparable to that paid for similar positions in the community from which the applicant was hired. (The grantee should have a record of the comparability data and be able to produce such upon request by CSA). For salaries in excess of $15,000 per year, comparability data should accompany the application. See OEO Instruction 6900–02.

(C) Salaries entered on the 325a are maximums. Applicants are cautioned that particular incumbents of any given position may be prescribed from receiving such maximums by the provision of OEO Instruction 6900–01, which limit entry salaries or salary increases to 20% or $2,500, whichever is smaller, of an individual's prior annual salary.

(D) A separate entry should be made on the 325a, item 4.A for each different position title. If two or more employees are employed in identical positions, only one entry should be made in 4.A with the number of employees in the position shown in parentheses after the position title. The entries in 4.B and 4.C should be the man-months and salaries for an employee in the respective position in 4.A multiplied by the number of employees in that position.

(E) On the Budget Support Sheet, part-time employees should be shown separately. Do not list two employees each working half a year as one employee working full-time. Where a position is part-time the fraction of full-time employed (e.g. half-time or one-third time) should be shown in parentheses after the position title. The number of man-months shown for a part-time position should in all cases be based on full-time employment. For example, a half-time employee working for an entire year is considered to work six man-months.

(ii) *Volunteers.*—If volunteer workers are going to participate in the program, their time may be valued for the purpose of calculating non-Federal share. Valuation methods are prescribed in § 1068.9–1 through 1068.9–5 (OEO Instruction 6802–1a). A person should be treated as a volunteer only if he receives no compensation from anyone for work in the program. All volunteer positions should be entered in item 5 of the 325a. When an employee is paid but an employer other than the grantee furnishes the services, he should be listed under item 4 of the 325a and his services valued in 4.E at his regular rate of pay, provided these services are in the same skill for which he is normally paid. This would be the case, for example, if a private law firm assigned an employee to work one day a week in a CSA funded CDC office.

(2) *Part II (Budget support data: Cost categories 1.2–3.0).*—(i) Estimated costs or valuations for all projected program needs, other than salaries, wages and volunteer services are to be entered in this part.

(ii) Items 1, 2, and 3 are self-explanatory.

(iii) For each budget item enter:

(A) Its cost category number (see section below on cost categories for further guidance) under column A.

(B) A description of the item and its basis for valuation under column B (NOTE: For items under Cost Category 2.5—Investment Capital the basis for valuation is not required. Only identify, to the extent possible, the ventures or types of ventures to be invested in, including revolving loan or loan guarantee funds, where applicable. For all entries in other cost categories show how the Federal and non-Federal estimates were numerically derived. See sections below on cost categories for further guidance.)

(C) The Federal share of its estimated cost under column C.

(D) The non-Federal share of its estimated cost or valuation, under column D.

(iv) All budget items under Part II are to be grouped under the following cost categories:

(A) *Cost category 1.2: Fringe benefits.*—(1) This category includes not only such items as health insurance, life insurance, and retirement contributions, but also workmen's compensation, unemployment taxes, and social security taxes.

(2) If fringe benefits shown are a percentage of total compensation, the applicant should identify each benefit and its share of the overall percentage figure, e.g., employer's contribution for social security.

(3) Fringe benefits must cover at least social security and workmen's compensation. Other options which may be included in fringe benefits are health insurance, life insurance, and retirement. However, when these fringe benefits do include the added options, the options should be equitable to both high and low salaried employees. Plans which are only affordable by high salaried people should not be acceptable in CSA funded anti-poverty programs. A 15% fringe total is average for Title VII grantees.

(B) *Cost category 1.3.*—Consultants and Professional Services. (1) This category includes legal fees, accountants' fees, consultants' fees, and the like.

(2) A reasonable percentage of the budget (depending on specific programs and need for training) may be set aside for consultant and professional services. The two most important areas which

must be covered (whether with Federal or non-Federal funds) are audits and legal fees.

(i) *Audits.*—CSA grant funds may not be used to pay for more than one audit annually, except where CSA requests in writing additional audits. For detailed CSA audit requirements see OEO Instruction 6801–1. Generally, the cost of an audit will depend on the size of the grant, whether or not there are any delegate agencies, where the records are located (in one place or scattered) and how well the grantee's accounting procedures were set up. Audit costs will also vary in different localities. A cost of $3,000–$5,000 for an audit on a $1 million grant is considered reasonable. The grantee may wish to talk with several CPA's in the area before selecting the contractor to insure the CPA's estimate is fair. For Title VII grantees which have ventures in addition to administrative funds to audit, the cost of the audit will be higher.

(ii) *Legal fees.*—Legal fees are paid on a case-by-case basis. Retainers are not permitted. Title VII grantees' legal fees average $2,000–$4,000 per year.

(iii) *Other consultant service.*—May include board training, staff training, management training, feasibility studies and surveys. In estimating the other consultant costs the following should be considered: Number of days, daily fee rate, cost of transportation, and per diem. Normally $100 per day is the maximum daily fee permitted. However, in view of the highly technical specialists frequently required in certain ventures and business planning, fees in excess of $100 per day are allowable for certain Title VII grantees under conditions described in the general or special conditions to such grants. Where such higher fees are allowable an average of $150 per day is usually quite adequate.

(C) *Cost category 2.1: Travel.*—(1) Cost of travel should be broken down in Part II of the 325a in terms of travel within grantee's target area, and travel outside of the area. Items covered should include number of employees or board members expected to travel, number of miles at × cents a mile, or number of trips outside target area and average cost of trip and per diem. See example below:

(i) Number of travellers × number of miles × number cents per mile = cost of travel in target area.

(ii) Number persons travelling × number trips per person × average cost per trip (air fare + per diem + other costs — taxi, phone, etc., usually $10 per day per person is adequate) = cost of travel outside target area. See § 1069.4–1 through § 1069.4–5 and § 1069.3–1 through § 1069.3–4 (CSA Instruction 6910–2b and CSA Instruction 6910–1, change 4).

(D) *Cost category 2.2: Space costs.*—(1) Projects located in urban areas will normally have to spend more money per square foot of space than projects located in rural areas. The Office of Economic Development can provide to grantees upon request estimates for the cost per square foot of space in all cities in the country which GSA uses as a guideline in determining reasonable costs.

(2) GSA estimates that approximately 150 square feet of space as an average is needed for professional employees. For clerical positions approximately 60–75 square feet of space is needed per person plus file space. In general, an average of 105 square feet per person is a reasonable allotment of space. This does not include meeting rooms, etc. Space costs are determined by multiplying the number of employees × square feet per person × the cost per square foot of the space. The cost of space per square foot normally includes maintenance and utility charges. Grantees should generally not enter into a lease where these charges are not included. An exception might be made for grantees who own maintenance companies and may want to channel this money into their own businesses. In these cases, the cost per square foot of space should be reduced to accommodate these charges. Separate charges for maintenance should be accounted for under cost category 2.6—Other Direct Costs.

(3) It is also recommended that a grantee take a lease for the period of the grant with an option to renew. A short lease which would expire during the course of the grant period may cause the grantee to have to move. A lease longer than the period of the grant may cause legal problems in the event the grantee does not have funds to continue.

(E) *Cost category 2.3: Consumable supplies.*—Consumable supplies include desk top items—pens, pencils, paper, cellophane tape, staples, etc. If a grantee publishes a newsletter or if a support grantee provides a service requiring frequent contact with other grantees through the mails, the costs will be higher than average.

(F) *Cost category 2.4: Lease and purchase of equipment and property.*—The rule of thumb to use in determining whether or not to lease or purchase equipment and property is: If 3 years' leasing cost is more than the purchase price plus servicing costs, it is more economical to purchase the equipment. If a grantee is leasing equipment, it frequently is an advantage to do so with the option to buy.

(1) Proposed purchases of property with a unit cost of more than $500 must be specifically approved by OED. Such purchases should be itemized in Part II of the 325a.

(G) *Cost category 2.5: Investment capital.*—(1) This category includes such items as transportation of things, repairs, utilities, telephone, postage, insurance, bonding, etc.

(2) This category also includes stipends which may be paid to program beneficiaries to support them during their participation in a program.

(3) Dues for membership of the grantee in professional organizations may be included in this category, but only if the grantee's membership can be shown to be related to the purposes of the CSA grant. Dues paid for individual memberships, as contrasted with agency memberships, in professional organizations will not be allowed.

(4) Bonding should be secured in the aggregate amount of $25,000 for persons authorized to sign or countersign checks or disburse sizable amounts of cash. (See OEO Instruction 6809–01), and the costs for bonding included in this category.

(H) *Cost category 3.0: Indirect costs.*—(1) The indirect costs of a project are those costs incurred by an organization for the joint benefit of the approved CSA program activity and other objectives, but not readily identifiable with the CSA program itself—as in the operation and maintenance of buildings or in the payment of utility costs or administrative salaries.

(2) CSA funds are only provided for indirect costs applicable to research or demonstration projects conducted by institutions of higher education, State and Local governments, hospitals and other non-profit institutions. When a claim is made for indirect costs, the basis for the indirect cost rate must be explained in detail. If the applicant organization has negotiated an indirect cost rate with another Federal agency, the applicant should include an attachment to the CSA Form 325 showing the rate, Federal agency and date negotiated. CSA will review this established indirect cost rate and determine its acceptability.

(3) The provisional approval by CSA of an indirect cost rate in a budget is subject to final negotiation and/or adjustment based upon an audit.

**§ 1067.17–5 CSA Form 325, budget summary.**

This form will be used in all initial and refunding grants and all budget amendments.

(a) *Initial Grants.*—Applicants for initial grants should complete only items 1, 2, 3B, Columns E(1) and (2) of Section I, and item 1 of Section II on the CSA Form 325. Where the applicant has been informed that non-Federal share is not required Column E(2) should be left blank.

(b) *Refunding Grants.*—Applicants for refunding should complete items 1 through 3 Columns C(1) and (2) and E(1) and (2) of Section I, and item 1 of Section II of the CSA Form 325. Where non-Federal share is not required Columns C(2) and E(2) should be left blank. The figures in Column C should be taken directly from Column F of the CSA Form 325 of the last previous OED grant or amendment action. Any adjustments within the grantee's flexibility should be included. The figures in Column E for refunding actions should reflect the total budget authority requested which may be greater than the amount of new funding requested if the grantee has unexpended balances from the current grant. The figures in Column E should not be reduced by the amount of such unexpended balances. The most recent OEO Form 315a, Quarterly Financial Report, Support Data Sheet, must be attached to the 325

as support for the amount of unexpended funds claimed in Block 3D.

(c) *Budget Amendments.*—For all categories of amendments 1, 2, 3.A, and 3.C on the CSA Form 324 are self-explanatory. Columns C (1) and (2) should show the safe figures appearing in Columns F (1) and (2) of the last previous CSA Form 325 approved by OED (unless adjusted by the grantee within the flexibility), and Section II should be omitted. Instructions for completing items 3.B and 3.D and columns D and E vary depending on the nature of the amendment request, as follows:

(1) *Increase in Total Program Costs—No Additional Funds.*—This type of amendment is required when the grantee has previously underestimated, at the time of the last refunding, the amount of unexpended CSA funds, and now is requesting authority to use those unexpended funds. Item 3.B should indicate the beginning and ending dates of the current funding period. Item 3.D should indicate the amount of unexpended CSA funds at the end of the prior funding period above and beyond the amount of CSA funds previously estimated by the grantee to be unexpended. For example, if the grantee previously, at the time of refunding, estimated unexpended funds to be $20,000, and the actual unexpended balance was $50,000, the figure in Item 3.D should be the difference, or $30,000. In item 3.D cross out the word "current" and substitute "prior". Column D should be completed so that the total of Column D(1) should equal the amount in item 3.D, with the total additional budget authority requested allocated to one or more cost categories. Column E should be a total, by cost category of Columns C and D.

(2) *Increase in Total Program Costs—Supplementary Funds.*—(i) The beginning date in item 3.B should be the beginning date of the current funding period. If the amendment request is to supplement the current grant without extending the funding period beyond the current termination date, the ending date in item 3.B should be the terminaton date of the current funding period. If the request is to both supplement and extend the grant, the ending date in item 3.B should be the ending date of the requested extension. (NOTE: If the period of extension exceeds four months refunding application procedures should be followed.)

(ii) Item 3.D will normally be left blank, unless the grantee is both requesting authority to use unexpended funds and requesting additional new funds as well, in which case item 3.D will be completed as in section (i) above. Columns D (1) and (2) should be completed to show, by cost category, the amount of additional budget authority requested. Where item 3.D has been left blank, the amount of the supplementary funds requested will equal the additional budget authority requested; where unexpended funds have been shown in item 3.D, the difference between the additional budget authority requested and the unexpended funds. Columns E (1) and (2) will be the totals of Columns C(1) and D(1) and of C(2) and D(2), respectively. If an extension of the funding period is being requested in addition to supplementary funds, the number of months of operation shown in Column E should be the total of the current funding period and the extension period.

(3) *Shifts between cost categories.*—(i) Sections 1067.16–1 through 1067.16–7 (CSA Instruction 6710–7) provides instructions as to the flexibility which each grantee has in shifting funds between cost categories. For shifts in excess of that flexibility a budget amendment request is required. The beginning and ending dates in item 3.B should be the beginning and ending dates of the current funding period. Item 3.D should be left blank. Column D should show the requested increase or decrease in cost category 2.5, Investment Capital, or (for those few research or demonstration grants where indirect costs have been approved) the requested increase in cost 3.0, Indirect Costs and the offsetting decreases in one or more other cost categories.

(ii) Increase should be designated with plus (+) signs; decreases with minus (−) signs. The total Column D should be zero (0), since the total increases will be offset by the total decreases. Column E should be a total, by cost category, of Column C and D. The total for Column E will be the same as the total for Column C.

(4) *No-cost extensions of four to twelve months.*—(i) Normally, when the funding period of a grant is extended for more than four months beyond its current termination date the extension is considered a refunding, subject to the requirements of § 1067.15–1 through § 1067.15–12 (CSA Instruction 6710–6). However, since no-cost extension from four to 12 months involve the obligation of no additional funds and extend the grant for periods shorter than a normal refunding period, the documentary and procedural requirements applicable are those of an amendment. No-cost extensions of more than 12 months are subject to refunding procedures.

(ii) Since a no-cost extension of four to 12 months is in effect a refunding, the CSA Form 325 that accompanies this form of amendment request is prepared as if a refunding were being requested. Accordingly, the beginning and ending dates in item 3.B should be the appropriate dates for the period of the extension, i.e., the day after the current grant's termination date and the day the extension period will end. Item 3.D should always be completed, since if there are no unexpended funds available to cover costs to be incurred during the extension period a supplementary grant rather than a no-cost extension would be required. The figure to be inserted in item 3.D will be the unexpended balance as of the end of the current grant. The most recent OEO Form 315a, Quarterly Financial Report, Support Data Sheet, must be attached to the 325 as support for the amount of unexpended funds claimed in block 3.D.

(iii) Since this kind of amendment request is prepared as a refunding, Column D of the CSA Form 325 should be left blank. Column E should be completed, showing the requested budget, by cost category, for the period of the extension (rather than a budget for the combined current period and the extension period). The total of Column E(1) should equal the figure in item 3.D since the requested budget is in effect a plan for using the unexpended funds available.

[FR Doc.76–18833 Filed 6–28–76;8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1245]

### PART 1033—CAR SERVICE

### Chicago & Eastern Illinois Railroad Company Authorized To Operate Over Tracks of Burlington Northern Inc.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of June 1976.

*It appearing,* That there is a substantial volume of coal traffic moving in single-car lots requiring transfer from rail to barges at the Ford, Illinois, docks of the Missouri Pacific Railroad Company (MP); that this traffic is causing extensive congestion in the MP yards at Pueblo, Colorado, St. Louis, Missouri, and Chester, Illinois; that the railroads and shippers involved have agreed upon an alternate route, in unit-train services, for transloading over the docks presently served exclusively by the Burlington Northern Inc. (BN), at Metropolis, Illinois; that the agreed route requires operation by the Chicago & Eastern Illinois Railroad Company (CEI), a subsidiary of the MP, over tracks of the BN between BN milepost 202.70 at West Vienna, Illinois, and BN milepost 226.87 at Metropolis, Illinois; that the BN has consented to such use of its tracks by the C&EI; that the C&EI will file an application with the Commission seeking permanent authority to operate over the aforementioned tracks of the BN; that immediate operation by the C&EI over the aforementioned tracks of the BN is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,* That:

**§ 1033.1245 Chicago & Eastern Illinois Railroad Company authorized to operate over tracks of Burlington Northern Inc.**

(a) The Chicago & Eastern Illinois Railroad Company (C&EI) be, and it is hereby, authorized to operate over tracks

of the Burlington Northern Inc. (BN), between BN milepost 202.70 at West Vienna, Illinois, and BN milepost 226.87 at Metropolis, Illinois, a distance of approximately 24.17 miles, pending disposition of the application of the C&EI seeking permanent authority to operate over these tracks.

(b) *Rates applicable.*—The rates applicable to traffic transported by the C&EI over these tracks of the BN shall be those published in tariffs specifically naming the C&EI as an origin or destination carrier at Metropolis, Illinois, and shall be subject to station conditions published in the Official List of Open and Prepay Stations Number 90, ICC A–55 issued by L. H. McBride, supplements thereto or successive issues thereof.

(c) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(d) *Effective date.*—This order shall become effective at 12:01 a.m., June 24, 1976.

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

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

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

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

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76–18867 Filed 6–28–76;8:45 am]

## Title 50—Wildlife and Fisheries

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

## PART 32—HUNTING

### UL Bend-Bowdoin National Wildlife Refuges

The following regulations are issued and are effective June 29, 1976. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Montana.

GENERAL CONDITIONS

Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, P.O. Box 25486, Denver, Colorado 80225.

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

Migratory game birds may be hunted on the following refuge areas:

Bowdoin National Wildlife Refuge, Post Office Box J, Malta, Montana 59538.

UL Bend National Wildlife Refuge, Post Office Box J, Malta, Montana 59538.

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

Upland game birds may be hunted on the following refuge areas:

UL Bend National Wildlife Refuge, Post Office Box J, Malta, Montana 59538.

Bowdoin National Wildlife Refuge, Post Office Box J, Malta, Montana 59538.

*Special Condition:* Hunting of all upland birds not permitted until opening of pheasant season.

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

Big game animals may be hunted on the following refuge areas:

UL Bend National Wildlife Refuge, Post Office Box J, Malta, Montana 59538.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1977.

Dated: June 18, 1976

JOHN R. FOSTER,
*Refuge Manager, UL Bend National Wildlife Refuge, Bowdoin National Wildlife Refuge, Malta, Montana.*

[FR Doc.76–18782 Filed 6–28–76;8:45 am]

## PART 33—SPORT FISHING

### Lacreek National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on June 29, 1976.

**§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.**

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public sport fishing on Lacreek National Wildlife, Martin, South Dakota 57551 will be extended to allow fishing according to State law on Pool 10. The open area will be delineated on maps available at Refuge Headquarters and in the U.S. Fish and Wildlife Service, Area Office, Federal Building, Pierre, South Dakota 57501.

Fishing will be permitted on Pool 10 as designated by public fishing signs from July 1, 1976 to March 1, 1977. Canoes and boats, without motors, may be used on Pool 10. Fishermen must use designated parking areas and boat landings.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 1, 1977.

HAROLD H. BURGESS,
*Refuge Manager,*
*Lacreek National Wildlife Refuge.*

JUNE 22, 1976.

[FR Doc.76–18799 Filed 6–28–76;8:45 am]

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER F—AID TO FISHERIES

## PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

### Provision for Fees

Section 7 of the Fishermen's Protective Act, as amended (22 U.S.C. 1971–1977), authorizes, among other things, the Secretary of Commerce to establish by regulation fees which shall be paid by the owners of vessels entering into Guarantee Agreements under section 7 of the Act. These fees are credited to the Fishermen's Guarantee Fund and used to carry out the provisions of section 7 of the Act. Section 7 of the Act guarantees to the owners of vessels entering into Guarantee Agreements payment of certain costs and losses resulting from the seizure of a vessel of the United States by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States.

Regulations governing administration of Section 7 of the Act, Fishermen's Protective Act Procedures (50 CFR Part 258), have annually established fees based on anticipated claims projected from prior experience. The purpose of the following amendment to § 258.5 of Fishermen's Protective Act Procedures is to establish fees for the next agreement year (July 1, 1976, through June 30, 1977).

All parties holding Guarantee Agreements for the present agreement year (July 1, 1975, through June 30, 1976), who wish them extended through June 30, 1977, by amendment to such Agreement rather than entering into an entirely new Agreement, must submit their fees in accordance with § 258.5(b) of the following amendment. Failure to do so will result in termination of those Agreements.

This amendment relates to matters which are exempt from the rulemaking requirements of the Administrative Procedures Act (5 U.S.C. 553). In addition, the amendment makes no substantive change in the program's conduct. This amendment is hereby adopted and will become effective July 29, 1976.

Section 258.5 of Fishermen's Protective Act Procedures (50 CFR Part 258) is hereby amended by revising § 258.5 as follows:

§ 258.5 Fees.

(a) The fees are established to provide for payment of the administrative costs and a minimum of at least 25 percent of the estimated claims to be paid from the fund. They are set on the basis of anticipated losses and prior experience. In order to meet the requirements of the Act, the fees may be adjusted from time-to-time by amendment to this part at any time, after appropriate notice, to become consistent with claims greater or lesser than estimated or in the event the Fishermen's Guarantee Fund is reimbursed under section 5 of the Act.

(b) Fees to be paid by applicants for, or holders of, Guarantee Agreements executed (by amendment or otherwise) for the period terminating June 30, 1977, shall be as follows: for vessels 500 gross tons or under, $60 plus $1.80 per gross ton; for vessels over 500 gross tons, $60 plus $2.50 per gross ton. All tonnage shall be as listed on each vessel's document. Fractions of a ton shall not be included.

(1) Although fees are due on July 1, 1976, all parties holding Guarantee Agreements (by amendment or otherwise) for the period terminating June 30, 1976, shall have until August 1, 1976 (midnight local time), to pay the fees established herein. Failure to do so will result in the necessity of entering into another Guarantee Agreement which will be effective only from the date actually executed.

(c) No return of a fee or portion of a fee will be made after a Guarantee Agreement is executed by the Secretary. Failure to pay increased fees within 30 days of adjustment shall constitute a basis for termination of the Guarantee Agreement.

(d) A Guarantee Agreement may, with the consent of the Secretary, be assigned to a new owner of a vessel if the ownership of the vessel is transferred during the period in which the agreement is in force.

By order of the Director, National Marine Fisheries Service.

Dated: June 23, 1976.

ROBERT W. SCHONING,
*Director,*
*National Marine Fisheries Service.*

[FR Doc.76-18846 Filed 6-28-76;8:45 am]

---

SUBCHAPTER H—TUNA FISHERIES

## PART 285—ATLANTIC TUNA FISHERIES

### Atlantic Bluefin Tuna Purse Seine Season Closure

On May 18, 1976, a notice of final rule making concerning the Atlantic bluefin tuna fishery was published in the FEDERAL REGISTER, 41 FR 20411. Subpart 285.12 established a total annual quota for Atlantic bluefin tuna that weigh between 14 pounds (6.4 kg.) round weight and 115 pounds (52.3 kg.) round weight at 1,000 short tons (910 metric tons). Of the total annual quota 1,000 short tons, 800 short tons would be available for capture during the open season.

The 1976 quota for bluefin tuna that weigh between 14 pounds (6.4 kg.) and 115 pounds (52.3 kg.) has been taken. Consequently, in accordance with Section 285.11, the following closure is hereby announced. The purse seine fishing season for Atlantic bluefin tuna that weigh between 14 pounds (6.4 kg.) round weight and 115 pounds (52.3 kg.) round weight is closed effective June 29, 1976.

Issued at Washington, D.C., and dated June 28, 1976.

JACK W. GEHRINGER,
*Deputy Director,*
*National Marine Fisheries Service.*

[FR Doc.76-19028 Filed 6-28-76;11:01 am]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### [ 26 CFR Part 1 ]

### ENERGY RESOURCES AND CERTAIN OTHER PRODUCTS

### Denial of DISC Benefits

NOTE: This document originally appeared at 41 FR 24889, June 21, 1976. It is republished here to correct certain stylistic inconsistencies.

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 6, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702 (d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by August 6, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested before notice of the hearing has been filed with the Office of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

PREAMBLE

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 993 (c)(2) of the Internal Revenue Code of 1954 in order to conform such regulations to the provisions of section 603 of the Tax Reducation Act of 1975 (85 Stat. 64) (hereinafter referred to as "the Act"), relating to the denial of DISC benefits with respect to energy resources and other products. The amendments to the regulations apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

Section 992(a)(1)(A) requires that, in order for a corporation to qualify as a DISC, at least 95 percent of its gross receipts for the taxable year must consist of "qualified export receipts." Section 992(a)(1)(B) requires that the adjusted basis of the DISC's "qualified export assets" amount to at least 95 percent of the sum of the adjusted basis of all its assets at the close of the taxable year.

Under section 993(a)(1)(A), gross receipts from the sale, exchange, or other disposition of "export property" constitute "qualified export receipts." Under section 993(b)(1), "qualified export assets" include "export property."

Section 603(a) of the Tax Reduction Act of 1975 adds to section 993(c)(2) of the Code two new categories of property that are excluded from qualifying as "export property."

The first new category of "excluded property," set forth in section 993 (c)(2)(C) of the Code, consists of products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 611. These products are referred to in the proposed amendments as "depletable products." However, a product which is, or contains, a depletable product is not "excluded property" if at least 50 percent of its fair market value is attributable to manufacturing or processing, unless such depletable product is a primary product from oil, gas, coal, or uranium.

In accordance with Technical Information Release No. 1442, released February 4, 1976, timber is a depletable product. However, it should be noted that the Tax Reform Act of 1975 (H.R. 10612), which passed the House of Representatives on December 4, 1975, would, if enacted, change this result so that in the case of sales, exchanges, and other dispositions made after March 18, 1975, and before October 3, 1975, timber would not be a depletable product.

The second new category of "excluded property," set forth in section 993 (c)(2)(D) of the Code, consists of products the export of which is prohibited or curtailed under section 4 (b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403 (b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy). These products are referred to in the proposed amendments as "export controlled products."

PROPOSED AMENDMENTS TO THE REGULATION

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 993 (c)(2) of the Internal Revenue Code of 1954 to section 603 (a) and (b) of the Tax Reduction Act of 1975 (89 Stat. 64), such regulations are amended as follows, effective for sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date:

Paragraph 1. Section 1.993–3, as set forth in the appendix to the notice of proposed rule making for October 4, 1972 (37 FR 20853), is amended as follows:

1. The introductory material in paragraph (a) is revised by striking "paragraph (g)" and inserting in lieu thereof "paragraph (i)",

2. Paragraph (f)(1) is revised,

3. Paragraph (g) is redesignated as paragraph (i), and

4. Immediately after paragraph (f) new paragraphs (g) and (h) are added.

These revised, redesignated, and added provisions read as follows:

**§ 1.993–3 Definition of export property.**

* * * * *

(f) *Excluded property*—(1) *In general.* Notwithstanding any other provision of this section, the following property is not export property—

(i) Property described in subparagraph (2) of this paragraph (relating to property leased to a member of a controlled group),

(ii) Property described in subparagraph (3) of this paragraph (relating to certain types of intangible property),

(iii) Products described in paragraph (g) of this section (relating to depletable products), and

(iv) Products described in paragraph (h) of this section (relating to certain export controlled products).

* * * * *

(g) *Depletable products*—(1) *In general.* Under section 993(c)(2)(C), a product or commodity which is a depletable product (as defined in subparagraph (2) of this paragraph) or contains a depletable product is not export property if—

(i) It is a primary product from oil, gas, coal, or uranium (as described in subparagraph (3) of this paragraph), or

(ii) It does not qualify as a 50-percent manufactured or processed product (as described in subparagraph (4) of this paragraph).

(2) *Definition of "depletable product".* For purposes of this paragraph, the term "depletable product" means any product or commodity of a character with respect to which a deduction for depletion is allowable under section 611. Thus, the term depletable product includes timber and any mineral extracted from a mine, an oil or gas well, or any other natural deposit, whether or not the DISC or related supplier is allowed a deduction, or is eligible to take a deduction, for depletion with respect to the timber or mineral in computing its taxable income. Thus, for example, iron ore purchased by a DISC from a broker is a depletable product in the hands of the DISC for purposes of this paragraph even though the DISC is not eligible to take a deduction for depletion under section 611.

(3) *Primary product from oil, gas, coal, or uranium.* A primary product from oil, gas, coal, or uranium is not export property. For purposes of this paragraph—

(i) *Primary product from oil.* The term "primary product from oil" means crude oil and all products derived from the destructive distillation of crude oil, including—

(*a*) Volatile products,

(*b*) Light oils such as motor fuel and kerosene,

(*c*) Distillates such as naphtha,

(*d*) Lubricating oils,

(*e*) Greases and waves, and

(*f*) Residues such as fuel oil.

For purposes of this paragraph, a product or commodity derived from shale oil which would be a primary product from oil if derived from crude oil is considered a primary product from oil. For purposes of this paragraph, petrochemicals are not considered primary products from oil.

(ii) *Primary product from gas.* The term "primary product from gas" means all gas and associated hydrocarbon components from gas wells or oil wells, whether recovered at the lease or upon further processing, including—

(*a*) Natural gas,

(*b*) Condensates,

(*c*) Liquified petroleum gases such as ethane, propane, and butane, and

(*d*) Liquid products such as natural gasoline.

(iii) *Primary product from coal.* The term "primary product from coal" means coal and all products recovered from—

(*a*) The carbonization of coal, including coke and coal chemicals such as coke-oven gas, coke-oven ammonia, coal tar and derivatives, and crude light oil and derivatives,

(*b*) The gasification of coal, including coal-derived synthesis gas and derivatives such as ammonia or methanol, and

(*c*) The liquification of coal, including coal-derived liquids and derivatives such as benezene, toluene, xylenes, phenol, cresylic acids, and napthalene.

(iv) *Primary product from uranium.* The term "primary product from uranium" means uranium ore and uranium concentrates (known in the industry as "yellow cake"), and nuclear fuel materials derived from the refining of uranium ore and uranium concentrates, or produced in a nuclear reaction, including—

(*a*) Uranium hexafluoride,

(*b*) Enriched uranium hexafluoride,

(*c*) Uranium metal,

(*d*) Uranium compounds, such as uranium carbide,

(*e*) Uranium dioxide, and

(*f*) Plutonium fuels.

(v) *Primary products and changing technology.* The primary products from oil, gas, coal, or uranium described in subdivision (i) through (iv) of this subparagraph and the processes described in those subdivisions are not intended to represent either the only primary products from oil, gas, coal, or uranium, or the only processes from which primary products may be derived under existing and future technologies.

(4) *50-percent manufactured or processed product*—(i) *In general.* A product or commodity (other than a primary product from oil, gas, coal, or uranium) which is or contains a depletable product is not excluded from the term "export property" by reason of section 993(c)(2)(C) if it is a 50-percent manufactured or processed product. Such a product or commodity is a "50-percent manufactured or processed product" if, after the cutoff point of the depletable product, it is manufactured or processed (as defined in subdivision (ii) of this subparagraph) and either the cost test described in subdivision (iv) of this subparagraph or the fair market value test described in subdivision (v) of this subparagraph is satisfied. To determine cutoff point, see subdivisions (vi) and (vii) of this subparagraph.

(ii) *Manufactured or processed.* A product is manufactured or processed if it is manufactured or produced within the meaning of paragraph (c)(2) of this section, except that for purposes of this subdivision the term manufacturing or processing does not include any excluded process (as defined in subdivision (iii) of this subparagraph) and the term conversion costs (as used in subdivision (iv) of such paragraph (c)(2)) does not include any costs attributable to any excluded process.

(iii) *Excluded processes.* For purposes of this paragraph, excluded processes are extracting and harvesting (*i.e.*, all processes which are applied before the cutoff point of the mineral or the timber to which such processes are applied), and handling, packing, packaging, grading, storing, and transporting.

(iv) *Cost test.* A product or commodity will qualify as a 50-percent manufactured or processed product if—

(*a*) Its manufacturing and processing costs (that is, the portion of the cost of goods sold or inventory amount of the product or commodity attributable to the aggregate cost of manufacturing or processing each mineral or the timber contained therein) equal or exceed

(*b*) An amount equal to either of the following:

(*1*) 50 percent of its cost of goods sold or inventory amount (decreased, at the DISC's option, by the portion of such cost or amount the DISC establishes is allocable to the difference between each prior owner's selling price for each depletable product contained in such product or commodity and such prior owner's cost of goods sold with respect thereto).

(2) The aggregate of the cost at the cutoff point (see subdivisions (vi) and (vii) of this subparagraph) properly attributable to each mineral or the timber contained in such product or commodity. However, in the case of a mineral, if this subdivision (2) is applied, then the amount in (*a*) of this subparagraph (iv) shall be decreased and the amount in this subdivision (2) shall be increased, by so much of the cost of goods sold or inventory amount of the product or commodity as is properly allocable to any process other than transportation applied after the cutoff point of such mineral which would be a mining process (within the meaning of § 1.613–4) were it applied before such point.

(v) *Fair market value test.* A product or commodity will qualify as a 50-percent manufactured or processed product if—

(*a*) The excess of its fair market value on the date it is sold, exchanged, or otherwise disposed of (or, if not sold, exchanged, or otherwise disposed of, the last day of the DISC's taxable year) over the portion thereof properly allocable to excluded processes other than extracting and harvesting is equal to or greater than

(*b*) Twice the aggregate of the fair market value at the cutoff point for each mineral or the timber contained in such product or commodity.

For purposes of this subdivision (v), the fair market value of a product or commodity on the date it is sold, exchanged, or otherwise disposed of is the price at which it is disposed of, subject to any adjustment that may be required under the arm's length standard of section 482 and the regulations thereunder. If such product or commodity is not sold, exchanged, or otherwise disposed of, then, for purposes of section 992(a)(1)(B) (relating to the 95-percent test with respect to qualified export assets), the fair market value of a product or commodity on the last day of the DISC's taxable year is the arm's length price at which such product or commodity would have been sold on such date, determined by applying the principles of section 482 and the regulations thereunder.

(vi) *Cutoff point of a mineral.* For purposes of this subparagraph, in the case of a depletable product other than timber—

(*a*) The cutoff point is the point at which gross income from the property (within the meaning of section 613(a)) was in fact determined.

(b) The cost at the cutoff point is deemed to be the amount of the gross income from the property of the taxpayer eligible for a depletion deduction with respect to the mineral.

(c) The fair market value at the cutoff point is deemed to be the amount of the gross income from the property of the taxpayer eligible for a depletion deduction with respect to the mineral, except that, if (1) the fair market value of a product or commodity on the date specified in subdivision (v)(a) of this subparagraph exceeds the aggregate of the fair market value at the cutoff point for each mineral contained therein and (2) 10 percent or more of such excess is attributable to a net increase in the fair market values of such minerals by reason of factors other than manufacturing or processing or the application of excluded processes (such as, for example, increases in the fair market values of some minerals by reason of inflation or speculation exceed decreases in such values of other minerals by reason of deflation or speculation), then the aggregate of the fair market value at the cutoff point for each such mineral shall be increased to reflect the net excess so attributable.

(d) The provisions of this subdivision (vi) are illustrated by the following example.

*Example.* An integrated manufacturer, X, on February 1, 1976, had gross income from the property (within the meaning of section 613 (a)) of $50 with respect to a specified volume of a mineral. Thus, the cost at the cutoff point of the mineral was $50. X converted the mineral into a product which it sold on July 15, 1976, for $75. Of the $25 excess of the selling price over the gross income from the property, $23 was attributable to manufacturing, processing, and the application of excluded processes, and $2 was attributable to an increase in the fair market value of the mineral due to inflation between February 1 and July 15, 1976. Since only 8 percent of such excess ($2/$25) was attributable to factors other than manufacturing, processing, and the application of excluded processes, the fair market value at the cutoff point of the mineral is $50. However, had $3 of the $25 excess, or 12 percent, been attributable to an increase in the fair market value of the mineral due to inflation, then the fair market value at the cutoff point of the mineral would be $53.

(vii) *Cutoff point of timber.* For purposes of this subparagraph, the cost and fair market value of timber at the cutoff point are each deemed to be the sum of—

(a) Its fair market value as of the first day of the taxable year in which the timber is cut, and

(b) The cost incurred before the cutoff point attributable to felling, bucking, trimming, yarding or skidding, and loading at the dump or landing.

The taxable year referred to in (a) of this subdivision is the table year of the taxpayer which cut the timber. The cutoff point for timber occurs immediately after the round wood or logs have been picked up at the point at which they are first bunched or gathered together and loaded for further transport (*e.g.*, placed on a truck, on a railroad car, or in a waterway), or if earlier, immediately after the round wood or logs have been bunched or gathered together for manufacturing or processing in the woods (*e.g.*, placed in a chipper). This subdivision shall apply to all timber whether or not the taxpayer cutting the timber qualified to make, or made, the election under section 631(a).

(viii) *Special rule for certain used products and scrap products.* If a product or commodity is a used 50-percent manufactured or processed product, or is recovered as scrap from a 50-percent manufactured or procesed product, such product or commodity will be treated as a 50-percent manufactured or processed product.

(ix) *Special rule for byproducts and waste products.* For purposes of applying the cost test or fair market value test of subdivision (iv) or (v) of this subparagraph if a depletable product is recovered from a manufacturing process as a byproduct or waste product, then the cost and fair market value at the cutoff point are each deemed to be the lesser of—

(a) The fair market value of the waste product or byproduct containing the depletable product, determined as of the date the byproduct or waste product is recovered, or

(b) The amount the cost at the cutoff point would be for a depletable product of like kind and grade which is extracted or harvested, determined as of the date the byproduct or waste product is recovered.

For purposes of (b) of this subdivision the cutoff point for the depletable product of like kind and grade is deemed to be the point at which gross income from the property would be determined if such depletable product were sold by the taxpayer eligible to take a deduction for depletion after the completion of all mining processes applied to the depletable product and before the application of any nonmining process.

(x) *Proof of satisfaction of 50-percent manufactured or processed test.* (a) No substantiation is required to establish that either the cost test or the fair market value test of subdivisions (iv) or (v) of this subparagraph is satisfied or that a product or commodity qualifies under (viii) of this subdivision as either a used 50-percent manufactured or processed product or as scrap from a 50-percent manufactured or processed product as long as it is reasonably obvious, on the basis of all relevant facts and circumstances, that either the cost test or fair market value test is satisfied, or that the product or commodity qualifies as either as used 50-percent manufactured or processed product or as scrap from a 50-percent manufactured or processed product. Thus, for example, in the case of a DISC exporting a high precision lens at least 50 percent of the fair market value of which is obviously attributable to grinding, no substantiation of gross income from the property properly allocable to the depletable products contained in the lens, costs, or fair market values will be required.

(b) In cases in which satisfaction of either the cost test or the fair market value test is not reasonably obvious, a DISC will be required to substantiate the gross income from the property properly allocable to each depletable product in a product or commodity and either all costs or fair market values relied upon the DISC.

(c) For purposes of substantiating (1) gross income from the property properly allocable to a depletable product, (2) costs, and (3) fair market values, the DISC and related supplier shall each identify items in (or that were in) inventory in the same manner each used to identify items in inventory for purposes of computing Federal income tax.

(xi) *Application of 50-percent test.* The 50-percent test described in this subparagraph is applied on an item-by-item basis. If, however, a DISC sells a substantial volume of substantially identical products or commodities and if all or a group of such products or commodities contain substantially identical depletable products in substantially the same proportions and have cost or fair market value relationships (as the case may be) that are in substantially the same proportions, such DISC may apply the 50-percent test on an aggregate basis with respect to all such products or commodities, or group, as the case may be.

(5) *Effective dates.* Section 993(c)(2)(C) applies—

(i) With respect to any product or commodity not owned by a DISC, to sales, exchanges, or other dispositions made after March 18, 1975, with respect to which the DISC derives gross receipts.

(ii) With respect to any product or commodity acquired by a DISC after March 18, 1975.

(iii) With respect to any product or commodity owned by a DISC on March 18, 1975, to sales, exchanges, or other dispositions made after March 18, 1976, and to owning such product or commodity after such date.

For purposes of this subparagraph, the date of a sale, exchange, or other disposition of a product or commodity is the date as of which title to such product or commodity passes. The accounting method of a person is not determinative of the date of a sale, exchange, or other disposition.

(h) *Export controlled products*—(1) *In general.* Under section 993(c)(2)(D), an export controlled product is not export property. For purposes of this paragraph, the term "export controlled product" means any product or commodity the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403 (b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act. The policy set forth in paragraph (2)(A) of section 3 of the Export Administration Act of 1969 is "to use export controls to the extent

necessary to protect the domestic economy from the excessive drain of scarce materials a ndto reduce the serious inflationary impact of foreign demand."

(2) *Products considered export controlled products*—(i) *In general.* For purposes of this paragraph, an export controlled product is a product or commodity which is subject to short supply export controls under 15 CFR Part 377. A product or commodity is considered an export controlled product for the duration of each control period which applies to such product or commodity. A control period of a product or commodity begins on and includes the initial control date (as defined in subdivision (ii) of this subparagraph) and ends on and includes the final control date (as defined in subdivision (iii) of this subparagraph).

(ii) *Initial control date.* The initial control date of a product or commodity which was subject to short supply export controls on March 19, 1975, is March 19, 1975. The initial control date of a product or commodity which is subject to short supply export controls after March 19, 1975, is the effective date stated in the regulations to 15 CFR Part 377 which subjects such product or commodity to short supply export controls. If there is no effective date stated in such regulations, the initial control date of such product or commodity is the date on which such regulations are filed for publication in the FEDERAL REGISTER.

(iii) *Final control date.* The final control date of a product or commodity is the effective date stated in the regulations to 15 CFR Part 377 which removes such product or commodity from short supply export controls. If there is no effective date stated in such regulations, the the final control date of such product or commodity is the date on which such regulations are filed for publication in the FEDERAL REGISTER.

(3) *Effective dates*—(i) *Products controlled on March 19, 1975.* If a product or commodity was subject to short supply export controls on March 19, 1975, section 993(c)(2)(D) applies—

(*a*) With respect to any such product or commodity not owned by a DISC, to sales, exchanges, other dispositions, or leases made after March 18, 1975, with respect to which the DISC derives gross receipts,

(*b*) With respect to any such product or commodity acquired by a DISC after March 18, 1975, and

(*c*) With respect to any such product or commodity owned by a DISC on March 18, 1975, to sales, exchanges, other dispositions, and leases made after March 18, 1976, and to owning such product or commodity after such date.

(ii) *Products first controlled after March 19, 1975.* If a product or commodity becomes subject to short supply export controls after March 19, 1975, section 993(c)(2)(D) applies to sales, exchanges, other dispositions, and leases of such product or commodity made on or after the initial control date of such product or commodity, and to owning such product or commodity on or after such date.

(iii) *Date of sale, exchange, lease, or other disposition.* For purposes of this subparagraph, the date of sale, exchange, or other disposition of a product or commodity is the date as of which title to such product or commodity passes. The date of a lease is the date as of which the lessee takes possession of a product or commodity. The accounting method of a person is not determinative of the date of sale, exchange, other disposition, or lease.

(i) *Property in short supply.* * * *

* * * * *

Par. 2. Section 1.993–4(a)(2)(vi), as set forth in the appendix to the notice of proposed rule making for October 4, 1972 (37 FR 20853), is amended by adding a sentence to the end thereof. The added provision reads as follows:

§ 1.993–4 Definition of producer's loans.

(a) *General rule.* * * *

(2) *Application of this section.* * * *

(vi) *Events subsequent to time loan is made.* * * * As a further example, for purposes of applying the borrower's export related assets limitation described in paragraph (b) of this section, a loan which qualifies as a producer's loan when made will not later be disqualified if property, the gross receipts from the sale or lease of which were includible in the numerator of the fraction described in paragraph (b)(3)(i) of this section at the time of sale or lease by the borrower, is later characterized as excluded property (as defined in § 1.993–3(f)).

* * * * *

[FR Doc.76–18020 Filed 6–18–76;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### [ 32 CFR Part 901 ]

### AIR FORCE ACADEMY

### Appointment Policies and Requirements

The Department of the Air Force proposes to revise Subchapter K of Chapter VII of Title 32 CFR, Part 901, which explains the methods of application, requirements and procedures for appointment of young men and women to the United States Air Force Academy. This part is affected by the Privacy Act Statement, either incorporated in the body of the document, or in a separate statement accompanying each such document.

This revision include provisions for the admission of women to the Air Force Academy; changes titles in Military categories from "Sons" to "Children"; revises marriage definition; changes number of AFROTC nominations from "three" to "five"; changes title of Associate Director of Admissions to Director of Cadet Admission. Changes deadline date for requesting Vice-Presidential nomination from September 1 to October 31; reduces number of required Air Force Form 1786, Application for Appointment to the United States Air Force Academy Under Quota Allotted to Enlisted Men of the Regular and Reserve Components to the Air Force, from "triplicate" to "one"; deletes the use of the Airman Classification Test (ACT) and Airman Qualifying Examination scores; deletes DD Forms 1869, 1871, 1872, 1873, and 1874. The Privacy Act Statement has been added.

Interested persons are invited to comment on the proposed rule making on or before July 30, 1976. Written data, views, arguments concerning the proposal must be submitted to Lt Col Rhoten, Chief, Air Force Academy Activities Group, Directorate of Personnel Programs, Washington, D.C. 20330. Comments and suggestions submitted in writing will be available for public inspection and copying at the above address.

The revised part will read as follows:

## PART 901—APPOINTMENT TO THE U.S. AIR FORCE ACADEMY

### Subpart A—Appointment Policies and Requirements

Sec.


901.0 Purpose.
901.1 Appointment vacancies.
901.2 Sources of nominations.
901.3 Basic eligibility requirements.
901.4 Medical requirements.
901.5 Academic examination requirements.
901.6 Physical aptitude examination requirement.
901.7 Precandidate evaluation by USAF Academy.


### Subpart B—Nomination Requirements and Procedures


901.8 Notice of nomination.
901.9 Congressional, District of Columbia, and United States Possessions.
901.10 Regular (Competitive).
901.11 Reserve (Competitive).
901.12 Presidential (Competitive).
901.13 Vice Presidential.
901.14 Children of deceased or disabled veterans and children of military or civilian personnel in a missing status (Competitive).
901.15 Honor military and honor Naval schools—college or university AFROTC—high school AFJROTC (Competitive).
901.16 Children of Congressional Medal of Honor recipients.
901.17 Citizens of the American Republics and the Philippines.
901.18 Notification of change of address or station assignment.
901.19 Supply of forms.


### Subpart C—Obligations of Cadet Appointments


901.20 Obligations of cadet appointments.


AUTHORITY: 10 U.S.C. 903, 8012, unless otherwise noted.

### Subpart A—Appointment Policies and Requirements

§ 901.0 Purpose.

This part explains the methods of application, requirements and procedures for appointment of young men and women to the United States Air Force Academy. This part is affected by the Privacy Act Statement, either incorporated in the body of the document, or in a separate statement accompanying each such document. Persons who are eligible for nomination to the Air Force Academy are encouraged to apply in each category in which they are eligible.

**§ 901.1 Appointment vacancies.**

By law, specific authorities may nominate eligible applicants for appointment vacancies at the Academy.

**§ 901.2 Sources of nomination.**

(a) United States Senators and Representatives.

(b) Resident Commissioner of Puerto Rico; Governor of Puerto Rico; Governor of the Panama Canal Zone; Governor of American Samoa; Delegate in Congress from Guam; Delegate in Congress from the Virgin Islands; and the Delegate to the House of Representatives from the District of Columbia.

(c) Air Force enlisted Regular competitive category.

(d) Air Force enlisted Reserve competitive category.

(e) Presidential competitive category.

(f) Vice Presidential category.

(g) Children of deceased or disabled veterans and children of military or civilian personnel in a missing status competitive category.

(h) Honor military and honor naval schools, Air Force Reserve Officer Training Corps (AFROTC), and Air Force Junior Reserve Officer Training Corps (AFJROTC) competitive category.

(i) Children of Congressional Medal of Honor recipients.

(j) Citizens of the American Republics and The Philippines—(Designated to receive instructions under 10 U.S.C. 9344 and 9345).

**§ 901.3 Basic eligibility requirements.**

(a) *Age.* Must be at least 17 and not have passed the 22nd birthday on July 1 of the year of entry into the Academy.

(b) *Citizenship.* Must be a citizen of the United States. If an applicant is a citizen by naturalization, he or she must substantiate citizenship. Proof of citizenship should be addressed to the Director of Cadet Admissions, USAF Academy, CO 80840. Facsimiles or copies, photographs or otherwise, will not be made of naturalization certificates under any circumstances, as stated in 18 U.S.C. 1426 (H).

(c) *Domicile.* If nominated by an authority designated in § 901.2 (a) or (b), the applicant must be domiciled within the constituency of such authority.

(d) *Moral character.* Must be of highest moral character. Commanders will furnish information to USAFA/RRS, USAF Academy, CO 80840, on any military applicant or nominee whose official records indicate questionable background as follows:

(1) Applicant is, or has been, a conscientious objector. In this case, an affidavit is required stating that such beliefs and principles have been abandoned so far as they pertain to willingness to bear arms and to give full and unqualified military service to the United States.

(2) Any facts which give reason to believe that the applicant's appointment may not be clearly consist with the interests of national security.

(3) Conviction by court-martial for other than a "minor offense" (MCM 1969, revised edition, paragraph 128b, page 26–1) or conviction of a felony in a civilian court.

(4) Elimination from any officer training program or any preparatory school of the Army, Navy, or Air Force academies for military inaptitude, indifference, or undesirable traits of character. This includes any person who resigned in the face of impending charges or who was eliminated by official action.

(5) Habitual intemperance and drug abuse. (AFR 30–2, Social Actions Program, will be consulted when information on drug experimentation or use becomes known.)

(6) Any behavior, activity, or association tending to show that the applicant is of questionable moral character or reputation.

(e) *Marital status.* Applicant must be unmarried. (Any cadet who marries will be discharged from the Academy.)

(f) *Dependents.* Applicant must not have a legal obligation to support a child or children or any other person.

**§ 901.4 Medical requirements.**

Each candidate must meet the physical requirements outlined in AFM 160–1, Medical Examinations and Medical Standards, and AFR 160–13, Medical Examination of United States Service Academy and ROTC Four-Year Scholarship Applicants.

**§ 901.5 Academic examination requirements.**

Each candidate must take either the College Board Admission Testing Program (ATP) or the American College Testing Program Tests (ACT).

(a) *College Board Admission Testing Program:*

(1) A candidate who elects to use the ATP Tests must take the Scholastic Aptitude Tests (SAT).

(2) The candidate is encouraged, but not required to take Achievement Tests.

(i) English Composition.

(ii) Level I (Standard) Mathematics or Level II (Intensive) Mathematics. (Level I recommended for candidates without advanced high school mathematics.)

(3) *Makeup examination.* A makeup administration of College Board Admission Testing Program tests is held by examining centers at a time to be determined by USAFA/RRS. If, for some valid reason, candidates are unable to take the tests on the regular testing dates, they may request authorization from USAFA/RRS to take them on the special makeup date. Supplies and instructions are furnished by USAFA/RRS.

(b) *American College Testing Program Tests.* Candidates who elect to use the ACT Tests must take the complete battery of tests: English, Mathematics, Social Sciences, and Natural Sciences.

**§ 901.6 Physical aptitude examination requirement.**

Each candidate must take a physical aptitude examination consisting of four exercises designed to measure coordination, strength, endurance, speed, and agility. A list of test items is included in the USAFA Catalog.

**§ 901.7 Precandidate evaluation by the USAF Academy.**

The Air Force Academy conducts a precandidate evaluation program to aid Members of Congress in screening their applicants.

(a) Once an individual expresses an interest in seeking a nomination to a Member of Congress, the Congressional Assistant sends the applicant a card made available by the Air Force Academy.

(b) The applicant completes the card and mails it to the Academy. The Academy in turn, forwards the applicant a packet of information, including DD Form 1908, the Service Academies Precandidate Questionnaire. The applicant completes this form, has it certified by his or her high school counselor and forwards it to the Academy.

(c) The Academy evaluates DD Form 1908, and the information is made available to Congressional offices. Such information gives the Member of Congress an indication of the applicant's potential for qualifying for admission; it does not, however, reflect the applicant's final admission status. It is intended only to aid the Members of Congress in selecting their best qualified applicants for nomination.

**Subpart B—Nomination Requirements and Procedures**

**§ 901.8 Notice of nomination.**

The Director of Cadet Admissions, USAFA/RRS, notifies military applicants of their eligibility or ineligibility for nomination. If eligible for a nomination, USAFA/RRS sends the individual a candidate kit which includes: DD Forms 1867, Candidate Personal Data Record; 1868, Candidate Activities Record; and 1875, Request for Secondary School Transcript, and complete processing instructions.

**§ 901.9 Congressional, District of Columbia, and United States Possessions.**

(a) A US Citizen domiciled in one of the 50 States may apply directly to the United States Senators of his or her State and the Representative of his or her Congressional district. Persons domiciled in the District of Columbia apply to the Delegate to the House of Representatives from the District of Columbia. Persons domiciled in Puerto Rico apply to the Resident Commissioner. Such persons who are natives of Puerto Rico also may apply to the Governor. Children of civilians residing in the Panama Canal Zone or children of civilian employees of the US Government and the Panama Canal Company residing in the Republic of Panama apply to the Governor of the Panama Canal Zone. Residents of American Samoa apply to the Governor. Residents of the Virgin Islands and Guam apply to their respective Delegates to Congress.

(b) Congressional nominations are submitted by the nominating authorities between May 1 and January 31 for the class entering the following summer.

(1) Applications to the nominating authorities should be sent early in the nominating period. A suggested letter format is included in the USAFA Catalog.

(2) All inquiries concerning status of applications should be sent to the nominating authority.

(c) The nominating authority forwards DD Form 1870, Nomination for Appointment to the United States Military Academy, Naval Academy, Air Force Academy; (used only by sources listed in § 901.2 (a), (b) and (f), for each Air Force Academy nominee through Hq USAF/DPPAB, Wash., D.C. 20330, to USAFA/RRS, USAF Academy, CO 80840.

**§ 901.10 Regular (Competitive).**

Appointments to fill vacancies from this category are made from candidates in order of merit. Applications must be submitted no later than January 31 for the class entering the following summer.

(a) Any enlisted member of the Regular component of the Air Force may apply for nomination. Selectees must be in active enlisted status when appointed as cadets.

(b) A Reserve commissioned officer on extended active duty may apply for vacancies in the Regular military category. If selected, such candidates must have their commissioned officer status terminated and be enlisted before appointment as Air Force Cadets. If a cadet in this category is separated without prejudice and under honorable conditions from the Air Force Academy, he or she may apply for reappointment as a commissioned officer.

(c) A regular applicant arranges to have his or her high school transcript submitted to the Director of Cadet Admissions, USAFA/RRS, and completes AF Form 1786, Application for Appointment to the United States Air Force Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force, and submits it to his or her immediate commander who:

(1) Determines if the applicant meets the basic eligibility requirements. If disqualified, the application is returned and the applicant is informed of the reason.

(2) Forwards by first indorsement AF Form 1786 to USAFA/RRS, USAF Academy CO, 80840. The indorsement must include a complete comprehensive statement on the applicant's character, ability and background, plus the following statement: "Statements contained in this application regarding component, length of service, and date of birth have been verified from official records."

**§ 901.11 Reserve (Competitive).**

Appointments to fill vacancies from this category are made from candidates in order of merit. Applications must be submitted no later than January 31 for the class entering the following summer.

(a) Any enlisted member of the Air Force Reserve or the Air National Guard of the United States (ANGUS) may apply for nomination.

(b) A Reserve commissioned officer who satisfactorily completes one year of service in an active Reserve assignment by July 1 of the year in which admission is sought may apply for vacancies in the Reserve military category. If selected, such candidates must have their commissioned officer status terminated and be enlisted in the Air Force Reserve before appointment as Air Force Academy Cadets. Cadets in this category who are separated without prejudice and under honorable conditions from the Air Force Academy may apply for reappointment as a commissioned Reserve officer.

(c) A Reserve category applicant arranges to have his or her high school transcript submitted to the Director of Cadet Admissions, USAFA/RRS, completes AF Form 1786, and submits it to his or her organization commander. The organization commander processes the application as outlined in § 901.10(c). A Reserve applicant is not placed on active duty to be processed for nomination or appointment to the Air Force Academy.

**§ 901.12 Presidential (Competitive).**

(a) The child of a Regular or Reserve member of the Armed Forces of the United States is eligible for nomination if:

(1) The parent is on active duty and has completed eight years of continuous active duty service (other than for training) by July 1 of the year that the candidate would enter the USAF Academy; or

(2) The parent was retired with pay or was granted retired or retainer pay (children of Reservists retired while not on active duty status are ineligible); or

(3) The parent died after retiring with pay or after being granted retired or retainer pay (children of deceased Reservists who were retired while not on active duty status are ineligible; and

(4) The applicant does not meet the eligibility requirements for the Children of Deceased or Disabled Veterans (CO DDV) appointment category. (By law, a person eligible for appointment consideration under the CODDV category may not be a candidate in the Presidential category.) Adopted children are eligible if adoption proceedings were initiated before their 15th birthday.

(b) An eligible individual may apply to USAFA/RRS, USAF Academy, CO 80840. A suggested letter format is included in the USAFA catalog. The nominating period opens on May 1 and closes January 31. *Applicants should not write directly to the President of the United States, since these applications are processed by the Air Force Academy.*

**§ 901.13 Vice Presidential.**

(a) Any individual who meets the basic eligibility requirements of § 901.3 above may apply for a nomination to the Vice President, United States Senate, Washington, D.C. 20510. The Vice President will accept requests for nominations between May 1 and October 31. The Vice President submits nominations by January 31 for the class entering the following summer.

(b) It is important to submit a request for nomination before or early in the nominating period. A suggested letter format is included in the USAFA catalog. Address all inquiries concerning status of application to the nominating authority.

**§ 901.14 Children of Deceased or Disabled Veterans and Children of Military or Civilian Personnel in a Missing Status (Competitive).**

(a) The child of a deceased or disabled member of the Armed Forces of the United States is eligible for nomination if:

(1) The parent was killed in action or died of wounds or injuries received or diseases contracted while in active service or of pre-existing injury or disease aggravated by active service or

(2) The parent has a permanent service-connected disability rated at no less than 100 percent resulting from wounds or injuries received or diseases contracted while in active service, or pre-existing injury or disease aggravated by active service.

(b) The child of a parent who is in "Missing Status" is eligible if the parent is a member of the armed services or a civilian employee in active government service who is officially carried or determined to be absent in a status of missing; missing in action; interred in a foreign country; captured, beleaguered, or besieged by a hostile force; or detained in a foreign country against the person's will.

(c) To request a nomination in this category, an individual must submit an application to the Director of Cadet Admissions between May 1 and January 31. A suggested letter format is included in the USAFA catalog.

**§ 901.15 Honor Military and Honor Naval Schools—College or University AFROTC—High School AFJROTC (Competitive).**

(a) *Honor Military and Honor Naval Schools:* (1) Five honor graduates or prospective honor graduates from each designated honor military and honor naval school may be nominated to fill the vacancies allocated to this category. Vacancies are filled in the order of merit, regardless of the schools from which the nominations are made. Appropriate school authorities must certify that each nominee is a prospective honor graduate or an honor graduate and meets the basic eligibility requirements listed in § 901.3.

(2) Appropriate school authorities use the nomination blanks provided by the Academy to submit nominees to USAFA/RRS, USAF Academy, CO 80840. Such nominations are submitted no later than January 31 for the class entering the following summer. Nominations are not limited to honor graduates of the current year. An individual eligible for nomination in this category applies to the administrative authority of the school involved.

(b) College or University AFROTC and High School AFJROTC: (1) Five students from each college or university AFROTC unit may be nominated to complete for the vacancies allocated to this category. Vacancies are filled in the order of merit.

(i) The student applies for nomination to the Professor of Aerospace Studies, who must certify that the applicant meets the basic eligibility requirements listed in § 901.3, and will have satisfactorily completed one year of scholastic work at the time the class for which he or she is applying enters the Academy.

(ii) The Professor of Aerospace Studies uses the forms provided by the Academy to recommend for nomination the five best qualified applicants to the president of the educational institution in which the AFROTC unit is established.

(iii) The president of the institution submits the nominations to USAFA/RRS, USAF Academy, CO 80840, by January 31 of the year in which the applicants desire appointment.

(2) Five students from each high school AFJROTC unit may be nominated to compete for the vacancies allocated to this category. Vacancies are filled in the order of merit.

(i) The student applies for nomination to the aerospace education instructor, who must certify that the applicant meets the basic eligibility requirements listed in § 901.3, and, by the end of the school year, will have successfully completed the prescribed AFJROTC program.

(ii) The aerospace education instructor uses the nomination blanks provided by the Academy to recommend for nomination the five best qualified applicants to the principal of the high school in which the AFJROTC units is established.

(iii) The principal of the high school submits the nominations to USAFA/RRS, USAF Academy, CO 80840, by January 31 of the year in which the applicants desire appointment.

**§ 901.16 Children of Congressional Medal of Honor recipients.**

(a) The child of any Congressional Medal of Honor recipient who served in any branch of the Armed Forces may apply for nomination. If an applicant meets the eligibility criteria and qualifies on the entrance examinations, he or she is admitted to the Academy.

(b) The applicant must write to USAFA/RRS, USAF Academy, CO 80840 requesting a nomination in this category. The nominating period opens on May 1 and closes January 31. A suggested letter format is included in the USAFA catalog.

**§ 901.17 Citizens of the American Republics and the Republic of the Philippines.**

(a) The Academy is authorized to provide instruction to as many as 20 persons at any one time from the American Republics. However, not more than three students from any one republic may receive instruction at the same time. In addition, one student from the Republic of the Philippines may be admitted in each entering class. A citizen of an American Republic must apply to the Government of his own country. A Filipino applies to the President of the Republic of the Philippines.

(b) The application should contain complete particulars about the applicant's background and should be submitted at least a year before the time of desired admission to the Academy. Applicants in these categories must meet the eligibility requirements established for all Academy candidates except the requirement to be a U.S. citizen and must be able to read, write, and speak English proficiently.

**§ 901.18 Notification of change of address or station assignment.**

The applicant or nominee is personally responsible for notifying USAFA/RRS, USAF Academy, CO 80840 of every change of address or station assignment. Notifications from military personnel must include complete name, grade, SSAN, and new organization or unit to which assigned. Reassignment of military personnel to any duty station will not be delayed pending action by USAFA/RRS.

**§ 901.19 Supply of forms.**

DD Forms 1867, 1875, and 1908 are stocked and issued by the Director of Cadet Admissions, USAFA/RRS, USAF Academy, CO 80840. DD Form 1870 is stocked and issued by the Air Force Academy Activities Group, HQ USAF/DPAA, Washington, D.C. 20330.

**Subpart C—Obligations of Cadet Appointment**

**§ 901.20 Obligations of cadet appointment.**

Upon admission each cadet will be required to take the following Oath of Allegiance:

"I, _____ (name), having been appointed an Air Force Cadet in the United States Air Force, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So Help Me God."

(a) A cadet who enters the Air Force Academy directly from civilian status and takes an oath of allegiance as a cadet assumes a military service obligation of six years.

(b) Cadets will be required to sign an agreement, with parents or guardian consent if a minor, that they will fulfill these obligations:

(1) Complete the Academy course of instruction, unless disenrolled from the Academy by competent authority.

(2) Accept an appointment and serve as a commissioned officer in a Regular component of one of the armed services for five years.

(3) If authorized to resign from the Regular component before the sixth anniversary of their graduation, serve as a commissioned officer in the Reserve component until the sixth anniversary.

(4) If disenrolled from the Academy before graduation, the cadet will be subject to the separation policies which apply to all service academies. Application of these policies will be governed by the Department of Defense requirements for the Active and Reserve components and the national manpower needs of selective service (see AFR 53–3, Disenrollment of United States Air Force Academy Cadets).

JAMES L. ELMER,
*Major, USAF, Executive,*
*Directorate of Administration.*

[FR Doc.76–18807 Filed 6–28–76;8:45 am]

## DEPARTMENT OF AGRICULTURE

**[ 7 CFR Part 29 ]**

**TOBACCO INSPECTION**

**Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets**

Notice is hereby given that the U.S. Department of Agriculture has under consideration the amendment of Subpart A of 7 CFR, Part 29, relating to tobacco inspection and price support services to new markets and additional sales on designated markets. Subpart A is issued pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.); the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended, 15 U.S.C. 714 et seq.); and the Agricultural Act of 1949, as amended (63 Stat. 1051, 7 U.S.C. 1421 et seq.).

*Statement of Consideration.* The Department proposes to amend Subpart A, Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets. The proposed amendments would limit the geographical boundaries of auction markets designated by the Secretary under section 5 of the Tobacco Inspection Act to the town or city which is the population center of the market and whose name the market bears and to that geographical area within three road miles of the boundary of that town or city as they were constituted on January 1, 1976. The proposed amendment would allow warehouses in existence and which received price support and inspection services during the 1976 season to continue to operate at the same location and would also provide parties who desire to establish a warehouse beyond the geographical limitation to petition the Secretary for a waiver of this geographical limitation.

The amendment is proposed to establish some criteria to enable the Secretary to determine whether or not a particular geographical location can be identified with the designated market. Currently, there are no criteria in the regulations and such determinations have been made on an ad hoc basis. With the improvement in roads throughout the tobacco growing belt and the availability

of less costly land beyond town or city limits, operators of warehouses have moved their operations farther and farther from the town or city originally contemplated as the designated market. Additionally, the number of auction warehouses open and which desire to open, have increased (particularly in the flue-cured tobacco marketing area since the institution of producer designations). All of these factors have complicated the ad hoc method of determination previously used by the Secretary and have made his determinations more difficult. As a consequence, it is necessary for the Secretary to establish objective criteria to use in making a determination as to whether or not a particular location can be identified with a previously designated auction market and to serve as a notice to the industry as to what geographical locations will be considered as identified with the designated market.

All persons who desire to submit written data, views, or arguments for consideration in connection with these proposals may file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A Administration Building, Washington, D.C. 20250, not later than July 29, 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)).

Therefore, it is proposed that the regulations be amended as follows:

**§ 29.1 Definitions.**

* * * * *

(e) "Designated market" means an auction market designated by the Secretary under section 5 of the Tobacco Inspection Act including the town or city which is the population center of the market and whose name the market bears and all of the geographical area within three road miles of the boundaries of said city or town as they are constituted on January 1, 1976. *Provided*, That any warehouse beyond these boundaries which received tobacco inspection and price support services during the 1976 marketing season shall continue to receive such services at the same location regardless of any prohibition contained herein and further *Provided*, That this geographical limitation may be waived by the Secretary after a hearing held pursuant to sections 29.2 and 29.3 of this Subpart.

**§ 29.2 Policy statement.**

Inspection and price support services currently provided in auction marketing areas are adequate and the lack of these services is not a limiting factor to accelerated marketings or the extension of price support to producers. Consequently, the extension of inspection and price support services, without limitation, would not contribute to the effectuation of the purposes of either of these services. The additional cost incident to the unlimited extension of these services would be unjustifiable and excessive in relation to the total quantity of tobacco available for market. Accordingly, inspection and price support services shall be made available on new markets at warehouses which are located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), and additional sales for other than flue-cured tobacco only as hereinafter provided. With regard to flue-cured tobacco, allocation of inspection services is based on producer designation, as provided for in 7 CFR 1464.2(e)(2)(iii), see Subpart G. Also since these services shall be made available to new markets, to warehouses which are located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), and additional sales only as herein provided, referenda incident to market designations shall not be conducted until auction markets seeking designation have qualified for inspection and price support services as herein provided.

(a) Reasonable inspection and price support services. The extension of tobacco inspection and price support services to new markets, to warehouses which are located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), and additional sales will be conditioned upon the reasonableness of such services existing in the marketing area of the proposed new market or additional sale. Transactions in tobacco as conducted at auction markets customarily involve the sale of tobacco at a bona fide auction sale. Determination with respect to reasonableness, and consequently with respect to granting or denying additional services, will be based on evidence (1) that the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale will function as a bona fide auction sale, and (2) that additional services are justifiable in relation to other market data, including the volume of tobacco produced in the area surrounding the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale; the roads and road distances involved in moving tobacco to the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale in relation to other tobacco marketing centers; the relative availability or congestion of all facilities for redrying and packing tobacco handled or to be handled in the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale; the location of other auction markets or warehouses on which tobacco produced in the marketing area of the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale may be marketed; the number of tobacco growers to be affected by the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale; the volume of tobacco likely to be sold in the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale; the relationship of sales in the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale to sales in other auction markets or warehouses in the producing area for that kind of tobacco; other economic factors affecting the marketing of tobacco, by growers, in the marketing area of the proposed new market, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), or additional sale and in the producing area for that kind of tobacco, including limitations on sales imposed by any marketing agreement and/or order, or by any other means; and also, as to flue-cured tobacco, data with regard to producer designations which shall include, but not be limited to, the markets and warehouses currently available for the producers, who would be eligible to designate the new market or, warehouse located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), who already designate and who desire to designate the new market or warehouse.

**§ 29.3 Procedures for filing, hearing, and determination of applications.**

(a) Time and place of filing. Applications for the extension of tobacco inspection and price support services to new markets, to warehouses which are located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), and to additional sales on designated markets shall be filed, in triplicate, with the Hearing Clerk not later than September 15 in the case of flue-cured tobacco, December 1 in the case of Maryland tobacco, and July 15 in the case of burley and all other kinds of tobacco. Applications should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. Applications which are not received by the Hearing Clerk on or before the foregoing cutoff date for the kind of tobacco shall be rejected as untimely filed. After denial of an application for additional inspection and price support services for a marketing season, no application from the same auction market or proposed new market or warehouse shall be considered for the next consecutive marketing season, unless the application contains a statement by the applicant setting forth new facts that constitute evidence of such a substantial change in conditions since the previous hearing as the review committee as specified in paragraph (h) of this section deems would warrant such further hearing.

Done this 23d day of June 1976.

WILLIAM T. MANLEY,
*Deputy Administrator, Program Operations, Agricultural Marketing Service.*

[FR Doc.76–18789 Filed 6–28–76;8:45 am]

[ 7 CFR Part 917 ]

## FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

### Pear Commodity Committee Expenses and Fixing of Rate of Assessment for the 1976–77 Fiscal Period and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed budget and rate of assessment to be paid by handlers for local administration of the Pear Commodity Committee under Marketing Order 917, regulating shipments of fresh California pears, plums, and peaches. The proposed Pear Commodity Committee budget is $541,625 and the rate of assessment is $0.125 per lug of pears.

Consideration is being given to the following proposals submitted by the Pear Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528), as the agency to administer the provisions thereof. Said agreement and order regulate the handling of fresh pears, plums, and peaches grown in the State of California and are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposals are as follows:

(a) That expenses that are reasonable and likely to be incurred during the fiscal period from March 1, 1976, through February 28, 1977, will amount to $541,625.

(b) That the rate of assessment for such fiscal period payable by each handler in accordance with § 917.37 be fixed at twelve and one-half cents ($0.125) per No. 29B special lug box of pears, or its equivalent in other containers or in bulk.

(c) That unexpended assessment funds in excess of expenses incurred during the fiscal period ending February 29, 1976, be carried over in accordance with § 917.38 of said marketing agreement and order.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part, and "No. 29B special lug box" shall have the same meaning as set forth in Section 1387.11 of the Regulations of the California Department of Food and Agriculture.

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 July 16, 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: June 23, 1976.

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

[FR Doc.76-18791 Filed 6-28-76;8:45 am]

---

[ 7 CFR Part 921 ]

## FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

### Proposed Handling Requirements

This notice invites written comment with respect to proposed grade, maturity, size, and pack requirements for Washington peaches. Such requirements are the same as those currently in effect in § 921.312 Peach Regulation 12 (40 FR 30621) through July 31, 1976. The proposal would make such requirements effective for the remainder of the 1976 season and until July 31, 1977. Such requirements specify that peaches shall grade Washington Extra Fancy grade except that peaches meeting Washington Fancy grade, may be shipped if packed in the western lug or the standard peach box. All varieties of peaches are required to meet minimum size requirements of 2⅜ inches diameter except the Elberta varieties and peaches of any variety other than Elberta when packed in the standard peach box, may be shipped if they meet a minimum diameter of 2¼ inches. All peaches are required to be well matured and have a reasonably uniform degree of firmness. Loose or jumble packs are permitted in containers of a capacity equal to or greater than that of a western lug box with a net weight of 26 pounds and in such containers of a lower net weight if the packages are well filled. These requirements are designed to provide consumers with acceptable quality peaches.

The proposal was submitted by the Washington Fresh Peach Marketing Committee, pursuant to the marketing agreement and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington, under which the current regulation is effective. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 12, 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)).

The recommendation of the Washington Fresh Peach Marketing Committee reflects its appraisal of the current and prospective crop and market conditions. Washington's 1976 commercial peach crop is estimated by the committee at 17,000 tons, compared with SRS reported utilized production in 1975 of 19,800 tons. The proposed regulation, hereinafter set forth is designed to prevent the handling on and after August 1, 1976, of lower quality and smaller size peaches and provides orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Such proposal reads as follows:

**§ 921.313 Peach Regulation 13.**

*Order.* (a) During the period August 1, 1976, through July 31, 1977, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (6) of this paragraph.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided,* That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties when packed in any container except the standard peach box, shall measure not less than 2⅜ inches in diameter;

(ii) Such peaches of any variety when packed in the standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties, packed in any container shall measure not less than 2¼ inches in diameter.

(3) *Minimum maturity.* Such peaches shall be well matured, except that any lot of peaches shall be deemed to have met such minimum maturity requirement if not more than 25 percent, by count, of the peaches in such lot are mature but not well matured.

(4) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(5) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided,* That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled, and

(ii) Such peaches other than peaches in loose or jumble packs in any containers shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1212), or the U.S. Standards for Peaches (7 CFR 51.1210 et seq.).

(6) Notwithstanding any other provisions of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements

may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) The terms "Washington Extra Fancy Grade", "Washington Fancy Grade", and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "well matured" shall mean peaches which will yield very slightly to moderate pressure at the suture of blossom end, have shoulders and sutures that are well filled out, and have skin and flesh colored sufficiently that it will show characteristic varietal color when ripe; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "well filled" shall mean that the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

Dated: June 23, 1976.

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

[FR Doc.76-18790 Filed 6-28-76;8:45 am]

---

## [ 7 CFR Part 924 ]

## FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

### Proposed Handling Requirements

This notice invites written comment relative to a proposed regulation that would require fresh Washington-Oregon prunes from August 1, 1976, through August 31, 1977, to grade U.S. No. 1, except for an off-color allowance and an additional tolerance for defects, and be at least 1¼ inches in diameter. Brooks variety prunes would be exempted from regulatory requirements. A minimum quantity exemption would be provided.

Consideration is being given to the following proposal, which would limit the handling of fresh prunes by establishing the minimum grade and size recommended by the Washington-Oregon Fresh Prune Marketing Committee, established pursuant to the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 14, 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)).

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Fresh shipments of Washington-Oregon Prunes are expected to start on or about August 1, 1976, and to total 22,000 tons compared with 22,462 tons last season. Hence, supplies of fresh prunes meeting the proposed requirements should be adequate to fill fresh market needs. The proposed regulation is designed to prevent the handling of lower quality and smaller size prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

The provision which would exempt the Brooks variety of prunes from the regulation would recognize that prunes of this variety are primarily consumed locally, and that the total production of this variety is insignificant compared to the total supply. Also, the provision which would exempt individual shipments, not exceeding 500 pounds, of the Stanley or Merton varieties, would recognize that the production of these varieties is relatively small, and for the most part is consumed locally or is sold for home use and not for resale. The exemption of individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton, if sold for home use and not for resale, would recognize that the quantity of prunes likely to be so handled is relatively inconsequential in relation to the total, and it is not practical administratively to regulate the handling of such shipments due to the nearness of the source of supply.

Such proposal reads as follows:

**§ 924.314 Prune Regulation 14.**

*Order.* (a) Prune Regulation 13, (40 FR 30929) is hereby terminated on August 1, 1976.

(b) During the period August 1, 1976, through August 31, 1977, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade at least U.S. No. 1, except that only two thirds of the surface of the prune is required to be purplish color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided*, That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade: *Provided*, That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay, or

(2) Such prunes are handled in accordance with paragraph (c) of this section.

(c) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 150 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (b) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(d) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520-51.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (June 5, 1972) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 15, 1972); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

Dated: June 23, 1976.

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

[FR Doc.76-18792 Filed 6-28-76;8:45 am]

[ 7 CFR Part 1004 ]

## MILK IN THE MIDDLE ATLANTIC MARKETING AREA

### Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for the months of June and July 1976.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, not later than July 2, 1976. All documents filed should be 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)).

§ 1004.7 [Amended]

The provisions proposed to be suspended are as follows:

In § 1004.7(a), the language which reads "not less than 50 percent."

STATEMENT OF CONSIDERATION

The proposed action would suspend for the months of June and July 1976 the requirement that at least 50 percent of the receipts of milk at a pool distributing plant be disposed of as Class I milk. For this purpose, such receipts include both milk that is physically received at the distributing plant from dairy farms and milk that is diverted from the plant to other plants by either the distributing plant operator or a cooperative association.

The suspension was requested by Maryland Cooperative Milk Producers, Inc. Petitioner indicates that in the absence of the requested suspension one or more distributing plants in the Middle Atlantic market will lose their pool plant status in June. This is because unusually large quantities of milk normally associated with the distributing plants for Class I use are having to be diverted to manufacturing plants for Class II use. In this circumstance, less than 50 percent of the milk supplies associated with one or more of the distributing plants in question is expected to be used in Class I, which would preclude the plants from meeting the current pooling standards.

The petitioning cooperative points out that handlers which it supplies are experiencing a decline in their Class I sales while the production of individual members is increasing. The cooperative indicates that the resulting supply-demand imbalance, which is already being experienced in June, is anticipated in July also and that the suspension is necessary for these two months to ensure against the risk of depooling distributing plants or milk of producers normally associated with the fluid market.

Signed at Washington, D.C., on June 25, 1976.

WILLIAM T. MANLEY,
*Deputy Administrator,*
*Program Operations.*

[FR Doc.76-18970 Filed 6-28-76;8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social Security Administration

[ 20 CFR Parts 404, 410, 416 ]

[Regulations Nos. 4, 10, 16]

## FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

### Office and Bureau Recommendation That Appeals Council Review Hearing Decision On Its Own Motion

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide that an office or bureau of the Social Security Administration may recommend that the Appeals Council undertake review of a hearing decision on its own motion on the basis that such decision contains a clerical error or an erroneous interpretation of the applicable statutory provision, regulation, or Social Security Ruling. The purpose of the amendment is to set forth policies and procedures under which an office or bureau may recommend that the Appeals Council undertake to review a hearing decision on its own motion, including conditions under which such review may be recommended and the right of the parties to receive a copy of the office or bureau memorandum. Since Regulations No. 5, Subpart G (Reconsideration and Appeals under the Hospital Insurance Program), § 405.724, incorporates § 404.942ff, by reference, amendment of Regulations No. 5, Subpart G is not required. Bureau or office authority to recommend that the Appeals Council take jurisdiction of the case on its own motion will not apply to findings of fact or the evaluation of evidence. It is expected that, relatively, only a small number of decisions will be the subject of these procedures. Bureau or office contacts with the Appeals Council under these procedures will be in writing and wholly on the record. In every case in which an office or bureau recommends to the Appeals Council that it review the hearing decision, the parties will receive a copy of the recommendation from the office or bureau at the same time that the recommendation is sent to the Appeals Council. The parties will be informed that the recommendation is not an action of the Appeals Council and if the Appeals Council decides to undertake own-motion-review, the parties will be informed and will be given a full opportunity to present their cast at that stage in accordance with the applicable regulations. The regulations provide a limited time within which the Appeals Council can exercise its authority to take own-motion-review. To allow time for the claimant to rebut the bureau recommendation, it would be necessary to extend the time period for own-motion-review, thus making the hearing decision subject to own-motion-review for a longer time. This would not be in the interest of the majority of claimants. However, if the Appeals Council does undertake own-motion-review, the claimant will have a full opportunity to protest and any comments received by the Appeals Council will be considered. The bureau's or office's involvement will be limited to recommending that the Appeals Council review on its own motion rather than providing them a regulatory right to file a request for review. The Appeals Council will be free to decline own-motion-review if it wishes. Thus, the proposal will not alter in any way the basic nonadversary aspects of the appeals process. Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before July 29, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are issued under the authority contained in secs. 205, 1102, as amended, 1631(c), 1871, and 1872 of the Social Security Act; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 86 Stat. 1476; 79 Stat. 331, 79 Stat. 332 (42 U.S.C. 405, 1302, as amended, 1383(c), 1395hh, and 1395ii).

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security-Disability Insurance; 13.803, Social Security-Retirement Insurance; 13.804, Social Security-Special Benefits for persons aged 72 and over; 13.805, Social Security-Survivors Insurance; 13.806, Special Benefits for Disabled Coal Miners (Black Lung Benefits); 13.800, Health Insurance for the Aged-Hospital Insurance; 13.807, Supplemental Security Income for the Aged, Blind, and Disabled.)

Dated: May 27, 1976.

J. B. CARDWELL,
*Commissioner of Social Security.*

Approved: June 23, 1976.

DAVID MATHEWS,
*Secretary of Health,*
*Education, and Welfare.*

Parts 404, 410, and 416 of Chapter III of Title 20 of Code of Federal Regulations are amended as set forth below.

## PART 404—FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE

1. A new § 404.945a is added to read as follows:

**§ 404.945a Office or bureau recommendation that Appeals Council review hearing decision on its own motion.**

The head of an office or bureau of the Social Security Administration or his delegate may recommend that the Appeals Council undertake review of a hearing decision on its own motion, on the basis that such decision contains a clerical error or erroneous interpretation of the applicable statutory provision, regulation, or Social Security Ruling. Such recommendation shall be made in writing and shall be filed with the Appeals Council. A copy of such recommendation shall be furnished to the parties to the hearing decision with an explanation that the recommendation is not an action of the Appeals Council and, if the Appeals Council decides to undertake such review, the parties shall be informed and given an opportunity, in accordance with these regulations, to submit evidence on the issue for review. Where the Appeals Council decides not to review the hearing decision, such action shall be final and binding.

2. A new § 410.660a is added to read as follows:

## PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—TITLE IV—BLACK LUNG BENEFITS

**§ 410.660a Office or bureau recommendation that Appeals Council review hearing decision on its own motion.**

The head of an office or bureau of the Social Security Administration or his delegate may recommend that the Appeals Council undertake review of a hearing decision on its own motion, on the basis that such decision contains a clerical error or erroneous interpretation of the applicable statutory provision, regulation, or Social Security Ruling. Such recommendation shall be made in writing and shall be filed with the Appeals Council. A copy of such recommendation shall be furnished to the parties to the decision with an explanation that the recommendation is not an action of the Appeals Council and, if the Appeals Council decides to undertake such review, the parties shall be informed and given an opportunity, in accordance with these regulations, to submit evidence on the issue for review. Where the Appeals Council decides not to review the hearing decision, such action shall be final and binding.

---

## PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

3. A new § 416.1461a is added to read as follows:

**§ 416.1461a Office or bureau recommendation that Appeals Council review hearing decision on its own motion.**

The head of an office or bureau of the Social Security Administration or his delegate may recommend that the Appeals Council undertake review of a hearing decision on its own motion, on the basis that such decision contains a clerical error or erroneous interpretation of the applicable statutory provision, regulation, or Social Security Ruling. Such recommendation shall be made in writing and shall be filed with the Appeals Council. A copy of such recommendation shall be furnished to the parties to the hearing decision with an explanation that the recommendation is not an action of the Appeals Council and, if the Appeals Council decides to undertake such review, the parties shall be informed and given an opportunity, in accordance with these regulations, to submit evidence on the issue for review. Where the Appeals Council decides not to review the hearing decision, such action shall be final and binding.

[FR Doc.76-18785 Filed 6-28-76;8:45 am]

---

# ENVIRONMENTAL PROTECTION AGENCY

[FRL 568-2]

## [ 40 CFR Part 52 ]

## DISTRICT OF COLUMBIA

### Proposed Revision to Implementation Plan

On February 25, 1976, the District of Columbia submitted to the Regional Administrator a proposal requesting that sections 8-2:704 and 8-2:705 of the District's Air Quality Control Regulations be reviewed and processed as a revision to the District of Columbia Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. In addition, the District requested that subsections (a) and (b) of 40 CFR 52.476 be withdrawn from the Implementation Plan.

As amended, section 8-2:704 would continue to allow 1% sulfur fuel oil to be burned in the District for twelve months following the effective date of the regulation. (March 12, 1976) section 8-2:705 would continue to allow 1% sulfur coal to be burned in the District for twelve months following the effective date of the regulation. After the twelve-month period has been completed, each section requires that .5 percent sulfur-in-fuel be burned. Both amendments are proposed to replace provisions which require .5 percent sulfur fuel oil and coal to be burned after July 1, 1975. The withdrawal of subsections (a) and (b) of 40 CFR 52.476 from the Implementation Plan removes those sections that require compliance with the present .5 percent sulfur-in-fuel regulation.

The District of Columbia has justified this request with the following:

1. The District is presently meeting National Ambient Air Quality Standards for $SO_2$.

2. Since standards are presently being met with the District burning 1 percent sulfur fuel, the switch to .5 percent sulfur fuel would be an unnecessary cost burden.

The District of Columbia submitted proof that a public hearing, with adequate public notice was held on July 3, 1975, to consider public comment on the proposed revision, pursuant to 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Administrator's decision to approve or disapprove this proposed revision will be based on whether or not it meets the requirements of section 110 (a) (2) (A)-(H) of the Clean Air Act and the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

This notice is to advise the public of receipt of this proposal and to request public comment. Only those comments received on or before July 29, 1976 will be considered.

All comments should be submitted to:

Mr. Howard R. Heim, Chief, Air Planning Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH005DC.

Copies of these amendments, and the analysis on which they are based, are availble for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Tom Shiland.

Bureau of Air and Water Quality Control, Department of Environmental Services, 614 H Street, N.W., Room LL3, Washington, D.C. 20001. ATTN: John Brink.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(1857c-5.)

A. R. MORRIS,
*Acting Regional Administrator.*

Dated: June 17, 1976.

[FR Doc.76-18740 Filed 6-28-76;8:45 am]

---

## [ 40 CFR Part 129 ]

[FRL 569-4]

## WATER PROGRAM

### Proposed Toxic Pollutant Effluent Standards; Corrections

In FEDERAL REGISTER 41, No. 113—Thursday, June 10, 1976, (41 FR 23576) the following corrections should be made:

1. On page 23582, first column, first paragraph, at line 11, (D.C. Cir. 1470) should be (D.C. Cir. 1970);

2. On page 23588, second column, fifth paragraph, lines 8, 10, and 12, ug/1 should be $\mu$g/l;

3. On page 23588, third column, fifth paragraph, lines 2 and 7, ug/1 should be $\mu$g/l;

4. On page 23590, second column, tenth line from the top 2.4 million gallons should be 0.24 million gallons;

5. On page 23591, third column, third paragraph, line 12, 2.4 million gpd should be 0.24 million gpd;

6. On page 23595, third column, 21 lines from the bottom, in the 9th line of

§ 129.103(b)(3)(ii), 0.5 μμg/1 should be 0.5 μg/l.

Dated: June 24, 1976.

ANDREW W. BREIDENBACH,
*Assistant Administrator for Water and Hazardous Materials.*

[FR Doc.76-18876 Filed 6-28-76;8:45 am]

---

## [40 CFR Part 180]

[FRL 568-8; PP6E1775/P28]

## PESTICIDE PROGRAMS

### Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Captafol

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswich NJ 08903, has submitted a pesticide petition (PP 6E1775) to the Environmental Protection Agency (EPA) on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Georgia, Michigan, New Jersey, North Carolina, and Pennsylvania. 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 fungicide captafol (*cis* - *N* - [(1,1,2,2 - tetrachloroethyl) thio]-4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodity blueberries at 35 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the tolerance of 35 ppm established by amending 40 CFR 180.267 will protect the public health. There is no reasonable expectation of residues in eggs, milk, meat, or poultry as delineated in 40 CFR 180.6(a)(3). It is proposed, therefore, that the tolerance be established as set forth below.

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 July 29, 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, East Tower, Rm. 401, 401 M St. SW, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before July 29, 1976, and should bear a notation indicating both the subject and the petition/document control number "PP6E1775/P28". 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.

Dated: June 21, 1976.

JOHN B. RITCH, Jr.,
*Director, Registration Division.*

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

It is proposed that Part 180, Subpart C, § 180.267 be amended by alphabetically inserting a tolerance of 35 ppm for the raw agricultural commodity blueberries, to read as follows:

§ 180.267 Captafol; tolerances for residues.

* * * * *

| Commodity: | *Parts per million* |
|---|---|
| * * * * * | |
| Blueberries | 35 |
| * * * * * | |

[FR Doc.76-18741 Filed 6-28-76;8:45 am]

---

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## [29 CFR Part 1601]

## 706 AGENCIES

### Proposed Designation

Pursuant to § 1601.12(i), Title 29, Chapter 14 to the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 40 FR 3210M, January 20, 1975, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agencies listed below be designated as "706 Agencies" (§ 1601.12(c)). There are three (3) purposes for such designation: First, that the agencies receive charges deferred by the Commission pursuant to section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended: second, that the Commission accord "substantial weight" to the final findings and orders of those agencies pursuant to § 1601.19B (e): and third, to commence the 15-day period within which any person or organization may file written comments as provided for under § 1601.12(i)(1). At the expiration of the 15-day period, the Commission may effect designation of each of the agencies by publishing the list of them as an amendment to § 1601.12(m) Additions to the list may be made by the Commission by similar notice and publication.

The proposed "706 Agencies" are as follows:

It is proposed to amend Part 1601 of Title 29, Code of Federal Regulations, by adding in alphabetical order the following to the listing of § 1601.12(m).

§ 1601.12 Deferrals to State and local authorities.

* * * * *

(m) * * *

*Alexandria (Virginia)* Human Rights Offices
*Vermont* Attorney General's Office, Civil Rights Division

Written comments pursuant to this notice must be filed with the Commission on or before July 10, 1976.

Signed at Washington, D.C., this 23d day of June 1976.

ETHEL BENT WALSH,
*Vice Chairman, Equal Employment Opportunity Commission.*

[FR Doc.76-18762 Filed 6-28-76;8:45 am]

---

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

## [29 CFR Part 2200]

## RULES OF PROCEDURE

### Advance Notice of Proposed Rulemaking

The Occupational Safety and Health Review Commission is considering possible changes in its rules of procedure that are published in Part 2200 of Title 29, Code of Federal Regulations. Changes will be sought to improve the fairness of the rules and to reduce the time of adjudication. Emphasis will be upon improvements in pre-hearing and post-hearing procedures.

To this end, an internal committee consisting of the Executive Secretary, an administrative law judge and three staff attorneys, has submitted a draft revision of Part 2200. The major changes represented by the draft revision may be summarized as follows.

Section 2200.11, present § 2200.102, is revised and expanded to state more clearly what is misconduct in Commission proceedings and what the penalties for such misconduct shall be. Aggravated misconduct by a lawyer or representative would be grounds for possible suspension or disbarment by the Commission from further practice before it. Where a witness refuses to answer a proper question, the administrative law judge would have discretion to strike all testimony of the refusing witness.

Section 2200.20, present § 2200.32, is expanded to more fully identify which documents the Secretary of Labor must forward to the Commission when he receives a notice of contest.

Section 2200.22, present § 2200.7, revises the rules of employee notice and posting requiremens at the job site. Conspicuous posting is required in all cases, whether or not there is an authorized employee representative. The form of the required notice is changed to advise that an employee wishing to participate in the action must notify the Commission within 30 days after the posting of the notice of contest. Where conditions are impracticable for posting, the employer is required to use such other means as necessary to provide adequate notice. During the 30 day period immediately following posting of the notice to employees and the notice of contest, the employer would be required to post or otherwise give notice of the following documents: the notice of hearing, motion to withdraw, settlement motions and any document which would result in a final disposition of the case. The employer would be required to certify to the Commission that the posting and notice provisions of the rules hve been carried out. The rule would provide that a copy of an employee notice of contest of reasonable-

ness of abatement periods be provided to the employer.

Section 2200.30, present § 2200.20, would require affected employees who wish to elect party status to do so within 30 days after notice has been given to such employees. Except for good cause shown, party status not timely elected will be deemed waived.

Section 2200.32, present § 2200.22, would require all persons acting as a representative for a party in an action to file an appearance and notify all other parties of such representation.

Section 2200.42, present § 2200.33, would require the Secretary of Labor to file his complaint within ten (10) days after his receipt of notice of docketing instead of the present twenty (20) days after receipt of the notice of contest.

New § 2200.43 would require most motions to be filed with the administrative law judge no later than 15 days prior to the hearing date except for good cause shown. Motions on settlements, for withdrawal and motions to dismiss are not included in this new requirement.

New § 2200.46 would provide that a motion to withdraw a notice of contest, or for dismissal, or for approval of settlement would stay the complaint and answer requirements of § 2200.42, present § 2200.5, until disposition of the motion or for a period of 30 days after the filing of said motion, whichever occurs first.

Section 2200.48, present § 2200.8, would make filing effective on the date received by the administrative law judge or the Commission. Under the present rule, filing is deemed effective at the time of mailing.

Section 2200.51, present § 2200.75, clarifies the procedural steps involved in requesting an interlocutory appeal. The requestor must first file his request with the administrative law judge within five (5) days following receipt of the ruling from which interlocutory appeal is sought.

Within five (5) days following receipt of an administrative law judge's order refusing to certify a question for interlocutory appeal, a party could, under the proposed section, request the Commission to grant special permission to file the appeal. Under the present rule, the filing or granting of a petition for interlocutory appeal does not stay proceedings before the administrative law judge. The rule would be unchanged in the case of filing petitions, but the granting of a petition would stay proceedings pending disposition by the Commission.

Section 2200.62, present § 2200.53, dealing with discovery, adds the provision that where the Commission or an administrative law judge grants a request for discovery depositions or interrogatories, such proceedings shall be conducted in accordance with the Federal Rules of Procedure.

Section 2200.79, present § 2200.72, specifically adopts the new Federal Rules of Evidence, Pub. L. No. 93–595, 28 U.S.C. App. (1975). This would be a modification of the present rule which states that the rules of evidence applicable to United States District Courts shall be applied "insofar as practicable"

Section 2200.84, present § 2200.62, provides that a party faling to appear at a hearing may be defaulted. This changes the present rule which deems failure to appear as a waiver of all rights of participation except for the rights of receiving a copy of any decision and/or requesting Commission review.

Section 2200.92 has been previously proposed. 41 FR 24724 (June 18, 1976). The section is reprinted in this notice only for easy reference.

Section 2200.93 is new and states requirements of briefs for cases on review by the Commission. Time limits are set out and the Commission could order opening and reply briefs where deemed appropriate.

Following is a list of new, and substantially revised, sections in the proposal, with a cross-reference to the section in the present rules from which the proposed rule is derived.

| Proposal: | *Present rule* |
|---|---|
| 2200.1(g) | (1) |
| 2200.1(o) | (1) |
| 200.1(p) | (1) |
| 2200.1(q) | (1) |
| 2200.6 | 2200.50 |
| 2200.7 | 2200.100 |
| 2200.8 | 2200.101 |
| 2200.9 | 2200.108 |
| 2200.11 | 2200.102 |
| 2200.20 | 2200.32 |
| 2200.21 | 2200.35 |
| 2200.22 | 2200.7 |
| 2200.30 | 2200.20 |
| 2200.32 | 2200.22 |
| 2200.40 | 2200.30 |
| 2200.41 | 2200.31 |
| 2200.42 | 2200.33 |
| 2200.43 | (1) |
| 2200.46 | 2200.5 |
| 2200.47 | 2200.7 |
| 2200.48 | 2200.8 |
| 2200.51 | 2200.75 |
| 2200.60 | 2200.51 |
| 2200.62 | 2200.53 |
| 2200.63 | 2200.55 |
| 2200.71 | 2200.61 |
| 2200.77 | 2200.69 |
| 2200.78 | 2200.71 |
| 2200.79 | 2200.72 |
| 2200.84 | 2200.62 |
| 2200.85 | 2200.76 |
| 2200.90 | (2) |
| 2200.91 | (2) |
| 2200.92 | (3) |
| 2200.93 | (2) |
| 2200.94 | 2200.93 |
| 2200.95 | 2200.92 |
| 2200.100 | 2200.34 |
| 2200.101 | 2200.34 |
| 2200.102 | 2200.34 |
| 2200.103 | 2200.34 |
| 2200.104 | 2200.34 |
| 2200.111 | 2200.105 |
| 2200.112 | 2200.106 |
| 2200.113 | 2200.107 |
| 2200.114 | 2200.110 |

[1] New.
[2] Same.
[3] Previously proposed; 41 F.R. 24724 (June 18, 1976).

Additionally, the Counsel to the Commission has suggested further changes. These changes would accomplish, in brief, the following objectives:

(1) In order to eliminate formal written pleadings in all cases, the citation shall be the complaint and the notice of contest shall be the answer.

(2) Require that amendments to the citation and the notice of contest be accomplished by motion as provided under the Federal Rules of Civil Procedure.

(3) Require in all cases that parties discuss with each other the issues in dispute and report back to the Commission, within 30 days after docketing of the notice of contest, as to the issues which can be settled and the issues which must be tried. The administrative law judge may participate in the discussion at the request of a party or on his own motion.

(4) Require a pre-hearing order in all cases, setting forth the issues agreed upon by the parties and the issues to be tried. Such order would issue at least 10 days prior to the initial date set for hearing on the matter.

(5) Restrict extensions of time in the briefing schedule to one extension of 15 days per party for good cause shown.

(6) Require all discovery to be accomplished within 45 days from the docketing of the notice of contest, or at least 5 days before the initial date set for hearing of the matter.

(7) Require uniform, responsive briefing schedule in all cases after the hearing, with the record to close upon receipt of the last brief.

(8) Require the opinion of the administrative law judge to be written within a standard time period in each case except upon order by the Chief Judge.

A document containing the committee's draft revision is appended to this notice.

The Commission has taken no action on the basis of this staff work. Before doing so and before drafting proposed rules, public comment is invited on the general question of what changes should be made to improve the Commission's rules of procedure and on the following subjects and issues in particular.

(1) Upon the commencement of a contest of a citation or penalty by the filing of a notice by an employer, what additional notice, if any, should be given by the Secretary of Labor on the issues that are controverted.

(2) When a notice of contest, in addition to contesting a citation or penalty, denies generally the allegations of the Secretary of Labor, what, if any, responsive pleading should be required following the filing of any initial pleading by the Secretary of Labor upon commencement of the contest.

(3) To what extent should the Commission have separate rules differing from the Federal Rules of Civil Procedure rather than relying upon the Federal Rules, as the Act permits. For example, what should the Commission's procedures provide concerning service, discovery, correction of final orders, etc.

(4) What briefing schedules should be followed in the post-hearing stage when a case is before the full Commission.

A notice of proposed rulemaking is not required since rules of procedure or practice are exempted under 5 U.S.C. 553 (1970). However, the Commission desires the views of interested persons and agen-

cies on the need for and proposed content of its rules. It is the Commission's belief that more effective and useful changes will result if the public is afforded the opportunity to comment before the matter is considered by the Commissioners and put in the form of proposed rules.

Interested persons are invited to participate in the proposed revision of the Rules of Procedure and to comment on the proposals and procedural problems raised above by submitting such written data, views, or arguments as they may desire. Communications should be submitted to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, N.W., Washington, D.C. 20006. All communications received on or before August 16, 1976 will be considered by the Commission before taking action on the proposed revision. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for inspection, both before and after the closing date, in the Office of the Executive Secretary.

(Sec. 12(g) Pub. L. No. 91-596, 84 Stat. 1604 (29 U.S.C. 661(f)).)

Issued in Washington, D.C., on June 22, 1976.

For the Commission.

WILLIAM S. MCLAUGHLIN,
*Executive Secretary.*

INTERNAL RULES REVISION COMMITTEE'S SUGGESTED CHANGES IN RULES OF PROCEDURE FOR THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

## PART 2200—RULES OF PROCEDURE

### Subpart A—General Provisions


Sec.
2200.1 Definitions.
2200.2 Scope of rules; applicability of Federal Rules of Civil Procedure.
2200.3 Use of gender and number.
2200.4 Computation of time.
2200.5 Record address.
2200.6 Withdrawal of notice of contest.
2200.7 Settlement.
2200.8 Expedited proceeding.
2200.9 Special circumstances; waiver of rules.
2200.10 Protection of trade secrets and other confidential information.
2200.11 Standards of conduct.
2200.12 Ex parte communication.


### Subpart B—Docketing of Case


2200.20 Notices of contest.
2200.21 Employee contests.
2200.22 Notice and posting requirements.


### Subpart C—Parties and Representatives


2200.30 Party status.
2200.31 Intervention; appearance by nonparties.
2200.32 Representatives of parties and intervenors.


### Subpart D—Pleadings and Motions


2200.40 Form.
2200.41 Caption; titles of cases.
2200.42 Complaints and answers.
2200.43 Time for filing motions.
2200.44 Response to motions.
2200.45 Failure to file.
2200.46 Extensions of time.
2200.47 Service of pleadings.
2200.48 Filing.
2200.49 Consolidation.
2200.50 Severance.
2200.51 Interlocutory appeals; special; as of right.


### Subpart E—Pre-Hearing Discovery


2200.60 Pre-hearing conference.
2200.61 Request for admissions.
2200.62 Discovery depositions and interrogatories.
2200.63 Issuance of subpoenas; petitions to revoke or modify subpoenas; right to inspect or copy data.
2200.64 Failure to comply with orders of discovery.


### Subpart F—Hearings


2200.70 Notice of hearing.
2200.71 Postponement of hearing.
2200.72 Duties and powers of Judges.
2200.73 Disqualification of Judge.
2200.74 Burden of proof.
2200.75 Examination of witnesses.
2200.76 Affidavits.
2200.77 Deposition in lieu oral testimony; application; procedures, form; rulings.
2200.78 Exhibits.
2200.79 Admissibility of evidence.
2200.80 Objections.
2200.81 Payment of witness fees and mileage; fees of persons taking depositions.
2200.82 Transcript of testimony.
2200.83 Reporter's fees.
2200.84 Failure to appear.
2200.85 Filing of briefs and proposed findings with the Judge; oral argument at the hearing.


### Subpart G—Post-Hearing Procedures


2200.90 Decisions of Judges.
2200.91 Discretionary review; petitions for; statements in opposition.
2200.92 Review by the Commission.
2200.93 Briefs on appeal.
2200.94 Oral argument before the Commission.
2200.95 Stay of final order.


### Subpart H—Petitions for Modification of Abatement


2200.100 Filing of petitions.
2200.101 Posting.
2200.102 Employee opposition—party status.
2200.103 Secretary's approval.


### Subpart I—Miscellaneous Provisions


2200.111 Inspection and reproduction of documents.
2200.112 Restrictions with respect to former employees.
2200.113 Amendments to rules.
2200.114 Official Seal Occupational Safety and Health Review Commission.


AUTHORITY: Sec. 12(g), Pub. L. 91-596 (29 U.S.C. 661(f)).

### Subpart A—General Provisions

#### § 2200.1 Definitions.

As used herein:

(a) "Act" means the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq.

(b) "Commission," "person," "employer," and "employee" have the meanings set forth in 29 U.S.C. 652.

(c) "Secretary" means the Secretary of Labor or his duly authorized representative.

(d) "Executive Secretary" means the Executive Secretary of the Commission.

(e) "Affected employee" means an employee of a cited employer who is, who may be, or who was at the time of the alleged violation exposed to the alleged hazard described in the citation.

(f) "Judge" means a Hearing Examiner appointed by the Chairman of the Commission pursuant to 29 U.S.C. 661(i).

(g) "Decision" as used herein shall mean a report of a Judge issued pursuant to 29 U.S.C. 661(i).

(h) "Authorized employee representative" means a labor organization which has a collective bargaining relationship with the cited employer and which represents affected employees.

(i) "Representative" means any person, including an authorized employee representative, authorized by a party or intervenor to represent him in a proceeding.

(j) "Citation" means a written communication issued by the Secretary to an employer pursuant to 29 U.S.C. 658(a).

(k) "Notification of proposed penalty" means a written communication issued by the Secretary to an employer pursuant to 29 U.S.C. 659 (a) or (b).

(l) "Day" means a calendar day.

(m) "Working day" means all days except Saturday, Sunday, or Federal holidays.

(n) "Proceeding" means any proceeding before the Commission or before a Judge.

(o) "Petition for modification of abatement" means a request from an employer seeking an extension of the abatement period filed after the period for filing a notice of contest has expired.

(p) "Penalty" refers to a civil penalty.

(q) "Hiring hall arrangement," an agreement, existing at the time of inspection between an employer, a trades council, or other similar organization for the purpose of coordinating the referral of workers on a temporary basis to worksites of the employer.

#### § 2200.2 Scope of rules; applicability of Federal Rules of Civil Procedure.

(a) These rules shall govern all proceedings before the Commission and its Judges.

(b) In the absence of a specific provision procedure shall be in accordance with the Federal Rules of Civil Procedure.

#### § 2200.3 Use of gender and number.

(a) Words importing the singular number may extend and be applied to the plural and vice versa.

(b) Words importing the masculine gender may be applied to the feminine gender.

#### § 2200.4 Computation of time.

(a) In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and

Federal holidays shall be excluded in the computation.

(b) Where service of a pleading or document is by mail pursuant to § 2200.48 of this subpart, 3 days shall be added to the time allowed by these rules for the filing of a responsive pleading.

**§ 2200.5 Record address.**

The initial pleading filed by any person shall contain his name, address, and telephone number. Any change in such information must be communicated promptly in writing to the Judge or the Commission, as the case may be, and to all other parties and intervenors. A party or intervenor who fails to furnish such information may be deemed to have waived his right to notice and service under these rules.

**§ 2200.6 Withdrawal of notice of contest.**

(a) At any stage of a proceeding a party may withdraw his notice of contest.

(b) An original and two copies shall be filed with the Commission.

**§ 2200.7 Settlement.**

(a) Settlement is encouraged at any stage of the proceedings where such settlement is consistent with the provisions and objectives of the Act.

(b) Settlement agreements submitted by the parties shall be accompanied by an appropriate proposed order.

(c) Where parties agree upon a settlement proposal, notice of the settlement shall be given as set forth in § 2200.22. Proof of such notice shall accompany the proposed settlement when submitted to the Commission or Judge.

(d) An original and two copies shall be filed with the Commission.

**§ 2200.8 Expedited proceeding.**

(a) Upon application of any party or intervenor, or upon his own motion, any Commissioner may order an expedited proceeding.

(b) When such proceeding is ordered, the Executive Secretary shall notify all parties and intervenors.

(c) The Judge assigned in an expedited proceeding shall make necessary rulings with respect to the time for filing of pleadings and with respect to all other matters, without reference to times set forth in these rules, may order daily transcripts of the hearing, and shall do all other things necessary to complete the proceeding in the minimum time consistent with fairness.

**§ 2200.9 Special circumstances; waiver of rules.**

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the Commission or a Judge may, upon application by any party or intervenor, or on its own motion, after 3 days notice to all parties and intervenors, waive any rule or make such orders as justice or the administration of the Act requires.

**§ 2200.10 Protection of trade secrets and other confidential information.**

(a) Upon application by any person, in a proceeding where trade secrets or other matters may be divulged, the confidentiality of which is protected by 18 U.S.C. 1905, the Judge shall issue such orders as may be appropriate to protect the confidentiality of such matters.

(b) Interlocutory appeal from an adverse ruling under this section shall be granted as of right.

**§ 2200.11 Standards of conduct.**

(a) Misconduct at any hearing before a Judge or before the Commission shall be ground for summary exclusion from the hearing.

(b) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party, shall be ground for suspension or disbarment by the Commission from further practice before it after due notice and hearing.

(c) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the Judge, be ground for striking all testimony previously given by such witness on related matters.

**§ 2200.12 Ex parte communication.**

(a) There shall be no ex parte communication with respect to the merits of any case not concluded, between the Commission, including any member, officer, employee or agent of the Commission who is employed in the decisional process, and any of the parties or intervenors.

(b) In the event such ex parte communication occurs, the Commission or the Judge may make such orders or take such action as fairness requires. Upon notice and hearing, the Commission may take such disciplinary action as is appropriate in the circumstances against any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

## Subpart B—Docketing of Case

**§ 2200.20 Notices of contest.**

The Secretary shall, within 7 days of receipt of a notice of contest, transmit the original and 2 copies to the Commission, together with one copy of each citation and notification of proposed penalty which the said notice places in contest.

**§ 2200.21 Employee contests.**

(a) Where an affected employee or authorized employee representative files a notice of contest with respect to the reasonableness of the abatement period, the Secretary shall, within 10 days from his receipt of the notice of docketing, file a clear and concise statement of the reasons the abatement period prescribed by him is not unreasonable.

(b) Not later than 10 days after receipt of the statement referred to in paragraph (a) of this section, the contestant shall file a response.

**§ 2200.22 Notice and posting requirements.**

(a) The employer shall, immediately upon receipt of the notice of the docketing of the case, post (or otherwise give notice as provided in paragraph (b) of this section), in a place conspicuous to all affected employees as defined in § 2200.1 (e), a copy of the notice of contest and a notice informing affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times.

The notice shall read as follows:

[Name of employer]

Date of Posting: _____

Your employer has been cited by the Secretary of Labor for violation of the Occupational Safety and Health Act of 1970. The citation and/or proposed penalty has been contested and may be the subject of a hearing before the OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION. Affected employees are entitled to participate in this hearing as parties under terms and conditions established by the OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION in its Rules of Procedure. Notice of intent to participate must be sent within 30 days of the date of posting to the Review Commission (address below) or the employees, except for good cause shown, will be deemed to have waived their right to party status.

Occupational Safety and Health Review Commission
1825 K Street, N.W.
Washington, D.C. 20006

All papers relevant to this matter may be inspected at:

[Place reasonably convenient to employees, preferably at or near workplace.]

(b) Where conditions are such that posting is impracticable or not likely to insure notice to all affected employees, the employer shall use such means as necessary to satisfy the notice requirements of this rule.

(c) In the case of employers having an operating hiring hall or a trades council arrangement with an employee representative a copy of all documents and notices mentioned in paragraphs (a) and (d) of this section shall be provided to the authoriled representative by the employer.

(d) During the first 30 days immediately following the posting required by paragraph (a) or notice given pursuant to paragraph (b), the employer shall also post or otherwise give notice of and maintain the following documents (if any):

(1) Notice of hearing.
(2) Motion to withdraw.
(3) Settlement motions.
(4) Motions to vacate.
(5) Any other document which would result in final disposition of the case.
(6) Notice of employee contests.
(7) Petitions for modification of abatement.

(e) The employer shall certify that all affected employees have been given notice pursuant to this rule. This certification shall be filed with the Commission

not later than the first working day following the satisfaction of the notice requirements of this rule. Notice requirements relating to petitions for modification of abatement are covered by § 2200.101.

(f) Where a notice of contest as to the reasonableness of the abatement period is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph (a) of this section.

### Subpart C—Parties and Representatives

**§ 2200.30 Party status.**

(a) Affected employees may elect to participate as parties provided that such an election is made within 30 days of the date after notice to employees as prescribed in § 2200.22. Except for good cause shown, party status not elected in this manner shall be deemed waived.

(b) Where a notice of contest is filed by an employee or by an authorized employee representative with respect to the reasonableness of the period for abatement of a violation, the employer charged with the responsibility of abating the violation shall be deemed to be a party.

(c) See § 2200.102 for party status in petitions for modification of abatement.

**§ 2200.31 Intervention; appearance by non-parties.**

(a) A petition for leave to intervene may be filed at any stage of a proceeding before commencement of the hearing before the Judge.

(b) The petition shall set forth the interest of the petitioner in the proceeding and show that the participation of the petitioner will assist in the determination of the issues in question, and that the intervention will not unnecessarily delay the proceeding.

(c) The Commission or the Judge may grant a petition for intervention to such an extent and upon such terms as the Commission or the Judge shall determine.

**§ 2200.32 Representatives of parties and intervenors.**

(a) Any party or intervenor may appear in person or through a representative.

(b) A representative of a party or intervenor shall be deemed to control all matters respecting the interest of such party or intervenor in the proceeding.

(c) Nothing contained herein shall be construed to require any representative to be an attorney at law.

(d) All representatives of a party or intervenor shall file an appearance and shall serve a copy of such on all other parties or intervenors.

(e) Withdrawal of appearance of any representative may be effected by filing a written notice of withdrawal and by serving a copy thereof on all parties and intervenors.

### Subpart D—Pleadings and Motions

**§ 2200.40 Form.**

(a) Except as provided herein, there are no specific requirements as to the form of any pleading. A pleading is simply required to contain a caption sufficient to identify the parties in accordance with § 2200.41, the Commission's docket number and the region number, if assigned, and a clear and plain statement of the relief that is sought, together with the grounds therefor.

(b) Pleadings and other documents (other than exhibits) shall be typewritten; double spaced, on letter size opaque paper (approximately 8½ inches by 11 inches). The left margin shall be 1½ inches and the right margin 1 inch. Pleadings and other documents shall be fastened at the upper left corner. Pleadings shall not be placed in covers.

(c) Pleadings shall be signed and dated by the party filing or by his representative. Such signing constitutes a representation by the signer that he has read the document or pleading, that to the best of his knowledge, information and belief the statements made therein are true, and that it is not interposed for delay.

(d) The Commission may refuse for filing any pleading or document which does not comply with the requirements of paragraphs (a), (b), and (c) of this section.

(e) Except where otherwise indicated in these rules, the original of each pleading shall be filed with the Commission.

**§ 2200.41 Caption; titles of cases.**

(a) Cases initiated by a notice of contest shall be titled:

Secretary of Labor,
Complainant, Docket No. ------
v.
(Name of Contestant),[1]
Respondent. Region No. ------

(b) Cases initiated by a petition for modification of the abatement period shall be titled:

(Name of employer),
Petitioner, Docket. No. ------
v.
Secretary of Labor,
Respondent. Region No. ------

(c) The titles listed in paragraphs (a) and (b) of this section shall appear at the left upper portion of the initial page of any pleading or document (other than exhibits) filed.

(d) The initial page of any pleading or document (other than exhibits) shall show, at the upper right of the page, opposite the title, the docket number and region number assigned by the Commission.

**§ 2200.42 Complaints and answers.**

(a) *Complaint.* (1) The Secretary shall file a complaint with the Commission no later than 10 days after his receipt of the notice of docketing.

(2) The complaint shall set forth all alleged violations and proposed penalties which are contested, stating with particularity:

(i) The basis for jurisdiction;

(ii) The time, location, place, and circumstances of each such alleged violation; and

(iii) The consideration upon which the period for abatement and the proposed penalty on each such alleged violation is based.

(3) Where the Secretary seeks in his complaint to amend his citation or proposed penalty, he shall set forth the reasons for amendment and shall state with particularity the change sought.

(b) *Answer.* (1) Within 15 days after service of the complaint, the party against whom the complaint was issued shall file an answer with the Commission.

(2) The answer shall contain a short and plain statement denying those allegations in the complaint which the party intends to contest. Any allegation not denied shall be deemed admitted.

(c) The pleadings referred to in this rule may not be accepted for filing if the proper docket number is not indicated.

**§ 2200.43 Time for filing motions.**

All motions, except a motion to withdraw a notice of contest, a motion for approval of a settlement agreement, and a motion for the dismissal of a citation or a portion thereof, shall be filed with the Judge no later than 15 days prior to the hearing date except for good cause shown.

**§ 2200.44 Response to motions.**

Any party or intervenor upon whom a motion is served shall have 10 days from service of the motion to file a response.

**§ 2200.45 Failure to file.**

Failure to file any pleading pursuant to these rules when due, may, in the discretion of the Commission or the Judge, constitute a waiver of the right to further participation in the proceedings.

**§ 2200.46 Extensions of time.**

(a) Requests for extensions of time for the filing of any pleading or other document must be made in written in advance of the date upon which the pleading or document is due to be filed.

(b) A motion to withdraw, a notice of contest, or for the dismissal of a citation, or for approval of a settlement agreement will stay the operation of §2200.42 until the disposition of the motion, or for a period of 30 days after the filing of said motion, whichever occurs first.

**§ 2200.47 Service of pleadings.**

(a) At the time of filing pleadings or other documents, a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.

(b) Service of pleadings upon a party or intervenor who has appeared through a representative shall be made only upon such representative.

[1] Employer, employee, or authorized employee representative.)

(c) Unless otherwise ordered, service of pleadings shall be accomplished by postage prepaid first class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

(d) Proof of service of pleadings shall be accomplished by a written statement of the same which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.

(e) Pleadings not in conformance with this rule may not be accepted for filing.

**§ 2200.48 Filing.**

(a) Prior to receipt of notification of assignment of a case to a Judge, all papers shall be filed with the Executive Secretary at 1825 K Street, NW, Washington, D.C. 20006. Subsequent to the assignment of the case to a Judge, and before the issuance of his decision, all papers shall be filed with the Judge at the address given in the notice informing of such assignment. Subsequent to the issuance of the decision of the Judge, all papers shall be filed with the Executive Secretary.

(b) Unless otherwise ordered, all filing must be accomplished by first class mail or personal delivery.

(c) Filing is deemed effected at the time it is received by the Commission or a Judge.

**§ 2200.49 Consolidation.**

Cases may be consolidated on the motion of any party, on the Judge's own motion, or on the Commission's own motion, where there exists common parties, common questions of law or fact, or both, or in such other circumstances as justice and the administration of the Act require.

**§ 2200.50 Severance.**

Upon its own motion or upon motion of any party or intervenor, the Commission or the Judge may, for good cause, order any proceeding severed with respect to some or all issues of parties.

**§ 2200.51 Interlocutory appeals; special; as of right.**

(a) Unless expressly authorized by these rules, rulings by the Judge may not be appealed directly to the Commission except by its special permission. Unless otherwise provided by these rules, all such rulings shall become a part of the record.

(b) Interlocutory appeal from a ruling of the Judge shall be allowed as of right where the Judge certifies that (1) the ruling involved an important question of law concerning which there is substantial ground for difference of opinion; and (2) an immediate appeal from the ruling will materially expedite the proceedings. Such appeal shall also be allowed in the circumstances set forth in § 2200.10 hereof.

(c) Request to the Judge to certify an interlocutory appeal to the Commission, shall be filed with the Judge, in writing, within 5 days following receipt of the ruling in question and shall state briefly the grounds relied on.

(d) Within 5 days following receipt of the Judge's order denying certification, any aggrieved party may file a request to the Commission for special permission. An original and 6 copies shall be filed with the Commission.

(e) The filing of a petition for interlocutory appeal as provided in paragraphs (b) and (c) of this Section, shall not stay the proceedings before the Judge.

(f) The granting of an interlocutory appeal shall stay proceedings before the Judge pending disposition of said appeal by the Commission.

(g) The parties may file briefs within 30 days of receipt of any order granting an interlocutory appeal.

## Subpart E—Pre-Hearing Discovery

**§ 2200.60 Pre-hearing conference.**

(a) At any time before a hearing, the Commission or the Judge, on their own motion or on motion of a party, shall direct the parties or their representatives to exchange information or to participate in a pre-hearing conference for the purpose of considering matters which will tend to simplify the issues or expedite the proceedings.

(b) The Commission or the Judge may issue a pre-hearing order which includes the agreements reached by the parties. Such order shall be served on all parties and shall be a part of the record.

**§ 2200.61 Requests for admissions.**

(a) At any time after the filing of responsive pleadings, any party may request of any other party admissions of facts to be made under oath. Each admission requested shall be set forth separately. The matter shall be deemed admitted unless, within 15 days after service of the request, or within such shorter or longer time as the Commission or the Judge may prescribe, the party to whom the request is directed serves upon the party requesting the admission a specific written response.

(b) Copies of all requests and responses shall be served on all parties in accordance with the provisions of § 2200.48 and filed with the Commission within the time allotted and shall be a part of the record.

**§ 2200.62 Discovery depositions and interrogatories.**

(a) Except by special order of the Commission or the Judge, discovery depositions and interrogatories of parties, intervenors, or witnesses shall not be allowed.

(b) In the event the Commission or the Judge grants an application for the conduct of such discovery proceedings, such proceedings shall be in accordance with the Federal Rules of Civil Procedure.

(c) The party taking any deposition under this rule shall be responsible for reporter's fees.

**§ 2200.63 Issuance of subpoenas; petitions to revoke or modify subpoenas; right to inspect or copy data.**

(a) Any member of the Commission shall, on the application of any party directed to the Commission, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including relevant books, records, correspondence, or documents, in his possession or under his control. Applications for subpoenas, if filed subsequent to the assignment of the case to a Judge, shall be filed with the Judge. A Judge shall grant the application on behalf of any member of the Commission. Application for subpoenas may be made ex parte. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(b) Any person served with a subpoena, whether ad testificandum or duces tecum, shall, within 5 days after the date of service of the subpoena upon him, move in writing to revoke or modify the subpoena if he does not intend to comply. All motions to revoke or modify shall be served on the party at whose request the subpoena was issued. The Judge or the Commission, as the case may be, shall revoke or modify the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The Judge or the Commission, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the motion to revoke or modify. The motion to revoke or modify, any answer filed thereto, and any ruling thereon shall become a part of the record.

(c) Persons compelled to submit data or evidence at a public proceeding are entitled to retain, or on payment of lawfully prescribed costs, to procure copies of transcripts of the data or evidence submitted by them.

(d) Upon the failure of any person to comply with a subpoena issued upon the request of a party, the Commission by its counsel shall initiate proceedings in the appropriate district court for the enforcement thereof, if in its judgment the enforcement of such subpoena would be consistent with law and with policies of the Act. Neither the Commission nor its counsel shall be deemed thereby to have assumed responsibility for the effective prosecution of the same before the Court.

(e) Subpoenas issued under this rule shall be served in accordance with § 2200.22.

**§ 2200.64 Failure to comply with orders for discovery.**

If any party or intervenor fails to comply with an order of the Commission or the Judge to permit discovery in accordance with the provision of these rules,

the Commission or the Judge may issue appropriate orders.

## Subpart F—Hearings

### § 2200.70 Notice of hearing.

Notice of the time, place, and nature of a hearing shall be given to the parties and intervenors at least 20 days in advance of such hearing, except as otherwise provided in § 2200.8 hereof.

### § 2200.71 Postponement of hearing.

(a) Postponement of a hearing ordinarily will not be allowed.

(b) Except in the case of an extreme emergency or in unusual circumstances, no request for postponement will be considered unless filed in writing at least 10 days in advance of the time set for the hearing.

### § 2200.72 Duties and powers of Judges.

It shall be the duty of the Judge to conduct a fair and impartial hearing, to assure that the facts are fully elicited, to adjudicate all issues and avoid delay. The Judge shall have authority with respect to cases assigned to him, between the time he is designated and the time he issues his decision, subject to the rules and regulations of the Commission, to:

(a) Administer oaths and affirmation;

(b) Issue authorized subpoenas;

(c) Rule upon petitions to revoke or modify subpoenas;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Take or cause depositions to be taken whenever the needs of justice would be served;

(f) Hold conferences for the settlement or simplification of the issues;

(g) Dispose of procedural requests or similar matters, including motions referred to the Judge by the Commission and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened or, upon motion, consolidate cases prior to issuance of this decision;

(h) Make decisions in conformity with 5 U.S.C. 557;

(i) Call and examine witnesses and to introduce into the record documentary or other evidence.

### § 2200.73 Disqualification of Judge.

(a) A Judge may withdraw from a proceeding whenever he deems himself disqualified.

(b) Any party may request the Judge, at any time following his designation and before the filing of his decision, to withdraw on ground of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(c) If the Judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has closed, he shall proceed with the issuance of his decision, and the provisions of § 2200.90 hereof shall thereupon apply.

### § 2200.74 Burden of proof.

(a) In all proceedings commenced by the filing of a notice of contest the burden of proof shall rest with the Secretary.

(b) In proceedings commenced by a petition for modification of the abatement period, the burden of establishing the necessity for such modification shall rest with the petitioner.

### § 2200.75 Examination of witnesses.

Witnesses shall be examined orally under oath. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced by an adverse party.

### § 2200.76 Affidavits.

An affidavit may be admitted as evidence in lieu of oral testimony if the matters therein contained are otherwise admissible and the parties agree to its admission.

### § 2200.77 Deposition in lieu of oral testimony; application; procedures, form; rulings.

(a) An application to take the deposition of a witness in lieu of oral testimony shall be in writing and shall set forth the reasons such deposition should be taken, the name and address of the witness, the matters concerning which it is expected he will testify and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for purposes of this rule, hereinafter referred to as "the officer"). Such application shall be filed with the Commission or the Judge, as the case may be, and shall be, served on all other parties and intervenors not less than 7 days (when the deposition is to be taken within the continental United States) and not less than 15 days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. Where good cause has been shown, the Commission or the Judge shall make and serve on the parties and intervenors an order which specifies the name of the witness whose deposition is to be taken and the time, place, and designation of the officer before whom the witness is to testify. Such officer may or may not be the officer specified in the application.

(b) Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. If the examination is held in a foreign country, it may be taken before any secretary of embassy or legation, consul general, consul, vice consul, consular agent of the United States.

(c) At the time and place specified in the order, the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all parties appearing, and the testimony of the witness shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objection, but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness, and that the officer is not counsel or attorney to any of the parties nor interested in the proceeding. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may be used as fully as though signed. The officer shall immediately deliver an original and four copies of the transcript, together with his certificate, in person or by registered mail to the Executive Secretary at 1825 K Street, NW, Washington, D.C. 20006.

(d) The Judge shall rule upon the admissibility of the deposition or any part thereof.

(e) All errors or irregularities in compliance with the provision of this rule shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, discovered.

(f) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used as other depositions.

(g) The party taking any deposition under this rule shall be responsible for the reporter's fees.

### § 2200.78 Exhibits.

(a) All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervenor by whom the exhibit is offered and will also indicate the docket number of the case to which it applies.

(b) In the absence of objection by another party or intervenor, exhibits shall be admitted into evidence as a part of the record, unless excluded by the Judge pursuant to § 2200.79.

(c) Unless the Judge finds it impractical, a copy of each such exhibit shall be given to the other parties and intervenors.

(d) All exhibits offered, but denied admission into evidence, shall be identified as in paragraph (a) of this section and shall be placed in a separate file designated for rejected exhibits.

(e) Unless the Judge determines that exceptional circumstances require that objects of real evidence accompany the record, an accurate description or photograph of the item will be substituted therefore in the record. The party offering such evidence shall be responsible for providing the descriptions or photographs and supplying other parties copies thereof.

### § 2200.79 Admissibility of evidence.

Admissibility of evidence shall be in accordance with the provisions of the Federal Rules of Evidence, Pub. L. 93-595, 28 U.S.C. App. (1975).

**§ 2200.80 Objections.**

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence or a ruling by the Judge, may be stated orally or in writing, accompanied by a short statement of the grounds for the objection, and shall be included in the record. No such objection shall be deemed waived by further participation in the hearing.

(b) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record of the proceeding.

**§ 2200.81 Payment of witness fees and mileage; fees of persons taking depositions.**

Witnesses summoned before the Commission or the Judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witnesses fees and mileage shall be paid by the party at whose instance the witness appears.

**§ 2200.82 Transcript of testimony.**

Hearings shall be transcribed verbatim. A copy of the transcript of testimony taken at the hearing, duly certified by the reporter, shall be filed with the Judge before whom the matter was heard. The Judge shall promptly serve notice upon each of the parties and intervenors of such filing.

**§ 2200.83 Reporter's fees.**

Reporter's fees shall be borne by the Commission, except as provided in §§ 2200.62 and 2200.77.

**§ 2200.84 Failure to appear.**

(a) The failure of a party to appear at a hearing may result in a default order being entered by the Judge.

(b) A motion for reinstatement of any case in which a default is entered, must be made, in the absence of extraordinary circumstances, within 20 days of receipt of the default order. The motion shall be filed with the Commission and shall set forth good cause for reinstatement. The original and 6 copies shall be filed with the Commission.

**§ 2200.85 Filing of briefs and proposed findings with the Judge; oral argument at the hearing.**

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief, proposed findings of the fact and conclusions of law, or both, with the Judge. The Judge may fix a reasonable period of time for such filing, but such initial period may not exceed 20 days from the time the party receives the transcript of the hearing. Briefs in excess of 10 pages shall be indexed.

## Subpart G—Post-Hearing Procedures

**§ 2200.90 Decisions of Judges.**

(a) Upon completion of any proceeding, the Judge shall prepare a decision. When a hearing is held, the decision shall comply with 5 U.S.C. 557. Copies of the decision shall be mailed to all parties. Thereafter, the Judge shall file with the Executive Secretary his decision, the record in support thereof, and any petitions for discretionary review of his decision, or statements in opposition to such petitions, that may be filed in accordance with § 2200.91. The Judge shall file his decision on the day following the close of the period for filing petitions for discretionary review, or statements in opposition to such petitions, but no later than the twenty-first day following the date of the mailing of the decision to the parties.

(b) (1) Promptly upon receipt of the Judge's decision, the Executive Secretary shall docket the case and notify all parties of that fact. The date of docketing shall be the date that the Judge's decision is made for purposes of section 12(j) of the Act (29 U.S.C. 661).

(2) On or after the date of docketing of the case, all pleadings or other documents that may be filed in the case shall be addressed to the Executive Secretary.

(3) In the event a Commission member does not direct review of a decision on or before the thirtieth day following the day of docketing of the Judge's decision, the decision of the Judge contained therein shall become a final order of the Commission.

**§ 2200.91 Discretionary review; petitions for; statements in opposition.**

(a) Except as provided in paragraphs (b) and (c) of this section, any petition must be received by the Judge at his office on or before the twentieth day following his mailing of a copy of the decision to the parties.

(b) When there is no objection by any party, when an expedited proceeding has been directed pursuant to § 2200.8, or for other good cause, the Judge is empowered to prescribe a shorter time for filing petitions for discretionary review following the mailing of his decision.

(c) Petitions for review of a Judge's decision may be filed directly with the Executive Secretary subsequent to the filing of the Judge's decision. Such petitions will be considered to the extent that time and resources permit. Parties filing such petitions should be aware that any action by a Commission member directing review must be taken within thirty (30) days following the filing of the Judge's decision.

(d) In the case of proposed settlements or other proposed dispositions by consent of all parties, petitions for discretionary review shall not be allowed, except for good cause shown.

(e) Statements in opposition to petitions for discretionary review may be filed at the times and places specified in this section for the filing of petitions for discretionary review. Any statement shall contain a concise statement on each portion of the petition to which it is addressed.

**§ 2200.92 Review by the Commission.**

(a) Review by the Commission shall not be a matter of right but of the sound discretion of a member of the Commission.

(b) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by a preponderance of the evidence.

(2) A necessary legal conclusion is erroneous.

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission.

(4) A substantial question of law, abuse of discretion, or policy, is involved.

(5) A prejudicial error of procedure was committed.

(c) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. No assignment of error by any party shall rely on any question of fact or law upon which the Judge has not been afforded an opportunity to pass. Any member of the Commission may direct a case for review. If granted, review shall be limited to the questions raised by the petitions.

(d) An original and 6 copies shall be filed with the Commission.

(e) Because of its heavy caseload, it shall be the policy of the Commission that its members use sparingly their authority to order review of a Judge's decision upon their own initiative. However, at any time within thirty days after the filing of a decision of a Judge, a case may be directed for review upon any ground that could be raised by a party, but the issues would normally be limited to novel questions of law or policy. Any direction for review shall state the issues with particularity. Except as to jurisdictional matters, the Commission's power to review is limited to those issues of law or fact raised by the parties in the proceedings below.

(f) For the purpose of review by the Commission under paragraph (b) or (e) of this section, the record shall include: (1) All matters constituting the record upon which the decision of the administrative law judge was based, (2) the rulings upon proposed findings and conclusions, (3) the decision of the Judge, (4) the petition or petitions for discretionary review, responses thereto, and the Commission's order for review, and (5) briefs filed on review. The Judge's findings and conclusions of fact, as distinguished from policy determinations, shall not be set aside by the Commission unless such findings or conclusions of fact are unsupported by a preponderance of the evidence of record. The Commission either may remand the case to the Judge for such further proceedings as it may direct, or it may affirm, set aside, or modify the decision or order of the Judge to conform with the record. If the Commission determines that further evidence is necessary on an issue of fact it shall remand the case for further proceedings before the Judge.

**§ 2200.93 Briefs on appeal.**

(a) Except as otherwise ordered under paragraph (b) of this section, all briefs shall be filed with the Commission within 30 days after the date of the order granting discretionary review.

(b) The Commission, on its own motion or on motion of a party may request the filing of opening, answering and/or reply briefs. Any order under this paragraph shall specify the dates on which the opening, answering, and reply briefs must be filed with the Commission.

(c) Any motion of a party under paragraph (b) of this section shall be filed with the Commission within 15 days after the date of the order granting discretionary review.

(d) Briefs in excess of 10 pages shall be indexed.

**§ 2200.94 Oral argument before the Commission.**

(a) In the event the Commission desires to hear oral argument with respect to any matter, it will advise all parties to the proceeding of the date, hour, place, time allotted, and scope of such argument at least 10 days prior to the date set.

(b) A motion requesting oral argument may be filed with the Commission.

(c) An original and 6 copies shall be filed.

**§ 2200.95 Stay of final order.**

(a) Any party aggrieved by a final order of the Commission, while the matter is within the jurisdiction of the Commission, may file a motion for a stay.

(b) Such motion shall set forth the reasons the stay is sought and the length of the stay requested.

(c) The Commission may order such stay for the period requested or for such longer or shorter period as it deems appropriate.

(d) An original and 6 copies shall be filed with the Commission.

## Subpart H—Petitions for Modification of Abatement

**§ 2200.100 Filing of petitions.**

(a) An employer may file a petition for modification of abatement when such employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond the employer's reasonable control.

(b) A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

(c) A petition for modification of abatement date shall be filed with the Area Director of the United States Department of Labor who issued the citation no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

**§ 2200.101 Posting.**

A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near each location where the violation occurred. The petition shall remain posted for a period of ten (10) days.

**§ 2200.102 Employee opposition.**

Affected employees or their representatives may file an objection, in writing, to such petition with the aforesaid Area Director. Failure to file such objection within ten (10) working days of the date of posting of such petition, except for good cause shown, shall constitute a waiver of any further right to object to said petition.

**§ 2200.103 Secretary's approval.**

(a) The Secretary or his duly authorized agent shall have the authority to approve uncontested petitions for modification of abatement date filed pursuant to § 2200.100 (b) and (c). Such uncontested petitions shall become final orders pursuant to section 10 (a) and (c) of the Act.

(b) The Secretary or his authorized representative shall not exercise his approval power until the expiration of fifteen (15) working days from the date the petition was posted pursuant to § 2200.101 by the employer.

**§ 2200.104 Contested petitions.**

Where any petition is objected to by the Secretary or affected employees, such petition shall be processed as follows:

(1) The petition, citation and any objections shall be forwarded to the Commission within three (3) working days after the expiration of the ten (10) day period set out in § 2200.101.

(2) The Commission shall docket and process such petition in the same manner as any other contested case, except that all hearings on such petitions shall be handled in an expeditious fashion.

(3) An employer petitioning for a modification of abatement period shall have the burden of proving in accordance with the requirements of 29 U.S.C. 659(c), that such employer has made a good faith effort to comply with the abatement requirements of the citation and that abatement has not been completed because of factors beyond the employer's control.

(4) Within ten (10) working days after the receipt of notice of the docketing by the Commission of any petition for modification of abatement date, each objecting party shall file a response setting forth the reasons for opposing the grant-

ing of a modification date different from that requested in the petition.

### Subpart I—Miscellaneous Provisions

**§ 2200.111 Inspection and reproduction of documents.**

(a) Subject to the provisions of law restricting public disclosure of information, any person may, at the offices of the Commission, inspect and copy any document filed in any proceeding.

(b) Cost shall be borne by such person.

**§ 2200.112 Restrictions with respect to former employees.**

(a) No former employee of the Commission or the Secretary (including a member of the Commission or the Secretary) shall appear before the Commission as an attorney or other representative for any party in any proceeding or other matter, formal or informal, in which he participated personally and substantially during the period of his employment.

(b) No former employee of the Commission or the Secretary (including a member of the Commission or the Secretary) shall appear before the Commission as an attorney or other representative for any party in any proceeding or other matter, formal or informal, for which he was responsible during the period of his employment, unless 1 year has elapsed since the termination of such employment.

**§ 2200.113 Amendments to rules.**

The Commission may at any time upon its own motion or initiative, or upon written suggestion of any interested person setting forth reasonable grounds therefore, amend or revoke any of the rules contained herein. Such suggestions should be addressed to the Commission at 1825 K Street, NW, Washington, D.C. 20006.

**§ 2200.114 Official seal Occupational Safety and Health Review Commission.**

The seal of the Commission shall consist of: A gold eagle outspread, head facing dexter, a shield with 13 vertical stripes superimposed over a plain solid white Greek cross with a green background, encircled by a white bank edged in black and inscribed "Occupational Safety and Health Review Commission" in black letters.

[FR Doc.76-18755 Filed 6-28-76;8:45 am]

## SMALL BUSINESS ADMINISTRATION

**[ 13 CFR Part 107 ]**

### SMALL BUSINESS INVESTMENT COMPANIES

### Proposed Rulemaking

Notice is hereby given that pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, 15 U.S.C. 661 et seq., it is proposed to amend as set forth below, § 107.808, Part 107 of Chapter I, Title 13 of the Code of Federal Regulations.

Prior to the final adoption of such amendment, consideration will be given to any comments. Such comments should be submitted in writing, in triplicate, to Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416, on or before July 29, 1976.

INFORMATION

The proposed revision would permit Licensees to deposit funds not needed for current operations in savings accounts in any bank which is a member of the Federal Deposit Insurance Corporation, within the limits set by Regulation "Q," issued by the Board of Governors of the Federal Reserve System. The authority for member banks to offer savings accounts to corporations and certain other organizations was granted subsequent to the promulgation of § 107.808. We believe this amendment is reasonably calculated to advance the best interests of the SBIC program.

It is proposed to revise § 107.808 of Part 107 to read as follows:

**§ 107.808 Idle funds.**

Funds of a Licensee not invested in Small Concerns or in accordance with the last sentence of section 308(b) of the Act shall be deposited without delay, or may be (1) invested in Time Certificates of Deposit maturing within one year or less, issued by any bank which is a member of the Federal Deposit Insurance Corporation, or (2) deposited in a savings account of such member bank: Provided, however, That a Licensee may maintain a petty cash fund up to $500.

(Catalog of Federal Domestic Assistance Program 59.0111 Small Business Investment Companies)

Dated: June 21, 1976.

MITCHELL P. KOBELINSKI,
*Administrator.*

[FR Doc.76-18806 Filed 6-28-76;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[ 29 CFR Part 1928 ]**

[Docket No. S-307]

### OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

### Field Sanitary Facilities; Clarification; Extension of Comment Period

On April 27, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 17576) by the Occupational Safety and Health Adminis-

tration (OSHA). It was proposed to amend Part 1928 of Title 29 by adding a new standard requiring sanitation facilities in the field for agricultural workers. The basic intent of the proposed standard is to provide drinking water and toilet and handwashing facilities in the field where such facilities are not otherwise readily accessible and where it is reasonable and necessary to have such facilities in the field. A further proposed requirement is that any food service provided by the employer be prepared and served according to sound hygienic principles. The proposal requested written comments and arguments from interested persons and invited requests for an informal hearing with respect to the proposed rule.

Although the deadline for mailing of these comments and hearing requests is not until July 6, 1976, it is evident from the ones already received that there is a need to clarify certain issues in the proposal in order to avoid confusion and thereby conserve time in the rulemaking process.

The issues raised in the preamble to the proposal of April 27 were abroad. Comments were invited on these issues as well as any other issues raised by the proposal. The issues specifically raised were the following:

1. Should the scope of the standard include all agricultural field operations, and should the requirements be uniformly applied, as provided in the proposal;

2. Whether sanitation facilities, including potable drinking water, toilet and handwashing facilities, and sanitary food service are necessary for the safety and health of agricultural employees engaged in field work;

3. What is an adequate ratio of numbers of toilet and handwashing facilities to the number of employees;

4. Whether alternative compliances such as the provision of transportation, should be permitted for small groups of employees and in what situations, if any, should such alternative compliance apply;

5. Whether the specifications for the location (time/distance) of sanitation facilities are amenable to compliance and enforcement.

All of these issues, with the exception of the third, are aimed at determining those workplaces in American agriculture, if any, in which there is a need for field santitation facilities. The geographically distinctive nature of American agriculture, where one region's products, farming methods, and work practices may vary greatly from those of another region, creates difficult and intricate problems in promulgating federal safety and health regulations. A health hazard that exists for employees engaged in the hand harvest of fruit or vegetable crops may not exist for employees planting or harvesting wheat or corn. More specifically, OSHA solicits comments on the following issues raised in the comments regarding a requirement of sanitation facilities in the field:

1. Should proposed section 1928.110 (c) (3) (i), which requires drinking water to be dispensed either through a fountain with an angled jet outlet or a gravity water tap, apply to agricultural workers involved in operations such as lambing of large herds in vast open pastures; or to workers driving tractors in fields which encompass hundreds of acres? Should field toilet and handwashing facilities be required for such employees?

2. Under section 1928.110(d) (2) (i), toilet facilities would be required within a five-minute walk of an employee's place of work; subsection (iii) provides that the toilet facility requirements would be met for groups of fewer than five employees if such facilities are accessible and immediately available to employees by transportation provided by the employer. Should the alternative set forth in subsection (iii) be made applicable to larger groups of employees?

3. Should proposed section 1928.110(e) (2) (iv), which excepts from its provisions field work that is of a duration of less than two hours, be modified to except work of longer duration, such as three or four hours?

The careful determination of the scope, application and need for a particular regulation is essential to the rulemaking process. With regard to the proposed standard on field sanitation, this process is far from complete. Indeed, this proposal merely initiated the rulemaking process which will provide all interested persons the opportunity to provide their expertise to OSHA, so that OSHA can make an informed decision as to whether a final regulation should be issued, and if so, what requirements it should contain. Only after the entire record is complete will a final decision be made. This record will include all published notices and public comment thereto, as well as the evidence adduced by OSHA and interested parties at informal hearings which have been requested and will be held regionally in various parts of the country. Locations for these hearings will be determined, in part, by geographical concentrations of interested parties commenting on the proposed standard.

In view of the above clarifications, OSHA is hereby extending the period for submission of written data, views and arguments until July 20, 1976. Written data, views and arguments must be submitted to the U.S. Department of Labor, Occupational Safety and Health Administration, Docket Officer, Docket No. S–307, Room N3620, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210, on or before July 20, 1976. The data, views and arguments will be available for public inspection and copying at the above address.

Signed at Washington, D.C., this 25th day of June 1976.

MORTON CORN,
*Assistant Secretary of Labor.*

[FR Doc.76–19033 Filed 6–28–76;11:30 am]

# notices

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.

## DEPARTMENT OF THE TREASURY

### Fiscal Service

[Dept. Circ. 570, 1975 Rev., Supp. No. 26]

### SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

#### Certificate of Authority

A Certificate of Authority is an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $271,000 has been established for the company.

*Name of Company, Location of Principal Executive Office, and State in Which Incorporated*

Trinity Universal Insurance Company of Kansas, Inc.; Dallas, Texas; Kansas.

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: June 22, 1976.

DAVID MOSSO,
*Fiscal Assistant Secretary.*

[FR Doc.76-18766 Filed 6-28-76;8:45 am]

---

### Office of the Secretary

### MULTI-METAL LITHOGRAPHIC PLATES FROM MEXICO

#### Termination of Investigation Based on No Likelihood of Injury

On April 27, 1976, an "Antidumping Proceeding Notice" with respect to multi-metal lithographic plates from Mexico was published in the FEDERAL REGISTER (41 FR 17581).

The notice stated that information available to the Treasury Department indicated that imports of multi-metal lithographic plates from Mexico represented approximately 0.14 percent of domestic production. On the basis of such information, the Secretary concluded that there was substantial doubt of injury to, likelihood of injury to, or prevention of establishment of an industry in the United States by reason of such importations from Mexico. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)(2)).

The United States International Trade Commission has determined, and on May 21, 1976, it advised the Secretary that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of importation of multi-metal lithographic plates from Mexico into the United States. (Published in the FEDERAL REGISTER of May 27, 1976 (41 FR 21702).)

Accordingly, the antidumping investigation with respect to multi-metal lithographic plates from Mexico is hereby terminated, as provided for in section 201(c)(2) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)(2)).

DAVID R. MACDONALD,
*Assistant Secretary of the Treasury.*

JUNE 24, 1976.

[FR Doc.76-18849 Filed 6-28-76;8:45 am]

---

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 76-21]

### NEW SEABURY PHARMACY

#### Hearing

Notice is hereby given that on December 23, 1975, the Drug Enforcement Administration, Department of Justice issued to Nicholas G. Gakidis, Mashpee, Massachusetts an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AG1970513 issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., June 30, 1976 in the Tax Court Courtroom, 13th Floor, U.S. Custom House, No. 2 India Street, Boston, Massachusetts.

Dated: June 24, 1976.

PETER B. BENSINGER,
*Administartor,*
*Drug Enforcement Administration.*

[FR Doc.76-18931 Filed 6-28-76;8:45 am]

---

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### MONTANA

#### Transfer of Submarginal Lands, Blackfeet Indian Reservation

JUNE 22, 1976.

1. Pursuant to Public Law 94-114 (89 Stat. 577) and Sec. 2 thereof, the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Blackfeet Tribe of Montana. The land shall be a part of the established Blackfeet Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 2946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Billings, Montana. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Blackfeet Tribe.

PRINCIPAL MERIDIAN, MONTANA

T. 30 N., R. 7 W.,
Sec. 7, Lots 1, 2, 3, and 4, E½SW¼.
T. 31 N., R. 7 W.,
Sec. 11, W½W½NE¼, NW¼, N½SW¼, and N½S½SW¼.
T. 33 N., R. 7 W.,
Sec. 15, NW¼SW¼;
Sec. 32, N½NE¼, SW¼NE¼, and E½NW¼; and
Sec. 33, W½NW¼ and NW¼SW¼.
T. 29 N., R. 8 W.,
Sec. 17, SW¼, N½SE¼, and SW¼SE¼; and
Sec. 19, S½NW¼, SW¼, and NW¼SE¼.
T. 30 N., R. 8 W.,
Sec. 12, Lot 1.
T. 33 N., R. 8 W.,
Sec. 17, N½NE¼; and
Sec. 19, NE¼, N½SE¼, and N½S½SE¼.
T. 29 N., R. 9 W.,
Sec. 10, SW¼;
Sec. 15, N½NW¼ and N½S½NW¼; and
Sec. 17, N½SW¼.

T. 31 N., R. 9 W.,
Sec. 2, SW¼;
Sec. 11, NW¼, E½W½SE¼, and E½SE¼;
Sec. 12, SW¼;
Sec. 35, NE¼, E½SE¼NW¼, E½NW¼SE¼, and NE¼SE¼; and
Sec. 36, SW¼NW¼ and NW¼SW¼.
T. 33 N., R. 9 W.,
Sec. 4, Lot 4, SW¼NW¼ and NW¼SW¼;
Sec. 5, S½NE¼ and N½SE¼;
Sec. 9, SE¼; and
Sec. 16, NE¼.
T. 28 N., R. 10 W.,
Sec. 4, N½SW¼, SE¼SW¼, and SE¼.
T. 29 N., R. 10 W.,
Sec. 24, S½SE¼;
Sec. 25, NE¼ and E½E½NW¼.
T. 31 N., R. 10 W.,
Sec. 15, SE¼; and
Sec. 22, NE¼.
T. 33 N., R. 10 W.,
Sec. 1, Lots 1, 2, and 3, SW¼NE¼ and SE¼NW¼;
Sec. 5, NW¼SW¼;
Sec. 9, S½NW¼SW¼ and S½SW¼;
Sec. 16, W½ and SE¼; and
Sec. 21, N½N½, N½S½N½, and N½S½S½NW¼.
T. 34 N., R. 10 W.,
Sec. 33, E½SE¼; and
Sec. 35, W½SE¼NE¼, SW¼NE¼, NW¼SE¼, and W½NE¼SE¼.
T. 30 N., R. 11 W.,
Sec. 2, S½SW¼SW¼;
Sec. 3, S½S½SE¼;
Sec. 10, N½NE¼, N½SW¼NE¼, SE¼NE¼, and N½NE¼SE¼; and
Sec. 11, W½NW¼ and N½NW¼SW¼.
T. 31 N., R. 11 W.,
Sec. 1, Lots 1, 2, and 3;
Sec. 3, S½S½SE¼;
Sec. 10, NE¼, N½SE¼, and N½S½SE¼;
Sec. 15, S½SE¼;
Sec. 22, N½NE¼;
Sec. 26, SW¼ and W½SE¼;
Sec. 30, Lot 2, SW¼NE¼ and SE¼NW¼; and
Sec. 35, NW¼NE¼ and NE¼NW¼.
T. 32 N., R. 11 W.,
Sec. 36, E½SW¼SW¼, SE¼SW¼, NE¼SE¼, E½NW¼SE¼ and S½SE¼.
T. 34 N., R. 11 W.,
Sec. 10, E½NE¼ and SW¼NE¼; and
Sec. 11, NW¼.
T. 31 N., R. 12 W.,
Sec. 14, S½SW¼;
Sec. 15, E½SW¼ and S½SE¼;
Sec. 22, NE¼NW¼;
Sec. 24, E½SW¼ and SE¼; and
Sec. 25, N½.
T. 33 N., R. 12 W.,
Sec. 1, Lots 3 and 4, S½NW¼; and
Sec. 2, Lot 1, S½NE¼.
T. 34 N., R. 13 W.,
Sec. 20, E½E½SW¼, E½W½E½SW¼, W½SE¼, and SE¼SE¼.

EDWIN ZAIDLICZ,
*State Director.*

[FR Doc.76-18797 Filed 6-28-76;8:45 am]

[NM 28260]

## NEW MEXICO

### Application

JUNE 21, 1976.

Notice is hereby give that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576) Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 11 W.,
Sec. 21, N½NW¼.

This pipeline will convey natural gas across .093 of a mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.76-18798 Filed 6-28-76;8:45 am]

## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Atlanta Zoological Park, Department Herpetology, Atlanta, Georgia 30315. R. Howard Hunt, Curator of Reptiles.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Export 36 young, captive hatched Crocodylus moreletii to southern Mexico for restocking.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dept. Herpetology, Atlanta Zoological Park, Atlata, Ga. 30315

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological Park engaged in: conservation, education, recreation, research and culture.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Steve Dobbs - Director 627-5804
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
shipment from the Atlanta Zoological Park, Atlanta, Ga. U.S.A. to Southern Veracruz, Mexico.-Dr. Bernardo Villa-Ramirez, Instituto de Biologia Lab. De Mastozoologia, Apartado Postal 70-153, Mexico 20, D. F.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 7-1-76

11. DURATION NEEDED: two months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Endangered Wildlife Permit 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE, PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): R. Howard Hunt
DATE: 3-18-76

3-200
(6/74)

MAY 14, 1976.

DIRECTOR (FWS/LE)
*U.S. Fish & Wildlife Service, P.O. Box 19183, Washington, D.C. 20036.*

Ref.: PRT 8-406-E—Enclosed form.

1. The 36 *Crocodylus moreleti* will be sent to Dr. Bernardo-Villa Ramirez, Mexico City, who will then transport them to the Biological Station at Los Tuxtlas, Veracruz. Large out-door enclosures 12m x 6m requiring no elaborate heating devices—and containing ½ water, should provide the young crocodiles with an abundance of room. Food consists of whole animals such as fish. When an area of former distribution is secured as far as reasonable protection from human environmental damage and hunters, some of the stock will be released.

2. The *C. moreleti* we have bred are not "pet" crocodiles and are hatched and raised with their parents and other adults with a minimum of human intrusion and contact. They are extremely wary of humans, making them good candidates for release. If I deposit these young crocodiles all over the United States and further crowd the meager spaces devoted to captive crocodilians in this country, I believe our whole program of breeding crocodilians will be wasted, except for our behavior studies. Because of this I have not spent a large volume of time finding U.S. boarding facilities for our surplus *C. moreleti*. At some future time if it was decided that indeed the U.S. *C. moreleti* would be useful in a crocodile recovery program in Mexico they might be too large to transport easily and the more intense, prolonged contact with humans would make them less wary and also less likely to survive release—even in a protected situation.

I did not recommend that the World Wildlife Fund stop funding Prof. Miguel Alvarez del Toro's captive breeding Morelet's crocodile project at Parque Zoologico Tuxtula Gutierrez Apdo Postal No. 6 Tuxtla Gutierrez, Chiapas, Mexico, and the project finally did succeed, after we had already bred Morelet's crocodiles in 1971. More important than Del Toro's actual breeding of this crocodile was the interest other countries showed in this project, which may eventually inspire the Mexican government to stop the rape of some of the habitat of this interesting crocodile and establish a "safe" area. I think The Atlanta Zoological Park's *C. moreleti* captive breeding program supplements the U.S. interest in preserving an endangered crocodile in its native country.

Dr. Howard Campbell, Chief Office of Endangered Species, 2820 East University Ave., Gainesville, Florida 32601 knows Dr. Villa Ramirez from visits to Mexico.

Once again, we can't hold all the *C. moreleti* we breed and they are suitable for release. I believe they would make a positive contribution for conservation in Mexico but a negative contribution if I flood the U.S. market and create several "Morelet's crocodile pits" in the U.S. I have always thought that if zoological parks only exhibited endangered species and did not breed them with a potential for release into a wild recovery program (which eliminates many mammals at this time), then there is no need for their existence as survival centers.

Sincerely,

R. H. HUNT,
*Curator of Reptiles.*

To: *Director* (FIS/LE)
*U.S. Fish & Wildlife Service, P.O. Box 19183, Washington, D.C. 20036.*

Subpart C—Endangered wildlife permit—export 17.23 zoological permits

The Atlanta Zoological Park wishes to export in July-August 1976, *36* tagged, 1-3 yr old, sex unknown, captive bred Morelet's crocodiles *Crocodylus moreleti* to: Dr. Bernardo-Villa Ramirez, Instituto De Biologia Lab., 70-153, Mexico D.F. The crocodiles will be sent by air freight in a vented wooden box and will not need water or food if the transport period does not exceed 2 weeks. To avoid injury to each other, each crocodile's *Mouth Will be Taped Shut*. Dr. Villa-Ramirez will transport the crocodiles from Mexico City to the Field Research Bio. Station at Los Tuxtlas, Southern Veracruz, Mexico. He proposes the release of some of the crocodiles into suitable areas in tropical Mexico but he will also hold some to provide stock for future restocking programs (See 2-27-76 letter). Competent biologist work under Dr. Villa-Ramirez, including at least one who worked at the Rockefeller Wildlife Refuge, La. in 1967 (See 1-13-75 letter).

The parents of these young crocodiles were obtained as juveniles in July, 1965 in the Mexican state of Yucatan. Our babies are hatched and raised with the adults. The young *C. moreleti* are very wary and difficult to catch making them very good candidates for release. If we do not reduce our inventory of these young crocodiles, they will die from overcrowding.

We sent *24 C. moreleti* under permit no—PRT 299E to Dr. Villa-Ramirez in Dec., 1975 and he was very conscientious about their welfare during transport (See 1-7-75, 11-17-75, 12-1-75 letters) and at the Field Research Bio. Station at Los Tuxtlas, Southern Veracruz (See 12-24-75 letter).

Dr. Howard Campbell, Chief Office of Endangered Species, 2820 East University Ave., Gainesville, Fla. 32601 is in full support of our attempt to place *C. moreleti* back into Southern Mexico via Dr. Villa-Ramirez.

I am at a loss as to why our 1-12-76 permit was questioned (See form PRT 406 E)

My qualifications for handling our captive breeding project include a B.A. degree in biology (enclosed record) 15 years experience as a herpetologist and several papers on crocodilians (enclosed). I know most of the people active in crocodilian research and I am now working on maternal behavior in wild alligators to support our observations on *C. moreleti* behavior.

Sincerely,

R. HOWARD HUNT.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 29, 1976 will be considered.

Dated: June 24, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-18837 Filed 6-28-76;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Hawaii National Park, P.O. Box 54, Hawaii 96718. Paul C. Banko, Ranger.

OMB NO. 42-R1670

**DEPARTMENT OF THE INTERIOR**
**U.S. FISH AND WILDLIFE SERVICE**

**FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION**

1. APPLICATION FOR (Indicate only one) .
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Banding and marking Alala (Corvus tropicus) for scientific research purposes. Salvaging diseased, heavily parasitized, disabled or threatened Alala for treatment and protection.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Paul C. Banko
P.O. Box 54
Hawaii National Park
Hawaii 96718
808-967-7482

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

| ☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 5' 10" | WEIGHT 150 lbs. |
|---|---|---|
| DATE OF BIRTH 31 May 1950 | COLOR HAIR lt. br. | COLOR EYES blue |
| PHONE NUMBER WHERE EMPLOYED 808-967-7311 | SOCIAL SECURITY NUMBER 224-64-9716 | |

OCCUPATION
National Park Service Ranger (Wildlife)

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
World Wildlife Fund (granting agency)
Hawaii Nat. Hist. Assoc. (granting agency)
US Forest Service (contracting agency)
Hawaii Div. Fish & Game (cooperating agency)
National Park Service (cooperating agency)
US Fish & Wildlife Service (cooperating agency)

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Island of Hawaii

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
State approval not required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 1 June 1976

11. DURATION NEEDED: 30 August 1978

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22
21.22

**CERTIFICATION**

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Paul C. Banko — DATE 10 May 1976

3-200
16-741

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION ATTACHMENT, LINE 12

*Background:* Alala (*Corvus tropicus*) or Hawaiian Crow/Raven is endemic to the island of Hawaii. Status and distribution surveys of 1967–1975 have shown that the population has declined drastically in range and numbers in recent historical times. Causes of decline are not well known. Total immature and adult population in the wild from 1967 to 1975 was not known to exceed about 50 individuals during any year. Diseased and parasitized fledglings are occasionally observed and offer opportunity for salvage as captive breeding stock. Investigations proposed are a continuation of on-going research program.

*Justification:* To study population dynamics of remnant groups of wild Alala, it is necessary to hand-capture, serially number, and individually mark fledglings with color bands at or near nest site. Followup observations over a period of several years are expected to yield data on initial pair formation and breeding age, breeding population recruitment rate, maximum breeding age, movement, and longevity—all important factors in considering the problem of population decline and in formulating an effective management program.

*Methods:* It is proposed to hand-capture and band less than about 15 fledgling Alala of either sex annually at or near nest sites in the wild. Based on results of previous years field work, no harmful side-effects to individuals or population are expected, either from capture, banding or post-banding observations.

In cooperation with Hawaii State Division of Fish and Game, diseased, heavily parasitized, or otherwise disabled or threatened fledglings may be salvaged, treated in accordance with prescribed veterinary practices and placed in captivity at an approved facility if opportunities arise. Dead specimens and infertile eggs which may be encountered will be donated to either U.S. National Museum in Washington, D.C. or B. P. Bishop Museum in Honolulu.

It is anticipated that information gained from this research project will yield essential information on rate and causes of population decline and will aid Alala Recovery Team in making conservation recommendations. Salvaged stock may provide nucleus of captive breeding flock.

*Contracts and Agreements:* Verbal agreements for funding this project have been made with World Wildlife Fund, Hawaii Natural History Association and U.S. Forest Service. Copies of written agreements can be made available shortly if necessary.

*Work Schedule:* May–August 1976, 1977, 1978. Progress report and evaluation annually.

*Investigator:* Paul Banko.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 29, 1976 will be considered.

Dated: June 23, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-18838 Filed 6-28-76;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Peninsula Humane Society, 12 Airport Blvd., San Mateo, California 94401. Douglas J. Morris, Director.

OMB NO. 42-R1670

**DEPARTMENT OF THE INTERIOR**
**U.S. FISH AND WILDLIFE SERVICE**

**FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION**

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To receive injured, sick, or distressed endangered species for purposes of rehabilitation and release, and for research in wildlife medicine which might entail extraction of blood tissue samples. See attachment for list of species handled.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Peninsula Humane Society
12 Airport Blvd
San Mateo, Calif.
94401

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Humane Society, Wildlife Department. Rescues, treats, rehabilitates, and releases sick, injured, or distressed wildlife.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Member organizations of Wildlife Rehabilitation Council

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Douglas J. Morris; Director Wildlife Activities

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
California, Non-profit.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
San Mateo County, Cal.
San Francisco Bay Area.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
1-SP-547 (subpermittee)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
California State Wildlife Salvage Permit

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
immediate

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attachments

**CERTIFICATION**

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (If ink) Douglas J. Morris. DATE 4/23/76

3-200
(6/74)

INT 11 780-76

1. Endangered wildlife for which permit is required: Brown Pelican, *Pelecanus occidentalis californicus*. California clapper rail, *Rallus longirostris obsoletus*. Southern Bald Eagle, *Haliaeetus leucocephalus leucocephalus*. California least tern, *Sterna albifrons browni*. Salt Marsh Harvest Mouse, *Reithrodontomys raviventris*. California Black Rail, *Laterallus jamaicensis coturniculus*. San Joaquin kit fox, *Vulpes macrotis mutica*. Northern elephant seal,[1] *Mirounga angustirostris*.

2. None in shelter at this moment.

3. The Peninsula Humane Society Wildlife Department functions as rescue and veterinary facility for sick, injured, or distressed wildlife in San Mateo County and its related environs. Animals are brought in to us by private citizens or public agencies and in some cases we are called upon to effect the rescue of wildlife by various agencies both public and private.

4. N/A.

5. Animals will be maintained at the Peninsula Humane Society, a private non-profit organization devoted to animal welfare. The address is: Peninsula Humane Society, 12 Airport Blvd., San Mateo, Calif., 94401.

6. Wild animal housing at the Peninsula Humane Society includes a separate holding room and courtyard facilities, plus access to all other facilities at the society, including surgery and recovery ward areas and inside-outside runs, as well as a complete isolation facility. Please see diagram.

Wildlife staff includes myself, Bachelor of Science, Oregan State University, Wildlife Management 1970; Ms. Glenna Paul, Registered Nurse, and Mrs. Joan Grey, Veterinary Technician. In addition, all veterinary work is conducted by or overseen by our staff veterinarian, Dr. Sheila Shannon, D.V.M.

Wildlife are transported in a Dodge Van vehicle which is used exclusively for that purpose, although the individual may arrive at the shelter in a standard Animal Control Van if the call originates in that department. At the shelter the animal is housed in a variety of cages, runs, or containers depending on the need of that specific animal. Husbandry is overseen by staff and may be carried out by supervised "in shelter volunteers," note volunteers are from 15 to 60+ years of age and are predominately college students or explorer scouts which belong to our Humane Society Post.

The wildlife department is entering its 3rd year of operation and at the end of every year the complete records and disposition of animals handled are delivered to your own Burlingame, California office. Note that last year (1975) the Peninsula Humane Society handled over 300 wildlife.

7. See copies of contracts enclosed.

8. Justification: The Peninsula Humane Society requires this permit to remain functional, note that as a humane society we have been called upon by both public and private parties to perform a rescue function for sick, injured and distressed wildlife. It been our experience that endangered species are not uncommonly handled by us in the course of our regular work. An example of this would be a number of California Brown Pelicans which were recovered by us during an oil spill recovery operation during August and September of 1975. Both Vet Staff and Wildlife Staff have been developing medicine and rescue techniques and would like to continue doing so, so that these new techniques can be developed and disseminated to the proper agencies.

Note please that these activities are carried out in co-operation with your own organization, the California Department of Fish and Game and other wildlife organizations. As this facility is primarily a rescue and vet care facility if an animal requires long term after care or retraining it is transferred to a properly licensed rehabilitation facility such as: International Bird Rescue Research Center in Berkeley, California, or to the Alexander Lindsay Jr. Museum, or the California Marine Mammals Center at Fort Cronkite. If an animal is too badly maimed or wounded for release it is humanely euthanized, or in special cases where the animal is valuable as a display or study skin it is turned over to the properly licensed educational institution. It is however the aim of our organization to release the individual back into the wild.

Sincerely,

DOUG MORRIS,
*Director of Wildlife Activities, Peninsula Humane Society.*

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 29, 1976 will be considered.

Dated: June 24, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-18839 Filed 6-28-76;8:45 am]

[1] Note that the above species have been handled by our organization, or else are indigenous to this area and are likely to be received by our organization. In the case of the northern elephant seal which is not endangered we would still prefer to have it listed owing to the number of calls we receive dealing with this species.

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Vernon E. Turner, 230 E. High Street, Glassboro, New Jersey 08028.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☐ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To receive interstate, in the course of a commercial activity, one (1) male Ocelot for the purpose of propagation

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Vernon E. Turner
230 E. High Street
Glassboro, N.J. 08028
609-589-1200

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 5'5" | WEIGHT 160
DATE OF BIRTH 7/25/11 | COLOR HAIR [illegible] | COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 589-4300 | SOCIAL SECURITY NUMBER 147-01-4116
OCCUPATION Self-Employed
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Philadelphia Zoological Society

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
230 East High St
Glassboro, N.J.
08028

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE SAP

11. DURATION NEEDED Yearly

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

**CERTIFICATION**

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Vernon E. Turner — DATE 12/26/75

3-200 (6/74) GPO 895-042 [illegible]

DECEMBER 31, 1975.

FEDERAL REGISTER, dated 9/26/75, *Fish & Wildlife Service*, 50CFR—A

I have a Research & Study Center on "Jungle Cats", (Margays) (Felis wiedii), (Ocelots) (Felis pardalis). The study is sponsored by the Philadelphia Zoological Society. For years I hunted Jaguar in Mexico, Central and South America and in doing so, became involved with Ocelots and Margays.

In 1969 I was in the Sabé Grandé, British Honduras, on the Guatemala border where I ran down my last Jaguar. That was the year I stopped killing and started the Research and Study Center. Actually I started bringing Ocelots and Margays back from Safari as early as the late fifties. I could never come to hunting the small cats—only Jaguar.

SUBPART D—THREATENED WILDLIFE

(a) License/permit application (form 3.200) attached.

(a)(1) Cats covered are Ocelots and Margays (see above).

At present time I need a male ocelot. I have a breeding pair of Margays and two Margay kittens (14 mos. and 11 mos. old) bred in our compound. I have a connection in Florida where it may be possible to obtain a male ocelot which requires a permit to ship across state lines. If I cannot get one there it would mean bringing one in from out of the country through a pet shop in Florida I did business with before the Endangered Species Act.

(a)(2) See above (a)(1).

(a)(3) The Philadelphia Zoological Society has on loan to me a Margay replacing the mother of the kittens that died last summer. They have not been able to obtain a male ocelot for me however.

(a)(4) See (a)(1) above.

(a)(5) Our compound is located 230 E. High Street, Glassboro, N.J. 08028 (see pictures enclosed).

(a)(6) Live wildlife only.

(6)(I) Property where the compound is located is a 5 acre tract of ground (again see photographs enclosed).

(6)(II) I spent over 10 years in the bush and am well versed on these cats in their native habitat. Also handling them over 20 years in captivity gives me a background difficult to match. Our cats are equally at home inside or outside summer or winter. The choice is theirs as all pens are equipped with two way doors so they can go in and out as they wish.

(6)(III) Yes I am interested in cooperating in a breeding program, which of course would include a stud book.

(6)(IV) Any cat shipped to me is in his shipping container only 3 to 4 hours as the dealer has always called me from Florida and I meet the flight when it arrives in Philadelphia.

(6)(V) Since 1970, five years preceding date of this application we have suffered two mortalities.

1. The first kitten born was killed by the male.

2. A 5 year old female margay, mother of three kittens in our compound suffered a broken leg while in heat. The leg was set by Dr. Lincoln Parkes, Orthopedic Surgeon from Tredyffrin Veterinary Hospital, Paoli, Pa. The leg healed in excellent condition. (Medical costs 252.00) A few weeks after healing was complete I found her dead in the pen from pneumonia and viris hepatitis.

We have taken steps since then to avoid any repetition of hepatitis. We screened over all pools and waterfalls in each pen in case stagnant water was the cause. We also changed our source of supply on chicken necks which may or may not have been responsible. Pneumonia was probably due to inactivity.

(7) I cannot answer this as I don't know whether the animal would come from a Florida compound, or out of the country with port of entry Miami.

(8)(I) We already have both a state permit (#1) in New Jersey, and a USDA permit. We need a Federal permit to enable us to continue the propagation and study of these beautiful animals.

(8)(II) We will continue as we have been through the years. Our pens are heated by hot water with the outside pens shrubbed and landscaped like the bush, the cats native habitat. There is no doubt in my mind after years of observation that almost any compatible pair of healthy cats are going to breed in our natural type of jungle surroundings. And as mentioned before, all our cats spend as much time outside in the winter as they do inside.

(8)(III) As to the scientific objective or objectives enhancing propagation of these two species of cats * * *

It will be many years before the majority of zoos in the U.S. will have successful breeding programs on many of the endangered species. I feel it will be compounds such as we have that zoos will come to depend on for source of these endangered species. The Research and Study we do on these animals is both costly and time consuming and most zoos cannot afford either.

The schools in our area both grade, High school and Glassboro State College make use of our facilities from time to time. We also have a University of Penn graduate doing a study on the cats at present.

(8)(IV) As to the planned disposition of cats bred in our compound * * * First, we must build up our number of cats to maintain a successful breeding program. With the Zoological Society who is sponsoring us, we get the first kitten they get the second, etc. I cannot and would not sell to an in-

dividual if I was permitted to do so. They do not make good pets.

Respectfully,

VERNON E. TURNER.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, perferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 29, 1976 will be considered.

Dated: June 24, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-18840 Filed 6-28-76;8:45 am]

## MARINE MAMMAL PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit has been received under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

*Applicant:* University of Alaska, Institute of Arctic Biology, Fairbanks, Alaska 99701. Carl A. Ohata.

OMB NO. 42-R1570

**DEPARTMENT OF THE INTERIOR**
**U.S. FISH AND WILDLIFE SERVICE**

**FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION**

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Take and import 6 live sea otters (marine mammals), plus 6 possible replacements, and dead specimens (20 or more) to study the effects of crude oil, refined oil, dispersing agents, and cleaning agents on sea otter insulation.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Carl A. Ohata
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska 99701
Phone: (907) 479-7151

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

| ☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT |
|---|---|---|
| | 5' 8" | 160 lb. |
| DATE OF BIRTH | COLOR HAIR | COLOR EYES |
| 9/22/47 | Black | Brown |
| PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER | |
| (907) 479-7151 | 576-48-9871 | |

OCCUPATION
Research Assistant

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska 99701

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Scientific collecting in Prince William Sound, Alaska.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(*If yes, list license or permit numbers*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
Not Required

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
August 1, 1976

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
The Research Proposal and Application for Scientific Research Permit are attached.

**CERTIFICATION**

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Carl A. Ohata — DATE 8 June 1976

3-200
(6/74)
GPO 895-042

1. Title: Application for scientific research permit under the Marine Mammal Protection Act of 1972.

2. Date: April 7, 1976.

3. Corporation: Not Applicable (for scientific use only).

4. Purpose: To study the effects of crude oil, refined oil, dispersing agents, and cleaning agents on sea otter insulation. Baseline data on sea otter thermoregulation and metabolism will be obtained, then compared to similar measurements from sea otters exposed to foreign agents.

(a) Needs: Both live sea otters (6 captive plus 6 possible replacements) and dead specimens (20 or more) will be needed for this study.

(b) Use of marine mammals: Live animals will be used to determine the physiological capacities of sea otters, and the effects of foreign agents on their ability to regulate temperature. Dead specimens will be needed for histopathological examination, hydrocarbon analysis, skin heat flow measurements, and peripheral biochemical and histological analyses.

5. Information for a scientific research permit:

(a) Research Program in detail:

Metabolism—Measurements of $O_2$ consumption and $CO_2$ production of pup, male and female sea otters in air and in water of varying temperatures will be used to derive heat production, respiratory quotient, and total thermal conductance. This data will be compared to similar measurements following exposure to foreign agents.

Temperature regulation—Measurements of rectal and skin temperature, regional heat flow, and volume of insulation will be made before and after exposure to foreign agents.

Nutrition—Food intake records, caloric content of food, digestive efficiency determinations, and radioisotope estimates of fat content, body composition and water turnover will be made before and after exposure to foreign agents.

Biochemical study—Baseline data will be obtained on peripheral lipids, storage of ingested foreign agents in tissues, and direct determination of body composition.

Histological study—Descriptions of peripheral histology and fur penetrance by foreign agents, electron micrographs of venous plexuses, and histopathologic examinations of field and laboratory specimens will be obtained.

Toxicity of ingested oils—Radioisotopes will be used to determine volumes of foreign agents voluntarily ingested and accumulation in tissues. Experimental administration of foreign agents will be followed by biochemical and histologic examinations.

(b) Scientists involved and institution: Carl Ohata (Principal Investigator) and Drs. Robert Dieterich (Research Veterinarian), Dan Holleman (Radioisotope Specialist), and Keith Miller (Physiologist) are all affiliated with the Institute of Arctic Biology, University of Alaska, Fairbanks, AK 99701. Mr. Ancel Johnson, U.S. Fish and Wildlife Service, 813 D Street, Anchorage, AK 99501, will capture animals and provide field cooperation. Dr. Donald Siniff, Dept. of Ecology and Behavior, University of Minnesota, Minneapolis, MN 55455, will provide information on his field behavioral studies of sea otters.

(c) Research proposal: A copy of the formal research proposal is enclosed.

(d) Additional significance of the proposed research: It is hoped that data obtained in the proposed research will be used in sea otter management (from nutritional and metabolic data) and in future federal regulations (depending on their capacity to tolerate foreign agents).

(e) Dead Specimens: Complete use of all specimens is expected. Any salvageable remains will be donated to collections of the Alaska Department of Fish and Game and University of Alaska.

6. Description of marine mammals:

(a) Species: 6 sea otters (*Enhydra lutris*) will be kept in captivity. Should mortality occur before completion of this study, replacements will be needed. Also requested are all available dead specimens (20 or more) found in the field.

(b) Physical description: 2 pregnant females or 2 females accompanied by their 2

newborn pups, and 2 adult males are requested. Adult sea otters weigh 30–50 lbs, newborn pups 5 lbs. Adult age about 3–5 years.

(c) Date of capture and location: Capture will occur during the first 2 weeks of April, which is the beginning of pupping, at Prince William Sound (exact location to be determined later).

(d) Description of the population: The Alaskan sea otter population has increased from 25,000 in 1956 to 100,000–120,000 in 1973. Transplants of sea otters from the Aleutians to Prince William Sound occurred in 1965, 1966, and 1972. The Prince William Sound population is assumed to be expanding. This area was chosen over the Aleutians because of the availability of U.S. Fish and Wildlife Service field holding facilities and capture operations.

(e) Method of capture: Presumably with nets.

(f) Name and qualifications of person capturing animals: Mr. Ancel Johnson, U.S. Fish and Wildlife Service, Anchorage, is experienced at capturing sea otters and maintaining them in field holding pens.

(g) Contract for capture: Not applicable. Mr. Johnson will provide animals for scientific research as part of his occupation.

(h) Importation: Not applicable. The sea otters are of U.S. origin.

(i) Importation of products: Not applicable.

7. Transport of sea otters:

(a) Mode of transport: Planes.

(b) Name of company: Private charter from Prince William Sound to Anchorage (to be arranged later); commercial airlines (Wien or Alaska) from Anchorage to Fairbanks.

(c) Length of time in transit: Total time is approximately 3–5 hours (1–2 hr Prince William Sound to Anchorage, 1–2 hr ground transfer, ⅔ hr Anchorage to Fairbanks).

(d) Future transit: None planned.

(e) Qualifications of carrier: 6 N. fur seals transported via commercial airlines (Reeve Aleution, Wien, and Alaska) in 1973 and 1974 arrived at Fairbanks in good health.

(f) Description of field and transport cages: Field holding facilities are floating pens. Further information of field facilities and capture operations may be obtained from Mr. Ancel Johnson. Individual (26''W, 42''L, 29''H) or multiple (2½'W, 3½'L, 3'H) transport cages are available. We will follow Mr. Johnson's recommendations as to exact dimensions and number of animals per cage.

(g) Special care before and during transport: Only animals which have accepted food, are mutually compatible, and appear in good health will be taken. Transport cages have pans for retaining water or ice. Sufficient ground time at Anchorage will allow cleaning of all cages and refilling with water or ice. Dexamethasone (an anti-shock, anti-stress, and anti-inflammatory drug) and acepromazine (a tranquilizer) have been used during past sea otter transplants, but their exact use will depend on Mr. Johnson's recommendation and whether the animals need them while in transit.

(h) People accompanying animals: Carl Ohata will accompany the sea otters. He has successfully transferred fur seals in the past. Dr. Robert Dieterich, Research Veterinarian from the Institute of Arctic Biology, may also accompany the animals. He has cared for all marine mammals at IAB for 8 years.

8. Care and maintenance:

(a) Dimensions of holding facilities: During the summer, the sea otters will be housed in an outdoor pen (12'W, 17'L, 7'H) which has fenced roof and walls. It now houses 4 fur seals. It contains a 100 $ft^3$ pool (5'W, 10'L, 2'H), a wooden platform above the tank for resting (2'W, 5'L), and a wooden plank for access to the pool. Wooden boxes (2'W, 3'L, 1½'H) will be provided for their privacy and retreat. During winter, the sea otters will be housed in indoor pens (6½'L, 5½'W, 6½'H) containing a (4'L, 2'W, 2'H pool), wooden boxes, and allowing access to an outdoor pen (6'W, 17'L, 7'H). A constant temperature environmental chamber (14'L, 9'W, 7'H) containing 2 pools (each 4'W, 6'L, 2'H) will be used if the sea otters are affected by ambient temperatures.

(b) Water supply: Continuously flowing tap water, of human consumption quality, will be provided. The flow will be regulated such that their pool will be continually clean.

(c) Diet: Mr. Ancel Johnson feeds captive sea otters squid and fish fillet, amounting to 25% of their body weight per day. We will follow his practice.

(d) Sanitation practice: Continuously running water should keep pools clean. They are presently drained and thoroughly scrubbed 3 times per week. The entire flooring of pens are cleaned daily.

(e) Qualifications and experience of staff: This information is provided in the supplement.

(f) Certification by an experienced veterinarian: Letter by Dr. Robert Dieterich is enclosed.

9. Public display (Not applicable).

(a) Frequency and location of display: The animals will not be available for display to the general public and are maintained in a security area. However, tours of the animal quarters are often given by qualified personnel to visiting scientists, school children, news media, and other interested people providing that they do not interfere with studies in progress.

(b) Profit: None.

(c) Number of viewers: This depends on the number of requests, which is estimated to be a few hundred.

(d) Additional displays: Not applicable. During experiments, all unauthorized personnel will be prohibited. When the research is completed, all data wil be published in leading journals and presented at national meetings.

(e) Description of the enterprise: Not applicable. The Institute of Arctic Biology is affiliated with the University of Alaska and is primarily a research organization.

10. Endangered species: Not applicable. Sea otters are not on the endangered species list.

11. Marine mammal mortalities:

(a) List of marine mammals: 4 N. fur seals have been maintained in captivity by Carl Ohata.

(b) Number of mortalities: During the past year, no mortality of any marine mammal has been incurred by Carl Ohata.

(c) Cause of mortality: Not applicable.

(d) Preventative measures: For the past 3 years, Carl Ohata has been responsible for husbandry of fur seals, thus can detect any abnormalities and notify Dr. Dieterich for immediate treatment.

12. Certification:

"I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–140/) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties provided under the Marine Mammal Protection Act of 1972."

CARL A. OHATA,
Institute of Arctic Biology, University of Alaska, Fairbanks, AK 99701.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before July 29, 1976 will be considered.

Dated: June 24, 1976.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.76-18841 Filed 6-28-76;8:45 am]

## Geological Survey

### KNOWN LEASING AREA (COAL)

### Nucla, Colorado

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and 203 Departmental Manual No. 1, and Secretary's Order No. 2948, Federal lands within the State of Colorado have been classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Nucla (Colorado) Known Leasing Area (Coal);
April 25, 1975; 5,143 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, U.S. Geological Survey, Stop 609, Box 25043, Denver Federal Center, Denver, Colorado 80225.

W. A. RADZINSKI,
*Acting Director.*

JUNE 22, 1976.

[FR Doc.76-18800 Filed 6-28-76;8:45 am]

### KNOWN LEASING AREA (COAL)

### Rawlins, Wyoming

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and 203 Departmental Manual No. 1, and Secretary's Order No. 2948, Federal lands within the State of Wyoming have been classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) WYOMING

Rawlins (Wyoming) Known Leasing Area (Coal); March 23, 1975; 122,913 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, U.S. Geological Survey, Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225.

W. A. RADZINSKI,
*Acting Director.*

JUNE 22, 1976.

[FR Doc.76-18801 Filed 6-28-76;8:45 am]

---

## National Park Service

### ADVISORY BOARD ON NATIONAL PARKS, HISTORIC SITES, BUILDINGS AND MONUMENTS

### 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 Thursday, July 15 and Thursday July 29, 1976, commencing at 9:30 a.m. in the conference room of the Regional Plan Association, 235 E. 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
Fred Smith, New York, New York

The purpose of both meetings is to discuss and consider elements of the Gateway National Recreation Area general management plan, including development proposals, transportation and access, resources management, programming, and related matters.

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: June 23, 1976.

ROBERT M. LANDAU,
*Liaison Officer, Advisory Commissions National Park Service.*

[FR Doc.76-18901 Filed 6-28-76;8:45 am]

---

## National Park Service

### 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 June 18, 1976. Pursuant to § 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 July 9, 1976.

WILLIAM J. MURTAGH,
*Acting Director, Office of Archeology and Historic Preservation.*

#### ALABAMA

*Calhoun County*

Anniston, *Noble Cottage*, 900 Leighton Ave.

*Elmore County*

Wetumpka, *First Presbyterian Church of Wetumpka*, W. Bridge St.

*Randolph County*

Rock Mills vicinity, *McCosh Grist Mill*, SE of Rock Mills on McGosh Mill Rd.

#### ALASKA

*Outer Ketchikan Division*

Hyder, *Storehouse No. 4 (Eagle Point Storehouse)*, International St.

#### CALIFORNIA

*Humboldt County*

Eureka vicinity, *Zane's Ranch Bridge*, S of Eureka on Zane's Rd., spans Elk River.

*San Francisco County*

San Francisco, *Stadtmuller House*, 819 Eddy St.
San Francisco vicinity, *Farallones*, about 28 mi. W of San Francisco.

#### DELAWARE

*Kent County*

Dover vicinity, *Carey Farm Site*, SE of Dover off U.S. 113.

#### KANSAS

*Shawnee County*

Dover, *Sage Inn*, S.W. 57th St. and Douglas Rd.
Topeka, *Central National Bank*, 701-703 Kansas Ave.

#### KENTUCKY

*Logan County*

Russellville, *Russellville Historic District*, roughly bounded by 2nd, 9th Caldwell, and Nashville Sts.

#### MARYLAND

*Baltimore County*

Oella, *Oella Historic District*, Oella Ave., Glen and Hollow Rds.
Oella vicinity, *Ellicott's Mills Historic District*, both sides of MD 144 S of Patapsco River Bridge.

*Prince Georges County*

Upper Marlboro vicinity, *Melwood Park*, W of Upper Marlboro on MD 408, 0.5 mi. E of jct. with Mellwood Rd.

*St. Marys County*

Mechanicsville vicinity, *Cremona*, 5 mi. E of Mechanicsville off MD 6 on Patuxent River.
Ridge vicinity, *Bard's Field*, 1.2 mi. W of Ridge (MD 5) off Curleys Rd.

*Talbot County*

Tilghman, *Reliance* (skipjack), off MD 33 at Knapps Narrows.

#### MISSISSIPPI

*Bolivar County*

Duncan vicinity, *Donelson House*, 2.5 mi. SW of Duncan.

*Warren County*

Vicksburg, *Cedar Grove*, 2200 Oak St.

#### MONTANA

*Flathead County*

West Glacier vicinity, *Granite Park* Chalet, N of West Glacier.
West Glacier vicinity, *Sperry Chalet*, E of West Glacier.

*Glacier County*

St. Mary vicinity, *St. Mary Ranger Station*, SW of St. Mary off U.S. 89.

#### NEW MEXICO

*Taos County*

Taos, *Harwood Foundation (Smith H. Simpson House)*, LeDoux St.

#### OREGON

*Jackson County*

Eagle Point, *Snowy Butte Flour Mill*, off OR 62.

#### VERMONT

*Addison County*

Middlebury, *Middlebury Village Historic District*, irregular pattern extending to Water St. on the S. Elm St. on the N, Seminary St. Ext. on the E, and Weybridge on the W.

#### VIRGIN ISLANDS

*St. Thomas Island*

Charlotte Amalie vicinity, *Hull Bay* Archeological District, NNW of Charlotte Amalie.

#### WISCONSIN

*Columbia County*

Wisconsin Dells, *Bennett, H. H., Studio*, 215 Broadway.

[FR Doc.76-18599 Filed 6-28-76;8:45 am]

## Office of Hearings and Appeals

[Docket No. M 76-196]

### BIGWOOD 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), Bigwood Coal Co. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine, Hellier, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710–1 which is 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:

1. Petitioner's equipment consists of one 14BU8 Joy, one S&S Model 200 tractor, one Kersey 1144 tractor, one S&S model 100 tractor and the roof bolting machine is a Long-Airdox LRB–15A.

2. Petitioner's mine is in the lower Elkhorn seam and ranges from 38 to 48 inches in height. The coal seam has consistent dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support.

3. Petitioner feels it would be almost impossible to install canopies on these tractors and still be able to operate them. Since the tractors were not engineered for canopies, the operators' vision and operating room would be greatly reduced, thus creating a hazard to them as well as the other employees in the mine.

4. Petitioner feels that the installation of canopies could be a contributing factor in any accidents which may arise. Furthermore, its employees have indicated that they would refuse to operate the equipment if canopies were installed.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76–18772 Filed 6–28–76;8:45 am]

---

[Docket No. M 76–113]

### CHRISTOPHER 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), Christopher Coal Company has filed a petition to modify the application of 30 CFR 75.1105 to its Humphrey No. 7 Mine, Osage, Monongalia County, West Virginia.

30 CFR 75.1105 provides:

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

The substance of Petitioner's statement is as follows:

The following factors prevent compliance with the aforementioned section:

1. Pumps are located on old haulage from the pit mouth to the No. 1 fan shaft which was mined 20 to 50 years ago.

2. The haulage is ventilated with intake air and there are no return airways. The nearest return to the 40+00 and the 70+00 pump stations is more than 2 miles, while the nearest return to the 114+00 pump station is 7,000 feet.

3. Intake air that passes these pump stations is not used to ventilate an active working section.

4. The Sewickley Seam, 80 to 100 feet above these pumps, has been or is being mined, eliminating the practicability of drilling additional holes and venting to the surface. (Enclosed are Sewickley overlays of the pump locations.)[1]

5. Pump stations are located in natural basins and continuous operations are necessary to prevent flooding of the haulage.

The following procedures will be observed to provide no less than the same measure of protection as required by section 75.1105:

1. Pumps will be housed in a fireproof building.

2. An automatic fire suppression device will be installed in each of these pump stations that will be activated by heat sensors over the pump.

3. Automatic closing steel doors that will be activated by a heat sensory device.

4. No oil or combustible material will be stored in the pump stations.

5. Electrical circuits will comply with the requirements of the FEDERAL REGISTER.

6. A fire warning device (light or horn) will be mounted along the mainline haulage at the entrance to the pump stations to give visual or audible warning of a fire in pump stations. This warning device will be activated by heat sensory devices.

7. Inspection of these pump stations will be made in compliance with the requirements of the Act.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76–18776 Filed 6–28–76;8:45 am]

---

[Docket No. M 74–74]

### ISLAND CREEK 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), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1105 to its Crescent Mine, Madisonville, Kentucky.

30 CFR 75.1105 provides:

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate struc-

[1] Exhibits are available for inspection at the address shown in the last paragraph of the notice.

tures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

The substance of Petitioner's statement is as follows:

1. Petitioner cannot course the ventilating current from some of its installations to the return. Due to relocating its exhaust ventilating fan using an additional shaft, it was necessary to utilize the six main each entries as intake air only. This relocation left the installations in these entries as much as 2 miles from a return air current.

2. Petitioner offers as an alternate protection at these locations the installation of Ansul 101 automatic fire suppression systems. Most of these installations are on, or adjacent to, the supply or coal haulage tracks and are regularly observed by inspectors, supervisors, and workmen. Petitioner never experienced any fires at these installations; however, they feel that these suppression systems that would immediately extinguish any fire occurring at these locations, offer greater protection than merely coursing the fire and smoke to a return air current.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76-18780 Filed 6-28-76;8:45 am]

---

[Docket No. M 76-238]

## M, S & 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), M, S & M Coal Co., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, Mouth Card, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 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 opearting 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 feels that the installation of canopies on its haulage and roof bolter equipment is creating a hazard to the equipment operators. Petitioner's equipment consists of a Long-Airdox Scoop (Model LDH-81) and a Long-Airdox Roof Bolting Machine (Model CRB-15).

2. The No. 1 Mine is in the Elkhorn No. 2 seam and ranges from 36 to 42 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support. Also, the canopy allows only a 23-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as the other employees in the mine.

3. Petitioner feels that since the equipment operators' vision is obstructed and the position required in order to be seated in the decks is awkward, the installation of the canopies could be contributing factors in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76-18771 Filed 6-28-76;8:45 am]

---

[Docket No. M 76-239]

## MUSKETEER COAL CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Musketeer Coal Corp. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, Feds Creek, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 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:

1. Petitioner feels that by having canopies installed on its equipment it is creating a hazard to the operators of the equipment. The equipment consists of a Spinner-loader, bolting machine, and two shuttle cars. This equipment was manufactured in the 1960's and was not designed, as the newer equipment is today, to have canopies installed.

2. The No. 1 Mine is in the No. 2 Elkhorn Seam which ranges from 38 to 42 inches in height. In this seam there are dips in the coalbed, resulting from ascending and descending grades. By installing canopies on the aforementioned equipment, Petitioner would be obstructing the vision of the operators of the equipment, thereby creating a hazard to them as well as other employees in the mine.

3. Petitioner feels that since the operator's vision is obstructed and the operator's position required to operate the machinery awkward, the addition of canopies could be a contributing factor to mining accidents, especially in the low seam where there is the danger of the canopies striking roof bolts and damaging roof support.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76-18770 Filed 6-28-76;8:45 am]

---

[Docket No. M 76-174]

## OLIVER 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), Oliver Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Federal Mine, Clintwood, 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 § 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:

1. Petitioner's face equipment is operated in a coal seam which ranges in height from 30 to 60 inches.

2. If canopies were installed on the face equipment, the operator, who is supposed to remain seated under the canopy, would be forced to lean out of the machine in order to operate it. By leaning out of the machine, the operator would be exposing himself and others to danger.

3. Shuttle cars, loaders, and roof bolting machines, if equipped with canopies, may not have sufficient roof clearance. Petitioner fears that the canopies may cause damage to roof bolts and weaken the roof support.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director*
*Office of Hearings and Appeals.*

JUNE 21, 1976,

[FR Doc.76-18775 Filed 6-28-76;8:45 am]

---

[Docket No. M 76-192]

## RICHARD 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), Richard Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 9 Mine, Feds Creek, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 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:

1. Petitioner feels that the installation of canopies on this equipment is creating a hazard to the equipment operator.

2. Its haulage equipment consists of two Elkhorn Scoops, Model AR-4, and the roof bolting machine is a Long-Airdox LRB-15.

3. The No. 9 Mine is in the lower Elkhorn seam and ranges from 36 to 38 inches in height. The coal seam has consistent ascending and descending grades, creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from getting against the roof and possibly destroying roof support. Also, this allows only a 23-inch vertical operating compartment, thus obstructing the vision of the equipment operator and creating a hazard to them as well as the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and the position required in order to be seated in the decks, the installation of canopies could be contributing factors in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76-18773 Filed 6-28-76;8:45 am]

[Docket No. M 76-240]

### TRIPPLE B. MINING CO., INC.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Tripple B. Mining Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine, Elkhorn City, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 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:

1. Petitioner's equipment consists of two S&S Scoops CX2, one 11 RU Joy Cutter, one 460 Galis Coal Drill, and one 300 Galis Roof Drill. The installation of canopies on this equipment is creating a hazard to the equipment operator.

2. The No. 2 Mine is in the lower Elkhorn seam and ranges from 40 to 47 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from striking the roof and possibly destroying roof support. Also, the canopy allows only a 23-inch vertical operating compartment, thus obstructing the vision of the equipment operators and creating a hazard to them as well as the other employees in the mine.

Petitioner feels that since the equipment operators' vision is obstructed and the position required in order to be seated in the decks is awkward, the installation of canopies could be contributing factors in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JUNE 21, 1976.

[FR Doc.76-18769 Filed 6-28-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### TRIAL BOLL WEEVIL ERADICATION PROGRAM

#### Availability of Final Environmental Impact Statement

• Purpose: To give notice of the availability of the Final Environmental Impact Statement on the Trial Boll Weevil Eradication Program (USDA–APHIS, (ADM)–75–1). •

Copies of the Final Environmental Impact Statement on the Trial Boll Weevil Eradication Program (USDA–APHIS, (ADM)–75–1) have been furnished to the Council on Environmental Quality pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969. Copies have also been furnished to the Office of Management and Budget, the Environmental Protection Agency, and to other agencies and parties from whom comments were solicited or received.

Comments on the draft statement were previously solicited from Federal, State, and local agencies, and from members of the public through a notice in the FEDERAL REGISTER of August 5, 1975 (40 FR 32860).

Copies of the final statement are available for public inspection at the following locations:

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 620, Federal Building, New Bern Avenue, Raleigh, NC.

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administration Building, 14th and Independence Avenue, Washington, D.C.

Interested persons may obtain a copy of the final statement by writing the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 22d day of June 1976.

JAMES O. LEE, Jr.,
*Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.*

[FR Doc.76-18863 Filed 6-28-76;8:45 am]

### Forest Service

### LAND USE PLAN, LAKE FIVE PLANNING UNIT

#### Availability of Final 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 final environmental statement for the Land Use Plan—Lake Five Planning Unit, Forest Service Report Number USDA–FS–R1 (10)–Adm–74–9.

The environmental statement concerns the proposed implementation of a revised Land Use Plan for the Lake Five Planning Unit, Glacier View and Hungry Horse Ranger Districts, Flathead National Forest, Flathead County, Montana. About 44,501 acres of National Forest land are affected. The planning unit is divided into eleven subunits of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was transmitted to CEQ on June 21, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, DC 20250.

USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.

USDA, Forest Service Flathead National Forest, 290 North Main Street, Kalispell, MT 59901.

USDA, Forest Service, Glacier View Ranger District, Columbia Falls, MT 59912.

USDA, Forest Service, Hungry Horse Ranger District, Hungry Horse, MT 59919.

A limited number of copies are available upon request to:

USDA, Forest Service, Flathead National Forest, 290 North Main Street, Kalispell, MT 59901.

USDA Forest Service, Glacier View Ranger District, Columbia Falls, MT 59912.

USDA, Forest Service, Hungry Horse Ranger District, Hungry Horse, MT 59919.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

JUNE 21, 1976.

E. L. CORPE,
*Forest Supervisor, Flathead National Forest, Forest Service.*

[FR Doc.76-18767 Filed 6-28-76;8:45 am]

## Packers and Stockyards Administration

### OVERLAND STOCK YARDS, HANFORD, CALIFORNIA, ET AL.

### Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

| *Facility No., name, and location of stockyard* | *Date of posting* |
|---|---|
| CALIFORNIA | |
| CA-168 Overland Stock Yards, Hanford. | Apr. 2, 1976. |
| KENTUCKY | |
| KY-160 Bullitt County Stockyards, Shepherdsville. | June 8, 1976. |
| MINNESOTA | |
| MN-168 Gibbon Feeder Pig Market, Gibbon. | June 15, 1976. |
| MISSISSIPPI | |
| MS-156 Wilbanks Stockyard, Carthage. | June 15, 1976. |
| RHODE ISLAND | |
| RI-100 Danny's Auction Barn, Foster. | Feb. 25, 1976. |
| VIRGINIA | |
| VA-149 Amherst County Livestock Market, Inc., Amherst. | Apr. 13, 1976. |

Done at Washington, D.C., this 23rd day of June, 1976.

EDWARD L. THOMPSON,
*Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.*

[FR Doc.76-18862 Filed 6-28-76;8:45 am]

---

## Soil Conservation Service

### FLINT CREEK WATERSHED PROJECT, NEW YORK

### Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Flint Creek Watershed project, Ontario, Steuben, and Yates Counties, New York, USDA-SCS-EIS-WS-(ADM)-76-1-(F)-NY.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment and 18.7 miles of enlargement or realignment of existing manmade or modified channels to provide for reduced flooding on 2,610 acres of muckland.

Under present conditions, 8.1 miles of the channels have intermittent flow while 10.6 miles flow perennially. The channels are located in and adjacent to an intensively cultivated agricultural area.

The final EIS has been filed with the Council on Environmental Quality.

Flint Creek Watershed Project, New York, Notice of Availability of Final Environmental Impact Statement.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, Room 400-Midtown Plaza, 700 East Water Street, Syracuse, New York 13210.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566)

JOSEPH W. HAAS,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

JUNE 22, 1976.

[FR Doc.76-18794 Filed 6-28-76;8:45 am]

---

### SHORT CREEK WATERSHED PROJECT, OHIO

### Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement for the Short Creek Watershed project, Harrison and Jefferson Counties, Ohio, USDA-SCS-EIS-WS-(ADM)-73-17-(F)-OH.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment, one floodwater retarding structure, and ten miles of single-purpose flood prevention channel.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, Room 314, 311 Old Federal Building, Columbus, Ohio 43215

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566.)

JOSEPH W. HAAS,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

JUNE 21, 1976.

[FR Doc.76-18793 Filed 6-28-76;8:45 am]

---

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[Docket No. 76N-0226]

### JOHN D. COPANOS & CO., INC.

### Ferromycin 100 Iron Dextrin Complex With Neomycin Sulfate; Denial of Hearing and Withdrawal of Approval of New Animal Drug Application

The Commissioner of Food and Drugs is denying a request for hearing on a proposal to withdraw approval of new animal drug application (NADA) 32-337V, and he is withdrawing approval of the application, effective June 29, 1976.

The Commissioner issued, in the FEDERAL REGISTER of March 10, 1975 (40 FR 11015, Docket No. FDC-D-715), a notice of opportunity for hearing on a proposal to withdraw approval of NADA 32-337V, held by John D. Copanos Co., Inc., 6110 Robinwood Rd., Baltimore MD 21225 (hereinafter Copanos). The application covers the fixed combination drug Ferromycin 100 Iron Dextrin Complex with Neomycin Sulfate (hereinafter Ferromycin) which contains, in each cubic centimeter, 100 milligrams of elemental iron and neomycin sulfate equivalent to 10 milligrams neomycin base.

The notice of opportunity for hearing stated that the Commissioner proposed to issue an order pursuant to section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of Ferromycin on the ground that new information before him with respect to the drug product, evaluated together with evidence available to him at the time of approval of the product, shows that there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Specifically, the Commissioner stated that there is a lack of substantial evidence that Ferromycin is effective as a fixed combination in accordance with § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)). That regulation requires that "[e]ach ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness."

The notice also set forth the developments that led to its issuance. In a letter dated September 11, 1974, Copanos was notified that a review of its application revealed that available data did not (1) justify the inclusion of neomycin sulfate in the formulation, or (2) support the labeling claim that the drug is effective to prevent local infections at the site of injection. In a letter dated September 23, 1974, Copanos acknowledged receipt of the September 11 letter and stated that it was undertaking steps

to develop effectiveness data for the neomycin sulfate component. On September 25, 1974, Copanos met with representatives of the Food and Drug Administration and again stated its intention to submit protocols for studies to support the effectiveness of the neomycin sulfate component and to develop protocols for residue and toxicity studies with neomycin sulfate. At that meeting Copanos was advised that available data failed to identify a significant pig population that could benefit from the inclusion of neomycin sulfate in Ferromycin for preventing abscesses at the site of injection and that in the absence of such data the marketing of the drug was unwarranted and could not be permitted. Copanos was given 60 days to submit necessary data.

The March 10, 1975 notice provided an opportunity for Copanos and other interested persons to submit a written appearance electing whether to avail themselves of the opportunity for hearing. The notice stated that the written appearance must state the reason why approval should not be withdrawn and include a well-organized and full-factual analysis of the clinical and other investigational data in support of the opposition to the proposed action.

Copanos filed a written request for hearing, in which it raised several legal objections, explained the rationale for the combination, and requested that action on its application be deferred. No other hearing request was received. In support of its request for hearing, Copanos resubmitted the results of two clinical studies that it had previously submitted in 1964 for a different formulation. For the reasons set forth below, only one of these studies is even arguably relevant to the issues raised in the notice of March 10, 1975; accordingly, only that study will be reviewed in detail.

### I. The Drug

Ferromycin is a fixed combination animal drug containing, in each cubic centimeter of solution, 100 milligrams of elemental iron, neomycin sulfate equivalent to 10 milligrams neomycin base, and 0.5 percent phenol as a preservative.

### II. Recommended Uses and Rationale

Ferromycin is recommended in its labeling for the prevention of iron deficiency anemia in baby pigs. The labeling states that neomycin is included for preventive treatment of infections at the site of injection.

In its submission, Copanos states that the iron dextrin complex/neomycin sulfate combination is better tolerated than a product containing only iron because the neomycin sulfate eliminates abscesses at the site of injection, which in turn increases motility, i.e., movement, in baby pigs by lessening the tenderness and temporary lumping associated with the intramuscular injection of iron dextrin alone. Copanos also states that increased motility produces a more rapid absorption of the iron with a consequently more rapid response in increased hemoglobin and a reduction in cases of baby pigs crushed by their mothers.

### III. Clinical Investigation Data

A. *Comparative Irrigation Study*, Harvey T. Helms, DVM, unpublished, 1964. This study was undertaken to compare the degree of tissue irritation experienced in three groups of pigs. Two litters of pigs consisting of 14 in the first litter and 12 in the second were randomly divided into 3 groups, and, on the second day following birth, were injected as follows: Group A, consisting of 6 pigs from the first litter and 4 from the second, with 1 cubic centimeter of iron dextrin complex containing 100 milligrams of elemental iron as iron dextrin complex plus 20 milligrams of neomycin base per cubic centimeter; Group B, consisting of 4 pigs from each litter, with 1 cubic centimeter of physiological saline solution; Group C, consisting of 4 pigs from each litter, with 1 cubic centimeter of iron dextrin complex containing 100 milligrams of elemental iron. One pig from each group was to be sacrificed and autopsied at specified intervals commencing on the 14th day following injection. Observations were recorded.

The summary in the Copanos submission states that the results of this study "indicate generally a lesser degree of irritation from the product containing iron dextrin with neomycin than from the other two products," and concludes that "the neomycin is effective as prevention and treatment of infections originating at the site of injection."

The study itself does not characterize the results. Rather, it describes the observer's evaluation of the autopsied animals, with particular reference to tissue in the area of injection. The study provides no criteria for classifying the observations either as to type or degree of abnormality, nor does it tabulate and compare them. The most common observation was of discolored or stained tissue. If there was infected tissue in any of the animals, it is not noted as such.

The study does not provide substantial evidence of the effectiveness of Ferromycin in preventing infection at the injection site:

1. Ferromycin contains 100 milligrams of iron and 10 milligrams of neomycin. A different drug, containing 100 milligrams of iron and 20 milligrams of neomycin, was used in the test. It cannot be assumed that a drug containing an ingredient at one dosage level is effective merely because another drug containing the same ingredient at twice that level is effective. It is for this reason that § 514.111(a)(5)(viii) (21 CFR 514.111(a)(5)(viii)) requires that, for an investigation of the drug to be considered adequate for approval, a test drug be standardized as to strength. Although the study does not involve so much a failure to standardize the strength of test drug as it does use of the wrong drug, the same principle applies to preclude application of the results of the study to support the effectiveness of Ferromycin, i.e., the results are relevant only if the drug that produced them corresponds with the drug for which effectiveness is sought to be established, which is not here the case.

2. Even if relevant to Ferromycin, the results cannot establish effectiveness of the test drug compared with either of the controls in preventing infection at the injection site. This is because no animal in any of the test groups was observed to experience such an infection, including the animals receiving saline solution and those receiving iron without neomycin. This suggests either that all three preparations exerted an equally powerful preventive effect against infection, or, more likely, that no infection was caused by the injections. Whichever is the case, the study does not provide evidence of the effectiveness of Ferromycin, for either the placebo or the iron formulation without neomycin was equally effective in preventing infection, or else there were no infections for Ferromycin to prevent or fail to prevent.

Copanos' summary of the study results states that "a lesser degree of irritation" was observed from Ferromycin than from the other two preparations tested. The study provides no basis for this assertion, as there are no criteria for identifying, or assessing the degree of, irritation. More important, "irritation" is not "infection." Although the study recorded a certain amount of discoloration at the site of injection in the various test groups, there is nothing from which to infer that this was the product of infection. The study was not designed to reveal and compare infection; no criteria are provided by which to identify or quantitate infection; none of the observations suggest that there was infection; and no comparison is made between the Ferromycin and control groups with respect to infection. The statement in Copanos' submission that "neomycin is effective as prevention and treatment of infections originating at the site of the injection" is unsupported by anything in the study.

3. The study fails to meet several of the criteria for adequate and well-controlled investigations under § 514.111(a):

Contrary to § 514.111(a)(5)(ii)(a), the study includes no method for confirming that the test animals were susceptible to the condition for which the neomycin component of the drug is intended, i.e., infection at the site of injection, nor are there any criteria for diagnosing infection (or even irritation, which was the subject of the study). The animals in fact may not have been susceptible to infection, for none was observed to exhibit that condition, including those in the groups that received no neomycin. Absence of a condition is not evidence that a drug was effective in preventing it unless there is some assurance that the condition would have occurred without the drug. Here, there was none.

The report does not explain the methods of analyzing the animal response variables under study, as required by § 514.111(a)(5)(v). No distinction is drawn between responses produced by

irritation and those, if any, caused by infection.

The study does not provide a summary of the method of analysis and an evaluation of the data derived from the study, including any statistical methods, as require by § 514.111(a)(5)(vii). Because of these methodological defects, the study would not be considered adequate and well-controlled in relation to its announced objective of comparing degrees of tissue irritation, an objective that is, in any event, irrelevant to the claim that Ferromycin prevents infection.

B. *Other Data.* Copanos submitted a study designed to demonstrate that neomycin sulfate does not interfere with the therapeutic value of elemental iron when the two are administered together. However, the notice of opportunity for hearing did not raise this issue. Since the study specifically disavows any attempt to show that neomycin sulfate enhances the activity of iron or is otherwise effective, it is not relevant to the Commissioner's proposal to withdraw approval of the Ferromycin NADA on the ground that the drug lacks effectiveness as a fixed combination. It is therefore unnecessary either to review the study or to comment on its deficiencies in any detail. It is worth noting, however, that no infections or abscesses were observed in any of the 7 pigs (out of 12) not injected with iron plus neomycin.

C. *Summary.* Copanos has not submitted any evidence consisting of adequate and well-controlled clinical investigations within the meaning of 21 U.S.C. 360b(e)(1)(C) and § 514.111(a)(5) to support its claim that the neomycin sulfate component of Ferromycin contributes to the effect of the drug in the manner claimed or suggested in the labeling, i.e., prevention of infection at the site of injection. For this reason, the Commissioner must withdraw approval of the application (21 U.S.C. 360b(e)(1)(C), and § 514.1(b)(8)(v)).

There is yet another, equally compelling, reason why approval of this application must be withdrawn. At the September 25, 1974 meeting, Copanos was advised that data available to the Food and Drug Administration failed to reveal a significant pig population that could benefit from the inclusion of neomycin sulfate in Ferromycin, i.e., assuming that Ferromycin is effective against injection site infection in baby pigs, there is need for evidence that the condition actually exists, and is not merely conjectural. Copanos was further advised that in the absence of such data the continued marketing of the combination product was unwarranted.

In response to the notice of opportunity for hearing, Copanos did not submit any evidence that a target population exists for the drug, but merely contended "that gathering of extensive data showing problems with abscesses at the site of injection presents serious difficulties." It also stated that the existence of a target population of potential injection site infections is shown by the study in which irritation was caused by injections of various preparations. Irritation, however, is not infection: Copanos thus failed to meet its evidentiary burden in this regard.

Indeed, the inutility of the neomycin sulfate component of Ferromycin, and therefore of Ferromycin as a fixed combination, is suggested by the studies in the Capanos submission itself, which did not reveal a single infection or abscess at the site of an injection. Moreover, as Copanos was advised, the Food and Drug Administration has reviewed drug experience reports and marketing data for Ferromycin and for a similar Copanos product that does not have neomycin sulfate. Although more than 15 million doses of iron dextrin with and without neomycin have been sold since 1969 (approximately 13 million of which did not contain neomycin sulfate), no occurrence of abscess at the site of injection has been reported. Without contrary information from Copanos, it must be regarded as established that Ferromycin is not effective for its labeled indication: a drug cannot be "effective" for a nonexistent condition.

## IV. Legal Objections

Copanos raises several legal objections. The Commissioner has reviewed each of them and concludes that they lack merit.

Copanos argues that where a study report facially supplies sufficient information to show that it is adequate and well-controlled, a firm need not prove its "entire case in detail" to justify a hearing. This argument is correct but irrelevant. The studies in the Copanos submission, as shown above, do not involve Ferromycin, do not prove the effectiveness of the drug for the indication in question, and do not facially meet the statutory and regulatory requirements for substantial evidence. Such a submission does not raise a genuine and substantial issue of fact for resolution at a hearing. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620 (1973); *Cooper Laboratories, Inc.* v. *Commissioner*, 501 F.2d 772, 774 (D.C. Cir. 1974).

Copanos also complains that the 60-day limitation imposed by the regulations for filing data in support of a hearing request is unduly harsh. This argument is unwarranted both factually and legally. Copanos knew that it would be required to submit data to justify the inclusion of neomycin sulfate in Ferromycin since September 11, 1974, 6 months before the March 10, 1975, Federal Register notice. It also had "full and precise notice" of the type of data required to support claims of effectiveness for drugs subject to regulation under the act. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, *supra* at 622. The 60-day time limit has proved workable for others who have requested hearings. Nevertheless, Copanos submitted no new data, but chose instead to rely on grossly inadequate studies conducted more than 11 years ago.

Copanos further contends that the Commissioner's objection that there is a lack of substantial evidence that the product is effective as a fixed combination within the meaning of § 514.1(b)(8)(v) is really an argument that Ferromycin is no more effective than a product that contains iron complex alone. Since the legislative history of the Drug Amendments of 1962 shows that Congress rejected relative effectiveness as a criterion for withdrawing approval of a drug, Copanos argues, the Commissioner's proposed action is illegal.

Copanos has misconstrued the basis for the Commissioner's proposed action. Approval for this product must be withdrawn not because it is less effective than like products, but because (1) it has not been shown to be effective at all for one of its labeled uses, namely, the prevention of local infections caused by bacteria sensitive to neomycin sulfate at the site of injection, and (2) because available data fail to demonstrate that there exists a pig population that is liable to infection upon injection with Ferromycin and that requires, for that reason, the concurrent therapy defined in the Ferromycin labeling. By contrast, were Copanos to remove the neomycin sulfate component from the formulation and make corresponding labeling revisions, Ferromycin might well be "effective" within the meaning of the act for iron-deficiency anemia even though relatively less effective than other iron supplements.

Finally, Copanos requested that a ruling on its request for hearing be delayed pending completion of additional protocols. Copanos has had ample time in which to develop additional data. The Commissioner believes, therefore, that further delay in these proceedings would be unwarranted. Accordingly, the request is denied. If Copanos develops data to substantiate the effectiveness of the subject formulation and the existence of a suitable target population, it can resubmit the data at that time.

For the foregoing reasons, the Commissioner finds, on the basis of new information before him with respect to Ferromycin, evaluated together with the evidence available to him when the drug was approved, that there is a lack of substantial evidence that such drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. The Commissioner further finds that no data have been submitted that demonstrate the existence of a population of subjects that could benefit from the inclusion of neomycin sulfate in this formulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 512, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 348, 360b, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby orders, based on the findings stated above:

1. That the request for hearing on a proposal to withdraw of approval of the drug product, identified by the assigned new animal drug application number 32-337V, be and is hereby denied.

2. That approval of the drug product, identified by assigned new animal drug

application number 32-337V, be and is hereby withdrawn, effective June 29, 1976.

3. That any approval held by any sponsor for any fixed combination drug product containing iron dextrin complex and neomycin sulfate recommended, inter alia, for prevention and treatment of anemia in baby pigs which was not named in the notice of opportunity for hearing in the FEDERAL REGISTER of March 10, 1975 (40 FR 11015) be and is hereby withdrawn.

Dated: June 21, 1976.

SHERWIN GARDNER,
*Acting Commissioner of Food and Drugs.*

[FR Doc.76-18605 Filed 6-28-76;8:45 am]

---

[Docket No. 76N-0165]

## PESTICIDE/NEW ANIMAL DRUG PRODUCTS

### Request for Information

The Food and Drug Administration (FDA) announces the transfer of pesticidal new animal drugs from dual jurisdiction with the Environmental Protection Agency (EPA) to the sole authority of FDA. To facilitate this transfer, FDA requests the voluntary submission of certain information.

New animal drugs are regulated by FDA under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301). Under the act, such products must be the subject of an approved new animal drug application (NADA) prior to marketing. For approval, the NADA must include adequate information to establish that the drug is safe and effective and not misbranded. Pesticides are regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 135 et seq.). The sponsor of any such pesticide is required by law to submit an application to EPA for review and registration prior to marketing. The purpose of the application is to establish that the pesticide complies with the Federal Insecticide, Fungicide, and Rodenticide Act as to its effectiveness and its safety to man, other animals, and to the environment.

Certain products have fallen within the applicable statutory definitions of both new animal drugs and pesticides and thus have heretofore been subject to the requirements of both laws. Because of this dual jurisdiction, FDA and EPA entered into an agreement, published in the FEDERAL REGISTER of December 22, 1971 (36 FR 24234), which, among other things, described the procedures for the review and approval of these products. An amendment to the 1971 agreement, published in the FEDERAL REGISTER of September 6, 1973 (38 FR 24233), resolved jurisdictional problems encountered by the two agencies in regulating these products.

On November 28, 1975, Pub. L. 94-140 revised the definition of "pesticide" in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)) to exempt any article that is a "new animal drug" as defined in section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)). This revised definition eliminated the dual statutory authority over products that are both pesticides and new animal drugs, so that all previously registered (approved) pesticide/new animal drug products defined solely as "new animal drugs" are now subject only to the Federal Food, Drug, and Cosmetic Act. Accordingly, EPA intends to terminate the registrations (including supplemental registrations) for any uses that place such products within the definition of a new animal drug. In the future, all products intended for uses which would have subjected them to both registration or supplemental registration as pesticides by EPA and approval as new animal drugs by FDA will be subject only to FDA approval as new animal drugs. Such approval may be obtained by filing an NADA or supplemental NADA with FDA pursuant to section 512 of the act (21 U.S.C. 360b).

For the purpose of initiating a transfer to its sole authority of all products affected by Pub. L. 94-140, FDA (in cooperation with EPA) is compiling a list of products currently registered as pesticides with EPA and the subject of an approved NADA. To facilitate a complete and timely transfer, the Commissioner of Food and Drugs requests that all other persons holding approved NADA's and/or EPA registrations for these or any other such products voluntarily submit identification of the product(s) in writing to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, by August 30, 1976. Product identification should consist of a full description of each pesticidal new animal drug including the chemical name and/or trade name of the product, a copy of the currently approved label, the NADA number, the EPA registration number, and the dates of FDA approval and EPA registration. This information is requested for pesticidal new animal drugs approved pursuant to section 505 of the act (21 U.S.C. 355) between 1938 and the effective date of the New Animal Drug Amendments of 1968 (August 1, 1969) and pesticidal new animal drugs approved after August 1, 1969, pursuant to section 512 of the act. All submissions should refer to the Hearing Clerk docket number found in brackets in the heading of this notice.

To date, the following products have been identified as the subject of approved NADA's and have previously been registered by EPA:

| Sponsor | Drug | NADA No. | EPA (registration) No. |
|---|---|---|---|
| American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540. | Famix famphur premix (famphur) | 34-266 | 241-X. |
| American Cyanamid Co. | Proban oral liquid 1.6 pct (cythioate) | 33-606 | 241-274. |
| Do. | Proban tablets (cythioate) | 33-342 | 241-190. |
| Do. | Warbex Pour-On/Bo-Ana Pour-On (famphur and xylene). | 34-697 | 241-200AA. |
| Bayvet Corp., P.O. Box 390, Shawnee Mission, Kans. 66201. | Anthon (trichlorfon) | 15-161 | 11556-5AA. |
| Bayvet Corp. | Baymix (coumaphos) | 15-065 | 11556-9/10. |
| Do. | Combot (trichlorfon) | 95-078 | 569-AI. |
| Do. | Spotton 20 pct (fenthion) | 47-138 | 11556-37. |
| Do. | Tiguvon Pour On (fenthion) | 34-641 | 11556-34 and 3125-238-AA. |
| Cutter Laboratories, Box 998, Shawnee Mission, Kans. 66201 (distributor). | Hoss-Wormer | 13-685 | 327-88-13130 and 327-89-13130. |
| The Dow Chemical Co., P.O. Box 1706, Midland, Mich. 48640 (distributor). | Steer-Kleer insecticidal mineral granules | 13-450 | 464-319. |
| The Dow Chemical Co. | Ruelene Drench for Sheep and Goats (ruelene). | 13-514 | 464-337. |
| Do. | Trolene 18 Premix (ronnel) | 41-377 | 464-415. |
| Do. | Trolene 20 L (ronnel) | 48-956 | 464-420. |
| Do. | Trolene FM 40 (ronnel) | 11-076 | 464-274-AA. |
| The Farnam Co., Inc., 8701 North 29th St., Omaha, Nebr. 68112. | Bot-X Horse Wormer (trichlorfon) | 43-166 | 270-60. |
| Fort Dodge Laboratories, 800 5th Ave. NW., Fort Dodge, Iowa 50501. | Dyrex (piperazine dihydrochloride) (phenothiazine) (trichlorfon) Dyrex. | 15-154<br>12-956 | 1117-37/30.<br>1117-41/44 and 1117-46/47. |
| Fort Dodge Laboratories. | Dyrex Powder (trichlorfon) | 35-650 | 1117-42. |
| Do. | Freed No. 10 and No. 25 (trichlorfon) | 13-248 | 1117-35/36. |
| Merck & Co., Inc., 126 East Lincoln Ave., Rahway, N.J. 07065. | Top Form Wormer Two 1 Equizole B thiabendazole/Trichlorfon Horse Wormer. | 91-06 | 618-85. |
| Moorman Manufacturing Co., 501 South Front St., Quincy, Ill. 62301. | Medicated Rid-Ezy (ronnel) | 13-450 | 1157-26-AB and 1157-24-AB. |
| Philips-Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502 (distributor). | Anchor Famphur Pour-On | 34-697 | 241-200-11769. |
| Pitman-Moore, Inc., Bear Tavern Rd., Washington Crossing, N.J. 08560. | Ectoral Emulsifiable Concentrate (ronnel) | 12-361 | 778-44. |

| Sponsor | Drug | NADA No. | EPA (registration) No. |
|---|---|---|---|
| Pitman-Moore, Inc | Ectoral Tablets (ronnel) | 12-360 | 773-43. |
| Pro-Brands Products Co., 2021 North Grove St., Box 4186, Fort Worth, Tex. 76106, (distributor). | Pro-Brand Horse Wormer | 13-685 | 327-87-13329, 327-88-13329 and 327-89-13329. |
| Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63199. | Purina Bot Control (trichlorfon) | 48-915 | 602-214-AA. |
| Ralston Purina Co | Purina Grub Kill (famphur and xylene) | 43-215 | 602-159-AA. |
| Shell Chemical Co., 2401 Crow Canyon Rd., San Ramon, Calif. 94583. | Equigard (dichlorvos) | 35-918 | 201-257-AA, 201-335-AA. |
| Shell Chemical Co | Equigel (dichlorvos) | 48-237 | 201-329-AA. |
| Starbar, Inc., 12200 Denton Dr., Dallas, Tex. 75234 (distributor). | GX-118 | 44-757 | 476-2043. |
| Stauffer Chemical Co., 1200 South 47th St., Richmond, Calif. 94804. | Prolate 1 E Dip (*N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)). | 44-757 | 476-2043. |
| Texas Phenothiazine Co., 2021 North Grove St., Box 4186, Fort Worth, Tex. 76106. | Equi-Verm (trichlorfon and purified phenothiazine). | 13-685 | 327-87/89. |
| The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49001. | Parvex Bolus (piperazine carbon) (disulfide complex). | 11-590 | 9156-7. |
| The Upjohn Co | Parvex Plus (piperazine carbon) (disulfide complex and phenothiazine). | 33-149 | 9156-6. |
| Vet-Kem Laboratories, 12200 Denton Dr., Dallas, Tex. 75234 (distributor). | Kemolate | 44-757 | 476-2043. |

Dated: June 18, 1976.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.76-18604 Filed 6-28-76;8:45 am]

## PRIVACY ACT OF 1974

### Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579) as prescribed in 5 U.S.C. 552a(e)(4), the following modified notices of systems of records that are maintained by the Department of Health, Education, and Welfare are published as set forth below. These systems are currently ongoing and the changed and/or additional information in the notices is indicated by italics. Two of these system modifications required altered system reports. These reports were filed with OMB on March 25th. The two systems concerned are named; Automated Controlled Correspondence Extraction System (SSA/EA/PI/0175.03) and Master Beneficiary Record (SSA/PO/RSI/0275.03). The other modifications to the notices do not require altered system reports.

Prior to the final adoption of the proposed additional/modified routine uses of these notices, consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing on or before July 29, 1976. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection in Room 526E, South Portal Building, at the above address.

Dated: June 23, 1976.

JOHN OTTINA,
*Assistant Secretary for Administration and Management.*

### CDC NIOSH 0024.00

**System name:**

Workers Exposed to Benzidine—(Bladder Cancer)—HEW/CDC/NIOSH.

**Security classification:**

None.

**System location:**

Division of Field Studies and Clinical Investigations, NIOSH, U.S. Post Office & Courthouse, Cincinnati, Ohio 45202.

Southwest Ohio Regional Computer Center, Medical Sciences Building, University of Cincinnati, Cincinnati, Ohio 45202.

*Johns Hopkins University, School of Hygiene and Public Health, 618 N. Wolfe Street, Baltimore, MD 21205.*

**Categories of individuals covered by the system:**

Employees at Selected Plants Using Benzidine. *A list of selected plant sites will be made available to the public upon request to the system manager.*

**Categories of records in the system:**

Occupational History, Demographic Data.

**Authority for maintenance of the system:**

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

*Information from studies will be used by Johns Hopkins epidemiologists to conduct a medical screening program for early detection of possible bladder cancer in this group of workers. Also, see Appendix B of HEW Regulation (45 CFR., part 5b), item 100.*

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Computer Tape, Microfilm, Microfiche, Computer Printouts.

**Retrievability:**

The purpose of this system is to determine the cause and prevention of disease of industrial origin. Name is the index used to retrieve records from this system.

**Safeguards:**

24-hour guard service in building; Locked building, locked rooms; Personnel screening; Locked computer room and computer tape vaults; Locked file cabinets; Computer tapes are password protected.

**Retention and disposal:**

Records are retained indefinitely. Disposal methods include erasing computer tapes and burning or shredding printouts.

**System manager(s) and address:**

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Park Bldg.—Room 3-32, Rockville, Maryland 20852.

**Notification procedure:**

Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333.

**Record access procedures:**

Same as notification.

**Contesting record procedures:**

Same as notification.

**Record source categories:**

Information is obtained from employer records. Vital status information is obtained from Federal, State and Local governments and other available sources. Information is obtained from the individual and employer records.

### CDC NIOSH 0024.00

**System name:**

Workers Exposed to Benzidine—(Bladder Cancer)—HEW/CDC/NIOSH.

**Security classification:**

None.

**System location:**

Division of Field Studies and Clinical Investigations, NIOSH, U.S. Post Office & Courthouse, Cincinnati, Ohio 45202.

Southwest Ohio Regional Computer Center, Medical Sciences Building, University of Cincinnati, Cincinnati, Ohio 45202.

**Categories of individuals covered by the system:**

Employees at Selected Plants Using Benzidine.

**Categories of records in the system:**

Occupational History, Demographic Data.

**Authority for maintenance of the system:**

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

See PHS appendix, item 100.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Computer Tape, Microfilm, Microfiche, Computer Printouts.

**Retrievability:**

The purpose of this system is to determine the cause and prevention of disease of industrial origin. There is no transfer of this information outside NIOSH. Name is the index used to retrieve records from this system.

**Safeguards:**

24-hour guard service in building, Locked building; locked rooms, Personnel screening, Locked computer room and computer tape vaults, Locked file cabinets, Computer tapes are password protected.

**Retention and disposal:**

Records are retained indefinitely. Disposal methods include erasing computer tapes and burning or shredding printouts.

**System manager(s) and address:**

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Park Bldg—Room 3-32, Rockville, Maryland 20852.

**Notification procedure:**

*To determine if a file exists, write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration; (2) name of study if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department regulations, 45 CFR, Part 5b.6, Federal Register, October 8, 1975, page 47411).*

**Record access procedures:**

*Same as notification procedures. Requesters should also reasonably specify the record contents being sought.*

**Contesting record procedures:**

*Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5b.7).*

**Record source categories:**

Information is obtained from employer records. Vital status information is obtained from Federal, State and Local governments and other available sources. Information is obtained from the individual and employer records.

## HRA BHM 0007.01

**System name:**

Public Health Service Scholarship Program HEW/HRA/BHM.

**Security classification:**

None.

**System location:**

Bldg 31,
9000 Rockville Pk.,
Bethesda, Md 20014,
Div of Computer Research & Tech.,
Bldg 12,
Bethesda, Md 20014,
and Regional Federal Records Center.

**Categories of individuals covered by the system:**

Students-Health Professionals as specified in 42 CFR 62:
1) Applicants, 2) Recipients.

**Categories of records in the system:**

Application and associated forms; recipient records also contain progress reports, payroll forms, deferment and placement data.

**Authority for maintenance of the system:**

P.L. 92-585.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Name of scholarship recipient, professional school he or she is attending, and date of graduation are made available to health professions associations and other interested health professions groups who have responsibility for coordinating funds paid to students from Federal and other sources. Records may be disclosed to individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (45 CFR, Part 56, Appendix B, Item 101)

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

File Cabinets; ADP—Tapes.

**Retrievability:**

The records in this system are used in the following manner: 1) Application—for the selection process by HRA and HSA 2) Recipient—Payroll, tuition and fees, tracking, deferment, defaults, & placement by HRA, HSA, central payroll and PHS claims office. Retrievability: Name, Award No., University, Social Security No. (Permission has been requested from the department for the continued use in this system of the SSN as a use within Sec. 7(a)(2)(B) of the Privacy Act.)

**Safeguards:**

Locking file units have been requested. (Lektriever 200).

**Retention and disposal:**

Number of years held at HRA: 12. Number of years held at Federal Record Center before disposal: 3. How destroyed: shredder (non-selected applicant files destroyed: after six months from deadline due date).

**System manager(s) and address:**

Chief, Scholarship Section, Student Assistance Staff, 9000 Rockville Pike, Bethesda, Md. 20014.

**Notification procedures:**

Same as above.

**Record access procedures:**

Same as above.

**Contesting record procedures:**

Same as above.

**Record source categories:**

Evaluation forms from school faculty—requested by student applicant, Educational Institution attended, Internship and/or residency training site, HSA and CPOD, OPM/H.

**Systems exempted from certain provisions of the act:**

None.

## HEW HSA BMS 0003.02

**System name:**

Contract Physicians and Consultants HEW/HSA/BMS.

**Security class:**

None.

**System location:**

6525 Belcrest Road, Room 1100, Presidential Building, Hyattsville, Maryland 20782, and 9 USPH Hospitals per appendix.

**Categories of individuals covered by the system:**

*Medical and allied health professionals (physicians, nurses, physical therapists, etc.) who have contracted with the Bureau of Medical Services or its Divisions to provide services to beneficiaries.*

**Categories of records in the system:**

Duplicate or original contract and personal data qualifications.

**Authority for maintenance of the system:**

Public Health Service Act Section 321, 322 (42 U.S.C. 248, 249).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

See Appendix B of the Departmental Regulations (45 CFR, Part 5b) Item (5), (7) and (100).

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

File Folders.

**Retrievability:**

*Purpose—Contract compliance, review of credentials, statistical and other information required to manage the program. Users—Professional and administrative staff of the Bureau of Medical Services, its Divisions and field stations. Retrievability—Name and contract number.*

**Safeguards (access controls):**

*Access limited to professional and administrative staff of the Bureau of Medical Services, its Divisions and field stations who need to know in order to perform their official duties.*

**Retention and disposal:**

Number of years held at HSA—1–3 years dependent upon renewal. Number of years held at Federal Records Center before disposal—copy not held. How destroyed: shredded.

**System manager(s) and address:**

Chief, General Services Branch, HEW/HSA/Bureau of Medical Services, 6525 Belcrest Road, Room 1100, Hyattsville, Maryland 20782.

**Notification procedures:**

Director, Bureau of Medical Services, Attention: Chief, General Services Branch, 6525 Belcrest Road, Room 1100, Hyattsville, Maryland 20782, and List as under location.

**Record access procedures:**

Same as above.

**Contesting record procedures:**

Same as above.

**Record source categories:**

Physicians/consultants.

**Systems exempted from certain provisions of the Act:**

None.

APPENDIX

Director, USPHS Hospital, Attention: General Supply Officer, 3100 Wyman Park Drive, Baltimore, Maryland 21211.

Director, USPHS Hospital, Attention: General Supply Officer, 77 Warren Street, Boston (Brighton), Massachusetts 02135.

Director, USPHS Hospital, Attention: General Supply Officer, Carville, Louisiana 70721.

Director, USPHS Hospital, Attention: General Supply Officer, 4400 Avenue N, Galveston, Texas 77550.

Director, USPHS Hospital, Attention: Office Services Manager, 210 State Street, New Orleans, Louisiana 70118.

Director, USPHS Hospital, Attention: Supply Officer, 6500 Hampton Boulevard, Norfolk, Virginia 23508.

Director, USPHS Hospital, Attention: General Services Officer, 15th Avenue and Lake Street, San Francisco, California 94118.

Director, USPHS Hospital, Attention: General Supply Officer, 1131 14th Avenue, S., Seattle, Washington 98114.

Director, USPHS Hospital, Attention: Supply Management Officer, Bay & Vanderbilt Streets, Staten Island, N.Y. 10304.

## HEW HSA BMS 0024.02

**System name:**

PHS Clinical Affiliation Trainee Records HEW/HSA/BMS.

**Security class:**

None.

**System location:**

See Appendices 1 and 2 to Patients Medical Record System PHS Hospitals/Clinics System.

**Categories of individuals covered by the system:**

*Students in PHS training programs or serving clinical affiliation in Public Health Service Hospitals and Clinics.*

**Categories of records in the system:**

*Transcripts of past education, application for training, training program staff and clinical supervisor evaluations and progress reports, course grades and evidence of completion of training requirements.*

**Authority for maintenance of the system:**

Public Health Service Act, Section 321 (42 U.S.C. 248).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

1. *To Educational Program staff of affiliated college/university to provide reports of student/trainee's progress in training.*

2. *To prospective employers for professional reference.*

3. *To representatives of medical/allied health training program accreditation bodies for review and accreditation of PHS Training Programs.*

4. *To professional boards or associations to certify the students' progress in/or completion of training as required for professional license, registration certification, etc.*

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

File Folders.

**Retrievability:**

Purpose—Communication between educational and supervisory staff for evaluation of trainee. Users—Director of Education at facility, Work and Staff Supervisors, Administration personnel. Retrievability—Alphabetically by last name.

**Safeguards (access controls):**

Stored in locked files, access limited to authorized personnel.

**Retention and disposal:**

Number of years held at HSA—indefinitely. How destroyed—shredded.

**System manager(s) and address:**

Director, Division of Hospitals and Clinics, Federal Center Building 03, 6525 Belcrest Road, Hyattsville, Maryland 20782.

**Notification procedures:**

*Same as system location. The individual should contact directly the PHS facility where training was received giving name, date of birth and approximate dates of training to allow positive identification of the record.*

**Record access procedures:**

Same as notification.

**Contesting record procedures:**

Same as notification.

**Record source categories:**

*Individual, clinical supervisors, instructors, training program staff and administrative personnel of facility and affiliated college/university.*

**Systems exempted from certain provisions of the Act:**

None.

## SSA EA PI 0175.03

**System name:**

Automated Controlled Correspondence Extraction System HEW SSA.

**Security classification:**

None.

**System location:**

Office of Public Inquiries, 6401 Security Boulevard, Baltimore, Maryland 21235.

Office of the Commissioner, 6401 Security Boulevard, Baltimore, Maryland 21235.

Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Bureau of Disability Insurance, Dickinson Tower Building, 1500 Woodlawn Drive, Baltimore, Maryland 21241.

Bureau of Hearings and Appeals, Ballston Center, Tower 2, 800 North Randolph Street, Arlington, Virginia 22204.

**Categories of individuals covered by the system:**

Records are maintained for individuals who forward a request for information directly to the Commissioner of the Social Security Administration and for individuals whose requests to Members of Congress, the President, etc. are forwarded to the Commissioner for response.

**Categories of records in the system:**

Information is maintained in the system solely to aid in the control of correspondence through the various processing steps. Information in the records includes the following; name of individual involved, social security number (if given), name of third party inquirer (if present), type of correspondence (congressional or noncongressional), congressman's name (if a congressional inquiry), address-to-code (official to whom inquiry is directed), signature code (official whose name will appear on the reply), computer identification code (10 digit code cross referred to the name of the individual), subject matter code (3 digit code indicating the program area being inquired about), location information (component within SSA that received the inquiry and date of receipt), and response information (type and date of SSA response).

**Authority for maintenance of the system:**

Sections 205(a) and 1631 of the Social Security Act; 42 U.S.C. 405(a) and 1383 and Section 413 of the Federal Coal Mine

Health and Safety Act (Black Lung); 30 U.S.C. 923.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

The records are maintained on magnetic tape and computer discs.

**Retrievability:**

The system is indexed by both name and by computer identification number, which are cross-referred. It is used to control processing of correspondence within the Social Security Administration Central Office Complex and the Bureau of Hearings and Appeals in Arlington, Virginia, and to provide management information regarding the correspondence process.

**Safeguards:**

Magnetic tape and disc files are protected through standard security measures used for all of the Social Security Administration's computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records—limited access to social security offices, limited employee access to those that have a need to know; all employees receive instruction in Social Security Administration confidentiality rules in an initial orientation. Guidelines contained in the FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management, and FIPS PUB 3, ADP System Security Required by the Privacy Act of 1974, were taken into account in development of these safeguards.

**Retention and disposal:**

Records are maintained on-line in the system from the time of control until 13 months after the final response is released. The records are then maintained on magnetic tape for an additional 24 months before being erased.

**Systems manager(s) and address:**

Director, Office of Public Inquiries, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

**Notification procedure:**

Chief, Office of Public Inquiries Analysis Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

Identifying information should include the name of the person inquired about, the person to whom the inquiry was sent and the date of the inquiry.

**Record access procedures:**

Same as above.

**Contesting record procedures:**

Same as above.

**Record source categories:**

Inquiries directed to the Commissioner of the Social Security Administration from members of the public.

**System exempted from certain provisions of the Act:**

None.

## SSA PO RSI 0275.03

**System name:**

Master Beneficiary Record HEW SSA

**Security classification:**

None.

**System location:**

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

**Categories of individuals:**

All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in Social Security Act; and denied and disallowed cases.

**Categories of records:**

The master beneficiary record contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases; contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable; reflects any special status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary subscript, beneficiary name, date of birth, date of entitlement, sex, race, and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form: Master Beneficiary Record Computer File; On-line Data Base (Query and Response); Various Microform Files as follows: Master File—a master record in account number order, Alpha File—an alphabetic list of beneficiaries, Transaction File—monthly supplement (accretions, deletion, and changes) to the master file, in account number order; Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary record (after use they are returned to stock); Payment Reference Listing.

**Authority for maintenance of the system:**

Payment of benefits is directed by the following sections: Sections 202 a–i, 223, 226, 228, and 1611 of the Social Security Act; 42 U.S.C. 402 a–i, 423, 426, 428 and 1382.

**Routine uses of records maintained in the system:**

Routine uses for disclosure may be to:

a. *Applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.*

b. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security programs when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are neded to establish the validity of evidence or to verify the accuracy of information presented by the individual; and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

c. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

d. A person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiaiton of social security checks.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412 (special payments to certain survivors of uninsured persons who die after 1956 while on active duty, active duty for training, or inactive duty training, or who die after 1956 due to a service-connected disability incurred after September 15, 1940).

k. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

l. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earning.

m. The Civil Service Commission for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

n. State social security administrators for administration of agreements pursuant to section 218 (State and local) 42 U.S.C. 418.

o. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(11), 42 U.S.C. 405(c)(2)(B)(i)(11), and 402(a)(25), 30 U.S.C. 902(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC and Medicaid programs.

p. Energy Resources Development Administration for their study of the long-term effects of low-level radiation exposure.

**Storage:**

Magnetic tape, *magnetic disk*, microfilm, and paper.

**Retrievability:**

Based on social security number on magnetic tape, microfilm readers and printers, listings, and online computer terminals. Master beneficiary record data are used by a broad range of social security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and to generate payment records for Treasury.

**Safeguards:**

Magnetic tape, disk, and microfilm files are protected through standard security measures used for all of the Social Security Administration's computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records—limited access to social security offices, limited employee access to those that have a need to know; all employees receive instruction in Social Security Administration confidentiality rules in an initial orientation. Guidelines contained in the FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management, and FIPS PUB 3, ADP System Security Required by the Privacy Act of 1974, were taken into account in the development of these safeguards.

**Retention and disposal:**

Magnetic tape records *are used to update the disk files and then* are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, *while the disk files are continuously updated and retained indefinitely.* Microfilm is disposed of by shredding after periodic replacement of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see notices for claims folders and post-adjudicative records of applicants and beneficiaries for social security benefits).

**System manager(s) and address:**

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

**Notification procedure:**

Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols), and name and address must be furnished with proper identification.

**Record access procedures:**

Contact may be in person, or in writing to the most convenient social security office.

**Record source categories:**

The information for the master beneficiary record comes primarily from the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the Social Security Administration by the beneficiary; from States regarding health insurance buy-in cases.

**Systems exempted from certain provisions of the Act:**

None.

## SSA HIINT 0175.01

**System name:**

Intermediary Medicare Claims Records HEW SSA.

**Security class:**

None.

**System location:**

Intermediaries under contract to the Social Security Administration (see Appendix C, Section 3).

**Categories of individuals covered by the system:**

Recipients of Part A (hospital insurance) Medicare services.

**Categories of records in the system:**

Inpatient hospital and extended care admission and other health services; inpatient admission and billing—Christian Science Sanatorium; home health agency report and billing, and other documents used to support payments to providers of service. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, provider name, physician's name, date of admission and discharge, other health insurance and a statement of services rendered.

**Authority for maintenance of the system:**

Sections 1816 and 1874 of Title XVIII of the Social Security Act.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

*Routine uses for disclosure may be to:*

a. *Claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).*

b. *Third-party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the Medicare program when:*

(1) *The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read*

*or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or*

*(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.*

*c. Third-party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.*

*d. The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.*

*e. The United States Postal Service for investigating alleged forgery or theft of social security checks.*

*f. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.*

*g. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.*

*h. Professional Standards Review Organization for utilization review (PSRO).*

*i. State Licensing Boards for review of unethical practices or nonprofessional conduct.*

*j. Providers and suppliers of services directly dealing through fiscal intermediaries or carriers for administration of provisions of title XVIII.*

*k. Contractors under contract to the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.*

*l. State welfare departments pursuant to agreements with the Social Security Administration for administration of State supplementation payments for determinations of eligibility for Medicaid per Section 1634 of the Social Security Act.*

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Records maintained on forms.

**Retrievability:**

The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The paid bills are forwarded to the Social Security Administration, Bureau of Data Processing, Baltimore, Maryland, where they are microfilmed and used to assist in responding to individual inquiries.

**Safeguards (access controls):**

Disclosure of records is limited. The file area is closed to unauthorized personnel.

**Retention and disposal:**

Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to Federal Records Center and destroyed after another 6 years.

**System manager(s) and address (include Zip Code):**

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

**Notification procedure:**

Inquiries and requests for system records should be addressed to the social security office nearest the requester's residence (see Appendix F), or to the Social Security Administration, Bureau of Health Insurance, Health Insurance Inquiries Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on social security records.

**Record access procedures:**

An individual can obtain information on the procedures for gaining access to and contesting records from the social security office nearest his residence or from the Social Security Administration, Bureau of Health Insurance, Health Insurance Inquiries Branch, Baltimore, 21235.

**Contesting record procedures:**

Same.

**Record source categories:**

The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

**Systems exempted from certain provisions of the Act:**

None.

[FR Doc.76-18902 Filed 6-28-76;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Doc. No. NFD-342 (FDAA-507-DR)]

### GEORGIA

### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Georgia dated June 11, 1976, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 11, 1976:

The County of Hall.

Dated: June 23, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.76-18861 Filed 6-28-76;8:55 am]

## CIVIL AERONAUTICS BOARD

[Docket 29371; Order 76-6-157]

### HAWAIIAN AIRLINES, INC.

### Increased Air Freight Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of June, 1976.

By tariff revisions [1] issued May 10 and marked to become effective June 24, 1976, Hawaiian Airlines, Inc. (HAL) proposes to increase general and specific commodity rates and charges, except minimum charges, by an average of 1.3 cents per pound for a 22.7 percent increase in revenues.

A joint complaint requesting suspension and investigation of the proposal was filed on June 7 by the State of Hawaii, County of Hawaii and the County of Maui (the State). An answer to the complaint was filed by the carrier on June 17.

In view of the foregoing, the Board has been delayed in its consideration of the matter. In view of the imminent effective date of the proposed rates, we are herein suspending them to afford the Board a more adequate period of time within which to evaluate the proposal. The Board contemplates reaching its conclusion on this matter at an early date.

Upon consideration of all relevant matters, the Board has determined that the proposed rates may be unjust or unreasonable, or unjustly discriminatory, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that this proposal should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Section 204(a), 403, 404 and 1002 thereof,

*It is ordered* That:

1. An investigation is instituted to determine whether the rates and provisions described in Appendix A attached hereto, and rules, regulations, and practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful rates and provisions, and rules regulations, or practices affecting such rates and provisions;

[1] Revisions to Tariff C.A.B. No. 4 issued by Hawaiian Airlines, Inc.

2. Pending further order by the Board, the rates and provisions described in Appendix A hereto are suspended and their use deferred to and including September 21, 1976, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension, except by order or special permission of the Board; and

3. Copies of this order shall be filed with the tariff and served upon the State and County of Hawaii, the County of Maui, and Hawaiian Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Acting Secretary.*

APPENDIX

TARIFF C.A.B. NO. 4, ISSUED BY HAWAIIAN AIRLINES, INC.

1. All increased rates and provisions; and the cancellation of rates, subject to a minimum weight of 500 pounds, on 4th Revised Page 47 and 5th Revised Page 48.

2. All increased rates on the following pages: 6th Revised Page 49, 6th Revised Page 51, 5th Revised Page 52, 4th Revised Page 53, 5th Revised Page 54, 7th Revised Page 56, 6th Revised Page 57, 3rd Revised Page 57-A, 3rd Revised Page 57-B.

[FR Doc.76-18848 Filed 6-28-76;8:45 am]

---

[Order 76-6-142]

## SMYTH WORLDWIDE MOVERS INC.

### Extension of Temporary Relief

Issued under delegated authority June 21, 1976.

Extension of temporary relief granted to Smyth Worldwide Movers Inc. to transport household goods for the Department of Defense.

From time to time, at the request of the Department of Defense (DOD), the Board has granted relief from provisions of the Federal Aviation Act of 1958 (the Act) to permit otherwise unauthorized indirect air carriers to transport used household goods [1] of Department of Defense personnel. A condition for obtaining such relief was that the firm seeking it have on file with the Board an application for air freight forwarder authority. The relief was to expire 180 days after the Board's decision in the *Household Goods Air Freight Forwarder Investigation*, docket 20812, became final [2] or, as to each individual company, upon Board disposition of such company's application for interstate and/or international air freight forwarder authority, whichever event shall occur first.

Since the processing of a number of applications could not be concluded prior to the expiration of the temporary relief, the Department of the Army, acting in behalf of DOD, by letter dated July 6, 1973, requested an extension of the temporary relief in those cases where processing could not be completed by the time limit previously set. The Board initially extended the temporary relief for 90 days and subsequently granted further extensions.[4] Such relief, as applicable to Smyth Worldwide Movers Inc. (Smyth), is to expire on June 30, 1976.

All matters relating to Smyth's application for an air freight forwarder authorization are nearing completion; however, they will not be fully resolved prior to June 30, 1976. In view of these circumstances, it is found, pursuant to authority delegated by the Board, that further extension of the temporary relief to Smyth Worldwide Movers Inc. is in the public interest and that such relief should be extended as indicated below.

*Accordingly, it is ordered,* That:

1. Pursuant to sections 101(3) and 204 of the Federal Aviation Act of 1958, as amended, Smyth Worldwide Movers Inc. is hereby relieved from the provisions of Title IV of the Act to the extent necessary to transport by air used household goods of personnel of DOD upon tender by the Department;

2. The relief granted Smyth Worldwide Movers Inc. shall be effective July 1, 1976, and shall terminate on September 30, 1976, or upon Board disposition of Smyth's application for interstate and international air freight forwarder authority, whichever event shall occur first;

3. This order may be amended or revoked at any time in the discretion of the Board without hearing; and

4. Copies of this order shall be served on the Military Traffic Management Command, Department of Defense, and Smyth Worldwide Movers Inc.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

BRUCE E. CUNNINGHAM,
*Director, Bureau of Operating Rights.*

PHYLLIS T. KAYLOR,
*Acting Secretary.*

[FR Doc.76-18847 Filed 6-28-76;8:45 am]

---

[1] The term "used household goods" means personal effects (including unaccompanied baggage) and property used or to be used in a dwelling, when a part of the equipment or the supply of such dwelling, but specifically excludes (1) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments, and (2) objects of art (other than personal effects), displays, and exhibits.

[2] Order on reconsideration issued Oct. 16, 1972. Temporary relief was to expire Apr. 15, 1973.

[3] Order 71-10-56, dated Oct. 13, 1971.

[4] Order 73-4-57, dated Apr. 12, 1973, as supplemented by other orders shown in n. 4 to order 74-11-90, dated Nov. 19, 1974, order 75-4-133, dated Apr. 29, 1975, and order 75-11-73, dated Nov. 20, 1975.

# CIVIL SERVICE COMMISSION

## DEPARTMENT OF COMMERCE

### Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Standards Review, Office of the Assistant Secretary for Science and Technology.

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

[FR Doc.76-18611 Filed 6-28-76;8:45 am]

---

## DEPARTMENT OF DEFENSE

### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Assistant Secretary of Defense (Comptroller), Immediate Office, OASD (Comptroller), Office of the Secretary of Defense.

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

[FR Doc.76-18610 Filed 6-28-76;8:45 am]

---

## DEPARTMENT OF DEFENSE

### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Executive Director, OSD Staff, Immediate Office, Office of the Secretary of Defense.

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

[FR Doc.76-18612 Filed 6-28-76;8:45 am]

---

## FEDERAL EMPLOYEES PAY COUNCIL

### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Tuesday, July 30, 1976. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E. Street NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems

of the Federal Government, which are defined in section 5301 of title 5, United States Code.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(b) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

JAMES N. WOODRUFF,
*Acting Advisory Committee Management Officer for the President's Agent*

[FR Doc.76-18613 Filed 6-23-76;8:45 am]

## DEFENSE NUCLEAR AGENCY

### SCIENTIFIC ADVISORY GROUP ON EFFECTS (SAGE)

### Meeting

The next meeting of the Scientific Advisory Group in Effects (SAGE), Defense Nuclear Agency (DNA), will be held during the period 10–12 August 1976 at the United States Air Force Academy, Colorado Springs, Colorado. SAGE members will review and evaluate ongoing and future DNA programs. Since all of the presentations and review will contain classified information, the meeting will be closed to the public under the provisions of section 552 (b) (1) and (3) of title 5, United States Code.

W. A. HUGHES,
*LCDR, USN,*
*Executive Secretary, SAGE.*

[FR Doc.76-18796 Filed 6-28-76;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 569-5; FIFRA Docket Nos. 246, et al.]

### CHAPMAN CHEMICAL COMPANY, ET AL.

### Consolidated Mercury Cancellation Hearing

By Order dated March 26, 1976, I granted a motion for reconsideration of that portion of my February 17, 1976, Order [41 FR 16497 (April 19, 1976)], which cancelled the registrations of mercurial biocides for use in latex paints. On May 27, 1976, I issued my Decision and Order on Reconsideration. These three documents are published herewith.

Dated: June 24, 1976.

RUSSELL E. TRAIN,
*Administrator.*

DECISION OF THE ADMINISTRATOR ON RECONSIDERATION

In Re: hapman Chemical Company, *et al.*, Registrants (Consolidated Mercury Cancellation Proceeding).

On reconsideration of the portions of my Decision and Order of February 17, 1976 cancelling the registrations of mercurial pesticides for use in water-based paints and coatings, I conclude that I erred. Accordingly, I am today modifying my February 17 Order to reinstate such registrations.

BACKGROUND

On December 12, 1975, Administrative Law Judge ("ALJ") Bernard D. Levinson issued his Initial Decision in the above-captioned proceedings. At issue were whether and to what extent I should cancel the registrations of pesticide products containing mercury under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. 135 *et seq.*

The ALJ recommended that the registrations of mercurial pesticides for certain uses be cancelled and that registrations for other uses be continued. With respect to paints and coatings, the ALJ recommended (*a*) that I allow mercurial pesticides to be used as an in-can bactericide judicial review is not completed by November 30, 1976, any party may petition the Administrator at that time for an extension of the stay.

Dated: May 27, 1976.

RUSSELL E. TRAIN.

ORDER GRANTING MOTION FOR RECONSIDERATION

In Re: Chapman Chemical Company, *et al.*, Registrants (Consolidated Mercury Cancellation Proceeding).

On March 1, 1976, Troy Chemical Corporation, Tenneco Chemicals, Inc., Cosan Chemical Corporation, and the National Paint and Coatings Association, all parties to the above-captioned proceeding, moved the Administrator to reconsider his Decision and Order of February 17, 1976, insofar as it cancels registrations of mercurial pesticides for use in water-based paints and coatings. On March 10, 1976, Respondent EPA filed an answer to the motion opposing reconsideration.

Section 164.110(c) of the Rules of Practice governing this proceeding provides that a motion to reconsider a final order of the Administrator must be made within 10 days after the date of service of the final order and that such motion "must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated."

As grounds for reconsideration, the movants have incorporated by reference their Motion to Stay dated and filed February 25, 1976 (including Affidavits attached thereto) and appended to the motion a Statement of Matters Erroneously Decided and Errors Committed. They assert that several conclusions contained in the February 17 Decision and Order were erroneously decided and that a number of alleged factual and legal errors were committed.

On March 2, 1976, I issued an Order Granting Temporary Stay of the February 17, 1976 Decision and Order in this proceeding pursuant to applications for stay filed by several parties to this proceeding, including the movants. In the March 2 Order, I concluded that there was a substantial likelihood that irreparable harm would occur with respect to some of the parties to this proceeding in the absence of a stay of the February 17 Order. Without adopting the specific contentions or characterizations of the applicants, I also concluded that the risk of immediate harm to man or the environment from the continued use of mercurial pesticides was not sufficient to outweigh the harm to the applicants which would be likely to occur during the period required for judicial review of the February 17 Decision and Order. I also considered a temporary stay of the February 17 Order appropriate to allow the parties ample opportunity to phase out the production and formulation of mercurial pesticides for which registrations were cancelled.

In view of the stay of the February 17 Order, and in consideration of the allegations of factual and legal errors asserted by the movants, I find that a sufficient basis and opportunity now exists to reconsider the matters alleged in the aforementioned Statement of Matters Erroneously Decided and Errors Committed. Accordingly, the foregoing Motion for Reconsideration is hereby granted.

This Order applies only with respect to registrations of mercurial pesticides for use in water-based paints and coatings cancelled pursuant to the February 17 Decision and Order, and is specifically limited to alleged factual and legal errors set forth in the Statement of Matters Erroneously Decided and Errors Committed appended to the motion, as well as Findings and Conclusions contained in the February 17 Decision and Order upon which such allegations are based.

The movants, Respondent, and any other party to this proceeding having an interest in the matters to be reconsidered are hereby requested to file with the Administrator briefs or memoranda addressing the factual and legal matters to be reconsidered by no later than April 16, 1976.

Dated: March 26, 1975.

RUSSELL E. TRAIN.

ORDER REINSTATING CERTAIN REGISTRATIONS AND EXTENDING EFFECTIVENESS OF STAY

In Re: Chapman Chemical Company, *et al.*, Registrants (Consolidated Mercury Cancellation Proceeding).

In accordance with the foregoing Decision on Reconsideration, my Order of February 17, 1976 in the above-captioned proceedings is hereby modified to reinstate the registrations of mercurial pesticides for the following uses:

(a) As an in-can preservative in water-based paints and coatings;

(b) As a fungicide in water-based paints and coatings used for exterior application.

Further in accordance with the foregoing Decision on Reconsideration, my Order Granting Temporary Stay of March 2, 1976 in the above-captioned proceedings is hereby modified by deleting therefrom clause #2 on page 5 and by substituting therefor the following:

"This stay shall continue through November 30, 1976, or the conclusion of judicial review proceedings, whichever occurs first. If and exterior fungicide in *water*-based paints and coatings and (b) that I cancel registrations for all other uses in paints and coatings (basically uses in *oil*-based formulae).

My February 17 Order accepted some of the ALJ's recommendations and rejected others. With respect to paints and coatings, I cancelled the registrations of all mercurial pesticide products used in all types of paints, both water-based and oil-based.

On March 1, four parties to these proceedings filed a joint motion for reconsideration, asking that I modify my February 17 Order so as to allow the continued use of mercurial pesticides in water-based paints. I granted the motion for reconsideration on March 26, and asked for briefs from interested parties. The moving parties and Respondent (EPA) filed their briefs with me on April 16.

DISPOSITION ON RECONSIDERATION

In carrying out his risk-benefit analysis (as required by §§ 6(b) and 2(bb) of FIFRA), the ALJ determined that registrations for mercurial pesticides should be cancelled only for uses where non-mercurial substitutes are adequate and effective (p. 56 of ALJ's Initial Decision). Because he found that sub-

stitutes for mercurials in water-based paints are not adequate and effective (pp. 23–29), he recommended that mercurial registrations for such uses not be cancelled (pp. 63–64). While I found no error in the ALJ's basic approach to risk/benefit assessment (p. 10 of my February 17 Decision), I disagreed with his conclusions as to the adequacy and effectiveness of the non-mercurial substitutes for use in water-based paints (pp. 26–32 of my February 17 Decision).

Upon review of the ALJ's Initial Decision, relevant portions of the record, and all briefs filed on April 16, it appears that my February 17 Decision gave undue weight to certain portions of the testimony which led me to overestimate the overall equivalency and efficacy of non-mercurial substitutes. I am now convinced by the briefs and the record that non-mercurials are insufficient substitutes for a great number of paint manufacturers producing a broad variety of paint formulations.

In light of the foregoing, I must conclude that on the present record, the non-mercurial substitutes for bactericides and fungicides in water-based paints are not sufficiently adequate and effective to warrant cancelling the mercurial registrations. I therefore concur with the discussion at pages 23–29 of the ALJ's Initial Decision, and adopt his findings of fact ## 20–21. My February 17 Decision and Order remain unaffected to the extent they are not superseded by today's Decision and accompanying Order.

EXTENSION OF STAY

On March 2, 1976, I entered an order granting a temporary stay of the effectiveness of the entire February 17 Order. The stay was to continue through June 30, 1976 or until the conclusion of judicial review proceedings, whichever occurred first. Since judicial review proceedings have themselves been stayed pending this reconsideration, June 30 no longer appears to be a reasonable date. I am therefore *sua sponte* extending the deadline to November 30, 1976 (or until the conclusion of judicial review, if earlier). The remaining portions of my March 2 Order, including the prohibition on stockpiling, remain fully in effect.

Dated: May 27, 1976.

RUSSELL E. TRAIN.

[FR Doc.76–18878 Filed 6–28–76;8:45 am]

---

[FRL 568–4; PP6G1734/T66]

## GLYPHOSATE

### Establishment of a Temporary Tolerance

Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, has submitted a pesticide petition (PP 6G1734) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for combined residues of the herbicide glyphosate [*N*-(phosphonomethyl) glycine] and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity group citrus fruits at 0.2 part per million (ppm) and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheet at 0.05 ppm.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire June 16, 1977. Residues not in excess of 0.2 ppm in or on citrus fruits and 0.05 ppm in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep remaining after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

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

Dated: June 16, 1976.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.76–18743 Filed 6–28–76;8:45 am]

---

## PESTICIDE/NEW ANIMAL DRUG PRODUCTS

### Request for Information

Cross Reference: FR Doc. 76–18604, issued by the Food and Drug Administration (FDA) and appearing elsewhere in the notices section of this issue of the FEDERAL REGISTER, announces the transfer of pesticidal new animal drugs from dual jurisdiction with the Environmental Protection Agency to the sole authority of FDA. The Food and Drug Administration is asking all persons holding approved new animal drug applications (NADA's) and/or Environmental Protection Agency registrations for pesticidal new animal drugs voluntarily to notify FDA. See the FDA notice for details.

---

[FRL 568–7; OPP–33000/418]

## RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Date by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (P.L. 94–140), and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these Federal Register documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Pro-

tection Agency, 401 M St. SW, Washington, DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before August 30, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before July 29, 1976.

Dated: June 21, 1976.

JOHN B. RITCH, Jr.
*Director,*
*Registration Division.*

APPLICATION RECEIVED (OPP-33000/418)

EPA File Symbol 852-RN. Abbott Chemical Corp., Chemical Specialties for Industry, 701 E. Saratoga, Ferndale MI 48220. TRI KEM. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl 68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 852-RR. Abbott Chemical Corp. HOSPI-QUAT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25% Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 852-RE. Abbott Chemical Corp. #250 EVERGREEN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium Chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12264-RN. Allstates Chemical Corp., PO Box 7416, Houston TX 77008. SS-100 LOW ODOR SPACE SPRAY INSECTICIDE. Active Ingredients: (5-Benzyl-3-Furyl)-methyl 2 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 12264-O. Allstates Chemical Corp. AQUACIDE LOW ODOR RESIDUAL INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1317-IL. Am-FO Manuf. Co., 3129 Elmwood Ave., Oakland CA 94601. ROACH FOIL. Active Ingredients: Pyrethrins 1.00%; Technical Piperonyl Butoxide 10.00%; Amorphous Silica Gel 40.00%; Petroleum Hydrocarbons 49.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 5185-EOE. Bio-Lab, Inc., PO Box 148), Decatur GA 30031. BIO-QUAT 50. Active Ingredients: Alkyl (C14 58%, C16 25%, C12 14%) dimethyl benzyl ammonium chloride 50.5%. Method of Support: Application proceeds under 2(a) of interim policy, Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 5185-EOG. Bio-Lab, Inc. BIO-GUARD CWT—90 ALGICIDE. Active Ingredients: Alkyl (C12 61%, C14 23%, C16 11%, C8 & C10 2.5%, C18 2.5%) dimethyl benzyl ammonium chloride 4.50%; Tributyltin neodecanoate 2.50%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.25%; Alkyl (C14 90%, C16 5%, C12 5%) dimethyl ethyl ammonium bromide 0.75%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 5185-EOU. Bio-Lab, Inc. BIO-GUARD CWT-95 ALGICIDE. Active Ingredients: Alkyl (C12 61%, C14 23%, C16 11%, C8 & C10 2.5%, C18 2.5%) dimethyl benzyl ammonium chloride 6.75%; Tributylin neodecanoate 3.75%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.38%; Alkyl (C14 90%, C16 5% C12 5%) dimethyl ethyl ammonium bromide 1.12%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 4-ELE. Boride Chemical Co., Inc., 2 Wurz Ave., Yorkville NY 13495. DIPEL .66% W.P. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 International Units of potency permilligram. At least 6.75 billion viable spores per gram 0.66%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 10445-16. Calgon Corp., PO Box 1346, Calgon Center, Pittsburgh PA 15230. H-230 LOW FOAM WATER TREATMENT MICROBIOCIDE. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 37433-R. Catalytic Generators, Inc., 700 Boundary Ave., Chesapeake VA 23324. ETHY-GEN CONCENTRATE. Active Ingredients: Ethyl Alcohol 83.36%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 239-2336. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO BRUSH KILLER A. Active Ingredients: Ammonium Sulfamate 43%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised precautionary statements. PM25

EPA File Symbol 34694-U. Dearborn Aqua-Serv Of Wilson, NC, Inc., PO Box 3897, Wilson NC 27893. TOWERCIDE 705. Active Ingredients: Disodium Cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 1677-LE. Economics Laboratory, Inc., Osborn Bldg., St. Paul MN 55102. SOILAX PROFESSIONAL INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 34862-E. Esco Products, Inc., PO Box 748, Taft TX 78390. END-A-BUG. Active Ingredients: Chlorpyrifos O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.50%; Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-octyl bicycloheptene dicarboximide 0.33%; Aromatic petroleum derivative solvent 1.00%; Petroleum distillate 97.83%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 37346-E. Eureka Laboratories, Inc., 222 W. Ontario St., Chicago IL 60610. DAIRY CLEANER SANITIZER 1015. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12107-T. Flexo Chemical Co., Box 82, River Forest IL 60305. EXTRA CONCENTRATED FLEXOQUAT. Active Ingre-C12, 5% C18) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C12, 32% C14) Dimethyl ethylbenzyl ammonium chlorides 6.25%; Tetrasodium ethylenadiamine tetraacetate 3.69%. Method Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 4816-469. FMC Corp., A.C.D. Industrial Sales Dept., 100 Niagara St., Middleport NY 14105. BPR D-B 1.33-0.25-1.066. Active Ingredients: Pyrethrins 0.250%; Piperonyl Butoxide, Technical 1.330%; Rotenone 1.068%; Other Cube Resin Extractives 1.983%; Petroleum Distillate 1.090%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 279-47. FMC Corp., Agricultural Chemical Div. KOLOSPRAY. Active Ingredients: Sulfur 81.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 279-391. FMC Corp. KOLODUST XTRA DUST OR SPRAY. Active Ingredients: Sulfur 53.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 1562-2. The Great Atlantic & Pacific Tea Co., Inc., 500 Ann Page Rd., Horseheads NY 14845. A&P BUG KILLER. Active Ingredients: Pyrethrins 0.25%; N-Octyl Bicycloheptene Dicarboximide 0.83%; Technical Piperonyl Butoxide 0.30%; Petroleum Distillates 8.10%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 7946-3. J. J. Mauget Co., PO Box 3422, Burbank CA 91504. INJECT-A-CIDE B. Active Ingredients: Dimethyl phosphate of 3-hydroxy-N, N-dimethyl-cis-crotonamide 83%. Method of Support: Application proceeds under 2(a) of interim policy. PM16

EPA File Symbol 675-UU. National Laboratories, Lehn & Fink Industrial Products Div. of Sterling Drug, Inc., 225 Summit Ave., Montvale NJ 07645. NEW QUATSYL 256 CLEANER DISINFECTANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 11.0%; Didecyl dimethyl ammonium chloride 1.2%; Ethyl alcohol 1.2%; Tetrasodium ethylenediamine tetraacetate 1.8%; Isopropyl alcohol 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 397-12. Noble Pine Products Co., PO Box 41, Century Station, Yonkers NY 10710. DAC MILDEW PREVENTATIVE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 3573-4. Procter & Gamble, PO Box 599, Cincinnati OH 45201. AEREX FLOOR AND BATHROOM CLEANER. Active Ingredients: Alkyl (67% C16, 30% C14, 3% C12-18) trimethyl ammonium bromides 2.8%; Essential oils 0.4%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 478-75. Real-Kill Products, Div. of Realex Corp., Box 78, Kansas City MO 64141. REAL-KILL INSECT SPRAY. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 0.03%; Technical piperonyl butoxide 0.06%; n-octyl bicycloheptene dicarboximide 0.10%; 2,2-dichlorovinyl dimethyl phosphate 0.28%; related compounds 0.02%; petroleum distillate 99.51%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA Reg. No. 201-314. Shell Chemical Co., Div. of Shell Oil Co., 1025 Connecticut Ave., NW, Suite 200, Washington DC 20036. VAPONA INSECTICIDE PEST STRIP. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 19.2%; Related compounds 0.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 5741-RA. Spartan Chemical Co., Inc., 110 N. Westwood Ave., Toledo OH 43607. PSQ DISINFECTANT CLEANER. Active Ingredients: Sodium carbonate 3.0%; Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 1.3%; Pine oil 1.0%; Octyl Decyl Dimethyl ammonium chloride .9%; Dioctyl Dimethyl ammonium chloride 0.45%; Didecyl Dimethyl ammonium chloride 0.45%; Isopropyl alcohol 0.72%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 10900-UT. Sprayon Products, Inc., 26300 Fargo Ave., Bedford Heights OH 44146. WASP & HORNET SPRAY. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.034%; Related compounds 0.331%; Aromatic petroleum hydrocarbons 53.375%; Petroleum distillate 46.010%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1729-RRN. Tesco Chemicals, Inc., PO Box 6433, Mariella GA 30062. TOWER-GARD. Active Ingredients: Trichloro-s-triazinetrione 74%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA Reg. No. 1769-233. National Chemsearch, Div. of Usachem, Inc., 2727 Chemsearch Blvd., Irving TX 75062. DICHLORON INSECTICIDE. Active Ingredients: Chlorpyrifos (*O,O*-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 3.00%; 2,2-dichlorovinyl dimethyl phosphate 2.60%; Related Compounds 0.20%; Aromatic petroleum derivative solvent 90.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

[FR Doc.76-18746 Filed 6-28-76;8:45 am]

---

[FRL 569-2; OPP-240012]

## STATE OF INDIANA AND COMMONWEALTH OF PUERTO RICO

### Approval of Requests for Interim Certification To Register Pesticides to Meet "Special Local Needs"

On July 3, 1975, final regulations for the registration, reregistration, and classification of pesticides pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), were published in the FEDERAL REGISTER (40 FR 28241). These regulations became effective August 4, 1975. Since that date, States have been prohibited from issuing new registrations for pesticide products or uses of pesticide products which are not registered by the Environmental Protection Agency (EPA), except pursuant to certification from the Administrator in accordance with section 24(c) of FIFRA.

On September 3, 1975, proposed regulations for State Registration of Pesticides to Meet Special Local Needs under section 24(c), FIFRA, were published in the FEDERAL REGISTER (40 FR 40538). Since it did not prove possible to promulgate final section 24(c) regulations prior to the effective date of the FIFRA section 3 regulations, some interruption in the authority of States to register pesticides has occurred. In order to prevent further disruption of State registration programs (particularly in relation to minor uses), a procedure has been established by which States may request interim certification to register pesticides to meet special local needs until such time as the final section 24(c) regulations are promulgated. If such a request is granted, a State may register pesticides subject to the terms of the certification and other limitations set out in the Preamble to the proposed regulations. Interim certification will expire if the State has not submitted a plan pursuant to the final section 24(c) regulations within 60 days after the effective date of the Administrator's disapproval.

A State may request interim certification to register pesticides to meet special local needs at any time by having the Governor or Chief Executive Officer or their designee submit a request in writing to the Administrator. The request shall satisfy the requirements set out in the FEDERAL REGISTER announcement of the Interim Certification program (40 FR 40542), and the statutory standard set forth in section 24(c) of FIFRA.

The Federal Register announcement of the Interim Certification program provides that the Administrator shall notify the State of his approval or denial of a request for Interim Certification and publish notice of approval or denial in the FEDERAL REGISTER. The announcement further states that since the Agency expects Interim Certification to be of limited duration, it will not solicit public comment with respect to requests for Interim Certification. Adequate opportunity for public comment on State plans submitted pursuant to final section 24(c) regulations is provided for in proposed section 162.158(c).

The Agency has received Requests for Interim Certification to register pesticides to meet special local needs (Request(s)) from the State of Indiana and the Commonwealth of Puerto Rico. After reviewing the Requests, the Agency found that they satisfy the requirements set forth in the Federal Register announcement, and that they demonstrate that each State/Commonwealth is capable of exercising adequate controls to assure that special local needs registrations it issues pursuant to Interim Certification will be in accord with the purposes of FIFRA.

Accordingly, notice is hereby given that the EPA has approved Requests for Interim Certification from the State of Indiana and the Commonwealth of Puerto Rico as described below, subject to the terms set forth in the Federal Register document of September 3, 1975.

#### INDIANA

The Indiana Request sought authority to register "new products", as that term is defined in section 162.152(g) of the proposed regulations, to amend EPA registrations which involve "changed use patterns", as that term is defined in section 162.152(c), and to amend EPA registrations which do not involve changed use patterns. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Request. Procedures for product hazard review and efficacy determination are part of the State's registration program; these procedures are adequate to assure that special needs registrations issued by this State will be in accord with the purposes of FIFRA.

The State agency which has been designated responsible for issuance of such registrations is the Office of Indiana State Chemist and Seed Commissioner. This Agency was notified on May 27, 1976, that its Request had been approved.

#### COMMONWEALTH OF PUERTO RICO

The Commonwealth of Puerto Rico Request for Interim Certification sought authority to amend EPA registrations which do not involve changed use patterns. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Request. Procedures for efficacy determination are part of the Commonwealth's registration program; these procedures are adequate to assure that special local needs registrations issued by the Commonwealth will be in accord with the purposes of FIFRA.

The Commonwealth agency which has been designated responsible for issuance of such registrations, the Puerto Rico Department of Agriculture, was notified on May 27, 1976, that its Request had been approved.

Copies of the Indiana and the Commonwealth of Puerto Rico Requests for Interim Certification, along with letters reflecting the Agency's decision to approve the Requests, are available at the following locations:

Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., S.W., Washington, D.C. 20460.

Pesticide Branch, Hazardous Materials Control Division, EPA, Federal Office Building, 230 South Dearborn Street, Chicago, Illinois 60604. (Indiana Request only).

Pesticide Branch, Hazardous Materials Control Division, EPA, 26 Federal Plaza, Room 1005, New York, New York 10007. (Puerto Rico Request only).

Dated: June 21, 1976.

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

[FR Doc.76-18744 Filed 6-28-76;8:45 am]

[FRL 569-3]

## STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

### Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: State-Federal Water Programs Advisory Committee.

Date: July 14, 1976.

Place: Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C., Room 3906-08, WSM.

Time: 9 a.m.—4 p.m. (approximately).

Proposed Agenda:

| Time | Topic |
|---|---|
| 9 to 9:30 a.m. | Status of Comments on HR 9560. |
| 9:30 to 10:30 | Construction Grants Funding. |
| 10:30 to 11:30 | Construction Grants Eligibility of Facilities To Meet Stringent Water Quality Requirements. |
| 11:30 a.m. to 12 m. | Discussion of Water Monitoring Strategy. |
| 1 to 2 p.m. | Policy on Municipal Facilities Compliance. |
| 2 to 3 | Management of Section 208 Water Quality Management Program. |
| 3 to 4 | State Comments on Non-agenda Items. |

This meeting is open to the public. Any member of the public may file a written statement with the Committee before, during or after the meeting. All communications regarding these meetings should be addressed to: David K. Sabock, Executive Secretary, State-Federal Water Programs Advisory Committee, Office of Water and Hazardous Materials (WH-556), Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460. Anyone wishing to have their name placed on the mailing list for any Committee reports, meeting announcements, and minutes of all meetings should contact the Executive Secretary, either in writing or by telephone—202-755-0405.

Dated: June 23, 1976.

ANDREW W. BREIDENBACH,
*Assistant Administrator for Water and Hazardous Materials.*

[FR Doc.76-18875 Filed 6-28-76;8:45 am]

---

[FRL 569-1; OPP-50190]

## U.S. FOREST SERVICE

### Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the U.S. Forest Service of the U.S. Department of Agriculture, Washington, D.C. 20250. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 27586-EUP-13) allows the use of 38 pounds of the fungicide methyl 2-benzimidazole-carbamate hydrochloride on elm trees to evaluate control of Dutch Elm Disease. Up to 525 trees are to be treated; the program is authorized only in Michigan, Washington, and the District of Columbia. The experimental use permit is effective from May 27, 1976, to May 27, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 21, 1976.

JOHN B. RITCH,
*Director, Registration Division.*

[FR Doc.76-18715 Filed 6-28-76;8:45 am]

---

# FEDERAL ENERGY ADMINISTRATION

## CANADIAN ALLOCATION PROGRAM

### Application Notice for the July 1 Through December 31, 1976 Allocation Period

*Correction*

In FR Doc. 76-17044, appearing at page 23998 in the issue for Monday, June 14, 1976, make the following change:

On page 23999, in the first column, the fraction near the bottom should read as follows:

| | |
|---|---|
| Announced Canadian Exports for Month (Barrels per Day) | 264,216 |
| | 468,729 |

---

# FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1408]

## AQUINO SHIPPING CO., INC.

### Order of Revocation

On June 17, 1976, Aquino Shipping Co., Inc., 99 John Street, New York, New York 10038, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1408 for revocation.

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 (b), dated June 30, 1975;

It is ordered, that Independent Ocean Freight Forwarder License No. 1408 issued to Aquino Shipping Co., Inc., be and is hereby revoked effective June 17, 1976 without prejudice to reapply for a license in the future.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Aquino Shipping Co., Inc.

LEROY F. FULLER,
*Director, Bureau of Certification and Licensing.*

[FR Doc.76-18855 Filed 6-28-76;8:45 am]

---

[Independent Ocean Freight Forwarder License No. 1312]

## HOWARD C. SHARROTT

### Order of Revocation

By letter dated May 18, 1976, Howard C. Sharrott, P.O. Box 91811, Airport Station, Los Angeles, California 90009 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1312 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before June 16, 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.

Howard C. Sharrott 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. 1312 issued to Howard C. Sharrott be returned to the Commission for cancellation.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1312 be and is hereby revoked effective June 16, 1976.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Howard C. Sharrott.

LEROY F. FULLER,
*Director, Bureau of Certification and Licensing.*

[FR Doc.76-18856 Filed 6-28-76;8:45 am]

---

[Docket No. 76-36]

## TARIFF RULES—TRAILERS OR CONTAINERS

### Order To Show Cause

Several conferences, and one independent carrier member of a rate agreement which have tariffs on file westbound from ports and points in Europe to ports in the United States have recently filed with the Commission similar rules which define when trailers or containers are to be deemed shipper-owned

or shipper-leased.[1] The first of these rules went into effect on June 17, 1976 while the rest will do so within the next few weeks. One conference in the eastbound trade has a rule effective since August 1, 1973 which has a similar effect as the aforementioned westbound rules. Appendix "A" herein attached, lists these conferences, their member carriers and the aforementioned independent carrier which recently filed this rule. The Appendix also indicates the subject rules and when the rule became or will become effective.

The Commission staff has been informed by container/trailer leasing companies and numerous shippers that the effect of these rules is to terminate the "neutral container" system of supplying container equipment to shippers. Under this system shippers maintain pools of containers and chassis supplied by a leasing company at no cost to shippers. The shipper loads the container, interchanges it to a rail or motor carrier who in turn delivers it to an ocean carrier for ocean carriage. The inland and ocean carriers who handle this equipment do so under the terms of a contract entered into individually between the carriers and the leasing companies. The inland carrier terminates its responsibility to the leasing company upon interchanging the equipment to the ocean carrier. The ocean carrier ends its responsibility when it returns the equipment to designated leasing company terminals. The ocean carrier incurs per diem charges while the container is in its possession and also must pay for delivering a container to a terminal leasing pool. The Commission staff has noted that a substantial fleet of leased marine containers/trailers has developed in the last few years. Shipper response to the proposed rule also indicates the existence of some shiper reliance on this system. The salient feature of the above described "neutral container" system is that a shipper by arranging for a loaded neutral container to be delivered to any particular ocean carrier, activates a leasing contract between the ocean carrier and the leasing company upon delivery of the shipment to that carrier. The effect of the proposed rules would alter this by requiring that any expenses relating to trailers/containers accepted by the carrier not owned or leased by the carrier prior to delivery to the shipper for loading are to be borne by the shipper—i.e., the shipper, rather than the carrier, would pay for per diem and terminating delivery charges on leased equipment.

The leasing companies and at least one conference steamship company (American Export Lines, Inc.) have indicated that whether or not a carrier employs a "neutral container" system to distribute empty containers for shipper loading is a question with a substantial competitive aspect to it. The assertion made is that certain large shippers who have relied on this practice in the past will now only utilize carriers who subscribe to this system, whether they be conference members or not. This has been expressed directly to the Commission staff by some shippers.

An additional competitive aspect of the rule noted by the carrier is that certain conference members are operationally more dependent than others on leased equipment and in effect rely to some degree on equipment leased in the manner described above. Other carriers rely mainly on their own proprietary fleet and attempt to maintain careful balances of their equipment within their system to insure maximum utilization of their containers. It, therefore, appears that there may be significant competitive aspects to the proposed rules and that they may entail more than routine equipment practices of an operational nature.

Similar rules which would have had the effect of eliminating the use of shipper-owned or leased containers when the carriers could not make their own available have been filed in the past by some of the same conferences now filing the subject rule. At that time the Commission staff advised the conferences that this concerted activity was not one authorized by the respective Section 15 agreements on file and therefore, it was concluded that activity was not approved by the Commission. The conferences subsequently withdrew their filings.

It is clear that any new arrangement which creates new relationships which regulate and control competition is not conventional or routine rate-making and to be lawful must be expressly approved by the Commission in the basic agreement or in amendments thereto. This is especially true where the regulation attempted is not entirely intraconference and where there are third party interests affected by the concerted action. Therefore, to allow the Commission to perform its duties under Section 15, the language contained in agreements and their amendments must be such that they set not in adequate detail the procedures to be followed under it so that the effect of the activity can be clearly determined. The terms of the agreements and their amendments must in themselves inform interested parties as to how the agreement is to be carried out.

It appears from a review of the relevant basic agreements and their amendments in the instant proceeding that there may be no specific authority contained therein that authorizes the conferences filing the subject rules to implement practices that might eliminate the use of leased containers under the "neutral container" system of container distribution.[2] It appears that to implement such a rule not apparently authorized by any approved Commission agreement may be unlawful because it may control, regulate, prevent or destroy competition in violation of Section 15, Shipping Act, 1916.

American Export Lines, Inc. (AEL), a member of several of the respondent conferences, filed a petition with the Commission on June 16, 1976 seeking a Declaratory Order against the Continental North Atlantic Westbound Freight Conference (CNAWFC). The carrier contends that Rule 22 of the Conference's Tariff FMC–6 relating to "shipper owned or leased trailers/containers" is not an activity within the scope of the basic agreement as amended. Notice of Petition For Declaratory Order was served by the Commission on June 21, 1976 inviting comments in response to the petition on or before July 7, 1976.

Instant proceeding raises identical issues to those raised by AEL's petition as well as additional issues which affect AEL but which are not raised in its petition. AEL is a member of two other conferences named respondents herein. Therefore, in order to prevent prejudice to either proceeding and to insure consistent orders, no final order will be issued in response to AEL's petition until all replies and comments are received for both proceedings.

Now, therefore, it is ordered, That pursuant to Sections 15 and 22 of the Shipping Act, 1916, the conferences, member lines, and the independent carrier listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to Show Cause why the Commission should not find that the concerted activity resulting in the publication of a rule that defines practices regarding the acceptance and responsibility for shipper-owned or shipper-

[1] The subject rules state: "Any trailer/container, not owned or leased by a member line or affiliate thereof, prior to its delivery to a shipper for loading shall be deemed to be a shiper-owned or leased trailer/container for the purpose of this rule and once so deemed, such trailer/container shall remain shipper-owned or leased for the entire duration of its transit both by water and land and will not be interchanged with the carrier." Some of the proposed rules have deleted the final clause "and will not be interchanged with the carrier."

[2] Aside from general language in their basic agreements, three of the conferences have the following amendment to their basic agreement which was approved by the Commission on October 30, 1975:

"This Agreement shall extend to intermodal shipments, whether moving under through bills of lading or otherwise, and shall cover matters relating to per diem, free time and detention on carrier provided containers, chassis and related equipments; positioning of such equipment, interchange with connecting carriers; receiving, handling, storing and delivery of cargo; consolidation; container yards, depots, and freight stations and such other matters as may be ancillary to the transport of such intermodal shipments and the Conference may, reserving the right of independent action, consult, cooperate and agree with other U.S. establishment, policing and enforcement of rules, practices and charges relating to the use, employment and transport of loaded and unloaded containers outside the gate of member lines' ocean terminals at European ports within the ranges covered by this Agreement. Provided, however, that no other Conference shall be authorized to take any action hereunder except as permitted by the Federal Maritime Commission."

leased trailers or containers is an activity which, among other things, controls, regulates, prevents, or destroys competition and which has been taken without prior Commission approval of such activity in violation of Section 15, Shipping Act, 1916.

It is further ordered, That the same respondents Show Cause why, if it is determined that subject rules are in violation of Section 15, Shipping Act, 1916, the Commission should not cancel subject tariff rules which impede the free acceptance of shipper-owned or leased equipment as not being within proper Section 15 authority.

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before July 23, 1976. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business July 23, 1976. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business August 13, 1976.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondents;

It is further ordered, That persons other than those already party to this proceeding who desire to become parties and participate herein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business July 9, 1976.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, in an original and 15 copies, as well as being mailed directly to all parties of record.

By the Commission

FRANCIS C. HURNEY,
*Secretary.*

APPENDIX A

LIST OF CONFERENCES AND PARTICIPANTS TO CONFERENCES AND RATE AGREEMENTS

Continental North Atlantic Westbound Freight Conference (Agreement 8210), 74 Saint James's Street, London SW1A 1PS, England; Tariff FMC-6, Rule currently effective as of 06-17-76 (Rule 22 VIII (G)); Tariff FMC-7, Rule to become effective 07-01-76 (Rule 22 VIII (H)).

North Atlantic Westbound Freight Association (Agreement 5850), 74 Saint James's Street, London SW1A 1PS, England; Tariff FMC-36, Rule to become effective 08-16-76, Rule 22).

Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference (Agreement 9982), 74 Saint James's Street, London SW1A 1PS, England; Tariff FMC-3, Rule to become effective 08-16-76 (Rule 19 (VI)).

Continental/U.S. Gulf Freight Association (Agreement 9988), Cunard Building, Liverpool L3 1DS, England; Tariff FMC-2, Rule to become effective 07-01-76 (Rule 28).

Pacific Coast European Conference (Agreement 5200), 417 Montgomery Street, San Francisco, California 94104; Tariff FMC-16, Rule became effective 08-01-73 and is currently effective (Rule 34 (10)).

North Europe-United States Pacific Freight Conference (Agreement 93), Westplein 14, P.O. Box 341, Rotterdam, The Netherlands; Tariff FMC-36, Rule to become effective 07-17-76 Rule 24 (12).

Seatrain International, S.A. (Participant to Europe Pacific Coast Rate Agreement 10023), Port Seatrain, Weehauken, New Jersey 07087; Tariff FMC-59, Rule to become effective 07-17-76 (Rule 38).

CONFERENCE CARRIERS—MEMBERS OF CONFERENCES LISTED ABOVE

American Export Lines, Inc., 17 Battery Place, New York, New York 10004.

Armement Deppe S.A., Meir 11, 2000 Antwerp, Belgium.

A/S Det Ostasiatiske Kompagni (The East Asiatic Co., Ltd.), 2 Holbergsgade, DK-1099 Copenhagen K, Denmark.

Atlantic Container Line (G.I.E.), 80 Pine Street, New York 10005.

Atlantic Gulf Service AB, c/o Strachan Shipping Company, American Bank Building, New Orleans, Louisiana 70130.

Atlantic Lines & Navigation Co., Inc., 33 Brouwers Hot, 2030 Antwerp, Belgium.

Blue Star Line Ltd., Albion House, Leadenhall Street, London EC3A 1AR, England.

Cartainer Line N.V., 150 Mechelse Steenweg, Antwerp, Belgium.

Central Gulf Contramar Lines Inc., As Agents for Central Gulf Contramar Line (Eurogulf), One Whitehall Street, New York, New York 10004.

Cobelfret Lines S.P.R.L., 150 Mechelse Steenweg, Antwerp, Belgium.

Combi Line, A combined service of Hapag-Lloyd Aktiengesellschaft and Intercontinental Transport (ICT) B.V., c/o Biehl & Co., Inc., 415 Common Street, New Orleans, Louisiana 70130.

D'Amico Mediterranean Pacific Line, D'Amico Societa di Navigazione Per Azioni, Corso D'Italia 35/B, Rome, Italy.

Dart Containerline Co., Ltd., Five World Trade Center, Northeast Plaza Building, New York, New York 10048.

French Line, Compagnie Generale Transatlantique, Cedex 6, 92 Paris La Oefense, France.

Hanseatic-Vaasa Line, Vaasa Line Oy, Arkadianktu 21, Helsinki, Finland.

Hapag-Lloyd Aktiengesellschaft, c/o U.S. Navigation, Inc., 17 Battery Place, New York, New York 10004.

Intercontinental Transport (ICT) B.V., P.O. Box 545, Rotterdam, Holland.

Italian Line, "Italia" Societa Per Azioni di Navigazione, Piazza de Ferrari 1, Genoa, Italy.

Italpacific Line, Gemstone Shipping Corporation, Goldstone Shipping Corporation, Starstone Shipping Corporation, Silverstone Shipping Corporation, 27 Boulevard D'Italie, Monte Carlo, Monaco.

Rederiaktiebolaget Nordstjernan, (Johnson Line), FACK, S-103 80 Stockholm 7, Sweden.

Lauritzen Peninsular Reefer Service, Lauritzen Peninsular Reefers, Ltd., 1, Hammerensgade, DK-1267 Copenhagen K, Denmark.

Lykes Bros. Steamship Co., Inc., New Orleans, Louisiana 70112.

NEEL Container Line, T.C.T. (Shipping Management) Ltd., Cunard Building, Liverpool L3 1LS, England.

Den Norske Amerikalinje A/S, Norwegian America Line, Jernbanetorget No. 2, Oslo, Norway.

Sea-Land Service, Inc., 75 Route 27, Iselin, New Jersey 03330.

Seatrain International, S.A., Port Seatrain, Weehawken, New Jersey 07087.

United States Lines, Inc., One Broadway, New York, New York 10004.

United Yugoslav Lines, Splosna Plovba, Zupanciceva 24, Piran, Yugoslavia.

Zim Israel Navigation Co., Ltd., 7/9 Ha'Atzmavt Road, Haifa, Israel.

[FR Doc.76-18657 Filed 6-28-76;8:45 am]

---

## THAILAND/PACIFIC FREIGHT CONFERENCE

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 19, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. S. S. Marr, Secretary, Thailand/Pacific Freight Conference, c/o The Borneo Company (Thailand) Ltd., 1/1041 Silom Road, Bangkok, Thailand.

Agreement 9472-2 would authorize, and outlines the procedures for, the exercise of independent action by the Conference's lines with respect to the rates, charges, rules, and regulations appearing in the Conference's tariff.

By Order of the Federal Maritime Commission

Dated: June 24, 1976.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.76-18854 Filed 6-28-76;8:45 am]

## FEDERAL POWER COMMISSION

[Docket Nos. CS76-866, et al.]

### ALPHA OIL & GAS CO., ET AL.

### Applications for "Small Producer" Certificates [1]

JUNE 21, 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 July 16, 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. | Filing date | Applicant |
|---|---|---|
| CS76-866 | June 4, 1976 | Alpha Oil & Gas Co., P.O. Box M, Miami, Fla. 33156. |
| CS76-867 | do | Omega Energy Corp., P.O. Box M, Miami, Fla. 33156. |
| CS76-868 | do | Theta Enterprises, Inc., P.O. Box M, Miami, Fla. 33156. |
| CS76-869 | do | Delta Energy Corp., P.O. Box M, Miami, Fla. 33156. |
| CS76-870 | do | Douglas Petroleum Corp., P.O. Box M, Miami, Fla. 33156. |
| CS76-871 | do | Wilbert E. Chope, P.O. Box M, Miami, Fla. 33156. |
| CS76-872 | do | Kappa Oil & Gas Corp., P.O. Box M, Miami, Fla. 33156. |
| CS76-873 | do | Douglas 1975-2 Drilling Fund Ltd., P.O. Box M, Miami, Fla. 33156. |
| CS76-874 | June 1, 1976 | HS Petroleum Corp., 1901 Avenue of the Stars, Suite 1130, Los Angeles, Calif. 90067. |
| CS76-875 | June 7, 1976 | Leo D. Cook, 412 East 5th St., Bartlesville, Okla. 74003. |
| CS76-876 | do | J. W. Chandler, 2910 South Tejon St., Englewood, Colo. 80110. |
| CS76-877 | do | Robert H. Davies, 3773 Hillandale Rd., Toledo, Ohio 43606. |
| CS76-878 | do | Stephen G. Bolyard, 6071 South Aberdeen, Littleton, Colo. 80120. |
| CS76-879 | do | H. Robert Wood, 3101 East 45th St., Tulsa, Okla. 74105. |
| CS76-880 | do | David E. Swenson, % Swenson Building & Granite Corp., Main Office and Plant, McGuire St., Concord, N.H. 03301. |
| CS76-881 | do | James T. Rutherford, Jr., 3035 Eldridge, Golden, Colo. 80401. |
| CS76-882 | do | Joseph D. Sargent, % Conning & Co., 41 Lewis St., Hartford, Conn. 06103. |
| CS76-883 | do | Harold S. Wood, 217 East 24th St., Tulsa, Okla. 74105. |
| CS76-884 | do | Donald G. McLean, 8080 Meade St., Westminster, Colo. 80030. |
| CS76-885 | do | Charles Casale, P.O. Box 307, West Newton, Pa. 15089. |
| CS76-887 | June 10, 1976 | IGC Production Co., P.O. Box 7608, Boise, Idaho 83707. |
| CS76-888 | do | R. C. Marmaduke, 1218 C. & I. Bldg., Houston, Tex. 77002. |
| CS76-889 | do | J. K. Fortner et al., d.b.a. Kenbill Oil Co., 3701 22d St., Great Bend, Kans. 67530. |
| CS76-534 | Mar. 10, 1976 | Joe M. Coffield, P.O. Box 4546, Shreveport La. 71101. |

[FR Doc.76-18725 Filed 6-28-76;8:45 am]

[Docket No. RP76-13]

### CITIES SERVICE GAS CO.

### Conference on Rates and Charges

JUNE 23, 1976.

Take notice that on June 30, 1976, a conference of all parties to intervene in this proceeding, the Cities Service Gas Company, any interested customers, and the Commission Staff will be held in Conference Room No. 3200 at the Federal Power Commission, 941 North Capitol Street, N.E., Washington, D.C., at 10:00 a.m. (DST).

Copies of this notice are being mailed this date to all jurisdictional customers and interested State Commissions.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18823 Filed 6-28-76;8:45 am]

[Docket No. RP74-4]

### CITIES SERVICE GAS CO.

### Petition to Require Refunds at Lawful Interest Rate

JUNE 23, 1976.

Take notice that on June 15, 1976, the Kansas Municipal Intervenors Group (Petitioner) filed a petition requesting the Commission to issue an order requiring that all overcharges collected by Cities Service Gas Company for the locked-in period covered by this proceeding (from January 23, 1974, to April 22, 1975) be assessed at a 9% interest rate from October 10, 1974, forward. Petitioner in effect seeks review of the Commission's order approving settlement issued November 6, 1975 in this docket. That order approved the 7% interest rate provided for in the Stipulation and Agreement, in compliance with Order No. 513, which limited the 9% interest rate on overcharges after October 14, 1974 to only those rate filings made after October 10, 1974. Petitioner claims that Order No. 513 was modified by the United States Court of Appeals of the District of Columbia on May 19, 1976 in *A.P.G.A.* v. *F.P.C.*, and that the Settlement provision negotiated with respect to interest rates should be modified accordingly.

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 July 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.76-18824 Filed 6-28-76;8:45 am]

[Docket No. CP76-161]

### CITY OF FALFURRIAS, TEXAS (APPLICANT), AND NATURAL GAS PIPELINE COMPANY OF AMERICA (RESPONDENT)

### Order Providing for Hearing, Establishing Procedures and Granting Interventions

JUNE 23, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On November 13, 1975, the City of Falfurrias, Texas (Falfurrias) filed in Docket No. CP76-161 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Natural) to sell and deliver to Falfurrias its natural gas requirements of up to 1,193 Mcf per day and 200,000 Mcf annually for resale to residential and

small commercial customers, all as more fully set forth in the application in this proceeding.

Falfurrias states that its original intrastate gas supply from La Gloria Oil and Gas Company (now Mobil Oil Corporation) has been terminated, due primarily to depletion of wells in the TCB Field. Falfurrias' current supply is from Lo-Vaca Gathering Company pursuant to an order of the Texas Railroad Commission on an emergency basis pending the outcome of the application in this docket. No new facilities would be required since Natural currently purchases gas at the residue outlet of Mobil's La Gloria gas processing plant and Falfurrias has taken deliveries off of Mobil's return residue line running from the plant outlet to leases in the immediate vicinity.

Falfurrias, population 6,312, serves 1,972 residential accounts, 102 commercial customers and no industrial customers. Falfurrias states that the 102 light commercial customers account for less than 20% of its total requirements. Natural, in its response filed December 18, 1975, strongly opposed the application stating it has been curtailing deliveries since 1970 due to gas supply shortages and has not been able to accept new customers since the curtailments began. Natural further states that the diversion of any gas no matter how small the volume will further impair its ability to render adequate service to its existing customers.

After due notice of the application by publication in the Federal Register on December 18, 1975, (40 FR 58689) the following petitions to intervene were received:

The Peoples Gas Light and Coke Company, December 19, 1975
North Shore Gas Company, December 19, 1975
Northern Illinois Gas Company, December 19, 1975
Illinois Power Company, December 22, 1975
Iowa Electric Power and Light Company, December 22, 1975
Iowa-Illinois Gas and Electric Company, December 22, 1975

A late petition to intervene was filed by Northern Indiana Public Service Company on December 29, 1975. All petitioners to intervene and the respondent, Natural, oppose the application and request a formal hearing.

In view of the foregoing, we believe a full evidentiary hearing should be held. Falfurrias shall have the burden of proof in showing the requested service is necessary and desirable in the public interest. Falfurrias shall, inter alia; (1) document all efforts to obtain alternate sources of gas from intrastate suppliers; (2) present evidence relating to its effort to obtain gas supply in proceedings before the Texas Railroad Commission; (3) detail data from the books and records of Falfurrias supporting the estimated peak-day annual requirements, together with such available information relating to number of meters and class of customer served; (4) show the nearest intrastate gas supplies and indicate their distance from Falfurrias; (5) show the history of Falfurrias' gas supply, including rate and volumes of gas received from the wells in the TCB field, and the measures taken to insure a continuing supply; (6) explain what the City of Falfurrias plans to do to insure a continuing gas supply should the subject application be denied.

It shall be incumbent upon Natural to furnish testimony relating to the gas supply available for the service in question, and the effect that this service will have on its system from an operational standpoint if the request for service is granted.

Natural shall also furnish facts and testimony as to its history of curtailments, with particular regard to the 467–B categories of priority, as well as specific information related to its distributor customers' load additions and/or scope of postponement of such load additions by class of retail customer during that last several years of gas supply shortage.

The Commission finds: (1) Sufficient cause exists for setting for formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing as hereinafter ordered.

(2) Participation by the above mentioned petitioners to intervene may be in the public interest.

The Commission orders: (A) On or before July 16, 1976, Applicant and Respondent shall file with the Secretary of this Commission and serve upon all parties to this proceeding, including the Commission Staff, their testimony and exhibits.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter 1), a public hearing on the issues presented by the application filed in this proceeding will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at 10:00 a.m. on July 28, 1976, commencing with a prehearing conference concerning the matters involved in and the issues presented by this application.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at a hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, and motions to consolidate and serve, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(D) 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 interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, however,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order or order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18829 Filed 6-28-76;8:45 am]

---

[Docket No. CP75-347]

## COLORADO INTERSTATE GAS

### Order Granting Late Intervention

JUNE 23, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On May 27, 1975, as supplemented on September 30, 1975, CIG filed an application requesting authorization to partially abandon peak day and annual service to certain of its nonjurisdictional (direct) industrial customers and certificate authority to utilize this newly available gas for increased service to its jurisdictional resale customers. A hearing was held in this matter on May 5, 1976 to be resumed on Tuesday, July 21, 1976.

A late petition to intervene was received on May 4, 1976 from the State of Louisiana by its Commissioner of Conservation.

Having reviewed the above petition to intervene we believe the Louisiana Conservation Commissioner has sufficient interest in the proceedings to warrant intervention.

The Commission finds: (1) The participation by the Louisiana Conservation Commissioner as an intervener in this proceeding may be in the public interest.

(2) Good cause exists to allow the late filed petition to intervene upon the specific condition that the late filing shall not be the basis for any relay in the proceeding and that the petitioner to intervene take the record as it now stands.

The Commission orders: (A) The state of Louisiana by its Commissioner of Conservation is permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such interveners shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervener 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 intervention 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 petitioner to intervene shall take the record in Docket No. CP75-347 as it now stands.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18822 Filed 6-28-76;8:45 am]

---

[Docket No. RP72-134 (PGA-17A)]

## EASTERN SHORE NATURAL GAS CO.

### Purchased Gas Cost Adjustment to Rates and Charges

JUNE 21, 1976.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on June 8, 1976, tendered for filing Substitute Thirty-First Revised Sheet No. 3A and Substitute Thirty-First Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. These revised tariff sheets, to be effective July 1, 1976, will increase the commodity or delivery charges of Eastern Shore's Rate Schedules CD-1, CD-E, E-1, I-1, and PS-1 by .013¢ per Mcf. These increases reflect corresponding increases by Transcontinental Gas Pipe Line Corporation (Transco), Eastern Shore's sole supplier, in its filing of May 28, 1976, in FPC Docket No. RP72-99.

Pursuant to Section 154.51 of the Regulations under the Natural Gas Act, Eastern Shore respectfully requests waiver of the notice requirements of Section 154.22 of those Regulations and of Section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the tariff sheets submitted to become effective as of July 1, 1976, to coincide with the effective date of Transco's rate changes. In support thereof, Eastern Shore states that Transco's May 28 filing of its revised tariff sheets prohibited Eastern Shore from fulfilling the prescribed notice requirements under the General Terms and Conditions of its Tariff.

Eastern Shore states that copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (10 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 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 available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18818 Filed 6-28-76;8:45 am]

---

[Docket No. ER76-723]

## KANSAS POWER AND LIGHT CO.

### Initial Contract

JUNE 21, 1976.

Take notice that on June 1, 1976, The Kansas Power and Light Company (KPL) tendered for filing an initial contract, dated January 22, 1975, with the City of Wamego, Kansas, for wholesale electric service.

KPL states that the service to be provided will be 3Ø, AC, 60 cycle, 12,400 volts, and will be billed under the Company's standard schedule for such service, WSM-75, as authorized in Docket No. ER76-39 and made subject to refund pending final decision in that docket.

The effective date of the contract is requested to be on the date facilities are completed, but in any event, not later than July 1, 1976.

KPL states that copies of the filing have been mailed to the City Clerk of Wamego, Kansas and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 July 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.76-18820 Filed 6-28-76;8:45 am]

---

[Docket No. RP73-43 (PGA76-3)]

## MID LOUISIANA GAS CO.

### Proposed Change in Rates

JUNE 23, 1976.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on June 14, 1976, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Twentieth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1, I-1 and E-1; that the revised tariff sheet is proposed to be effective August 1, 1976, and that the filing is being made in accordance with Section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452-A; and that copies of the filing were served on interested customers and state commissions.

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 July 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18828 Filed 6-28-76;8:45 am]

---

[Docket Nos. RP71-125, RP75-108, (PGA 76-6A)]

## NATURAL GAS PIPELINE CO. OF AMERICA

### Filing Revised Purchased Gas Cost Adjustment Reflecting Increased Costs

JUNE 21, 1976.

Take notice that on June 11, 1976, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1 the below listed tariff sheets to be effective as indicated:

| | *Effective date* |
|---|---|
| Substitute 28th revised sheet No. 5. | June 1, 1976. |
| Substitute 3rd revised sheet No. 5A. | Do. |
| 2nd substitute 28th revised sheet No. 5. | June 2, 1976. |
| 2nd substitute 3d revised sheet No. 5A. | Do. |

Natural states the purpose of the submittal is to file revised tariff sheets to become effective June 1, 1976, to reflect increased costs other than those increased costs associated with that portion of small producer purchases in excess of the rate levels resulting from the "130% formula" prescribed by Opinion No. 742 and that portion of the 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion No. 699-H. The revised tariff sheets also reflect the elimination of purchased gas costs associated with the uncertificated purchase from Kansas Power and Light Company in accordance with Ordering Paragraph (B) of the Commission's Order issued May 28, 1976, at Docket Nos. RP71-125, RP75-108, (PGA76-6). Included in the filing are Schedules A through C giving the details for the current unit adjustments to be effective June 1, 1976 and June 2, 1976. Natural states that the tariff sheets effective June 2, 1976 reflect the PGA recovery rates that were suspended by the above referenced Commission Order and were permitted to become effective June 2, 1976, subject to refund.

Natural also filed in accordance with Ordering Paragraph (D) of the Commission's May 28, 1976 Order in PGA 76-6, a list of the small producers from which

Natural is purchasing gas at rates in excess of the "130% formula" and a list of producers other than small producers from which Natural purchased gas under 60-day emergency contracts at rates in excess of the rate levels prescribed in Opinion No. 699-H.

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 Section 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 July 9, 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 applicaton are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18821 Filed 6-28-76;8:45 am]

---

[Docket No. RP75-81]

## NORTH PENN GAS CO.

### Certification of Settlement Agreement

JUNE 23, 1976.

Take notice that on June 4, 1976, the Presiding Administrative Law Judge certified to the Commission the record relating to a proposed settlement agreement in this docket. If accepted the proposed agreement would constitute North Penn's permanent curtailment plan.

Subsection D of the General Terms and Conditions of North Penn's Tariff has been revised to provide for seasonal curtailment implementation and if necessary may be broken down into shorter curtailment periods. Subsection E provides for over-run charges based on seasonal allocations and takes, regardless of whether or not a season is broken into more than one curtailment period.

Any person, including the parties to this proceeding, may file comments either in support of or in opposition to the proposed settlement. Such comments should be filed within thirty (30) days from the issuance of this notice. Copies of such comments will be available in the Office of Public Information of the Federal Power Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18826 Filed 6-28-76;8:45 am]

---

[Docket No. RP76-39]

## SEA ROBIN PIPELINE CO.

### Informal Conference

JUNE 21, 1976.

Take notice that on July 20, 1976, an additional informal conference will be held commencing at 10:00 a.m., in Room 5200 of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference will be between Sea Robin Pipeline Company, the Commission Staff, and all interested persons and will be for the purpose of discussing the possibility of settlement of issues presented in this proceeding.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18819 Filed 6-28-76;8:45 am]

---

[Docket No. RP72-156 (PGA76-2)]

## TEXAS GAS TRANSMISSION CORP.

### Proposed Changes in FPC Gas Tariff

JUNE 23, 1976.

Take notice that Texas Gas Transmission Corporation (Texas Gas) on June 14, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, Fifteenth Revised Sheet No. 7.

Texas Gas states that this sheet is being issued pursuant to Texas Gas' Demand Charge Adjustment provision and Purchase Gas Cost Adjustment Provision contained in Section 10.5 and Section 23, respectively, of the General Terms and Conditions of its FPC Gas Tariff, Third Revised Volume No. 1.

Texas Gas requests that the Commission accept the revised tariff sheet to be effective August 1, 1976.

Texas Gas states that copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 July 9, 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.76-18827 Filed 6-28-76;8:45 am]

---

[Docket No. RP71-29, et al]

## UNITED GAS PIPE LINE CO.

### Revision of Service List

JUNE 23, 1976.

Several parties to the above-designated proceeding have indicated to the Commission that they are not receiving service of all documents required to be served in this proceeding.

Notice is hereby given that parties to this proceeding should file with the Secretary by July 6, 1976, any collections that should be made to the service list, including both the new correct counsel and address and the old counsel and address to be corrected or deleted. No changes or deletions will be made to the service list unless a party files a written request; nor are any additional petitions to intervene or notices of intervention required by this notice. It should be noted that it is the responsibility of the parties under Section 1.17(c) of the Rules of Practice and Procedure to notify the Commission whenever any change of counsel or other qualified representative is made so that the accuracy of the official service list may be maintained.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18830 Filed 6-28-76;8:45 am]

---

[Docket No. E-9766]

## WILLAMETTE RIVER BASIN

### Proposed Determination of Headwater Benefits Payments

JUNE 23, 1976.

Public notice is hereby given that the Commission Staff proposes to recommend that the Commission determine, pursuant to the provisions of section 10(f) of the Federal Power Act (16 U.S.C. 803(f)), certain additional payments for benefits provided to downstream non-Federal hydroelectric projects in the Willamette River basin during the period July 1, 1966, through June 30, 1974, for which interim payments have been made.

The Federal projects which provide these benefits and the periods for which interim payments were made are: Dorena, Cottage Grove, and Fern Ridge, July 1, 1971, to June 30, 1974; Fall Creek, July 1, 1966, to June 30, 1974; and Blue River, July 1, 1969, to June 30, 1974.

The proposed additional payments are as follows:

| | Payments for— | | Total |
|---|---|---|---|
| | Headwater benefits | Commission costs | |
| Portland General Electric Co. | $13,630 | $970 | $14,600 |
| Eugene Water & Electric Board | 17,900 | 1,270 | 19,170 |
| Total | 31,530 | 2,240 | 33,770 |

The results of the computations are set forth in a staff report, "Headwater Benefits Attributable to Non-Power Reservoirs, Willamette River Basin, Oregon, July 1966 through June 1974", dated March 1976, copies of which were sent to all affected parties.

Commission Staff proposes no additional payments to make final the interim payments for the Dorena, Cottage Grove, and Fern Ridge reservoirs. Average annual payments for these reservoirs, which were determined by the Commission order of December 19, 1967, were considered as interim amounts for the period 1971-74 period. Review by the Commission Staff indicates that the conditions for the later period were not

substantially different from those prevailing during the period covered by the December 19, 1967 Order.

Commission Staff further proposes for Fall Creek and Blue River, which were not in operation prior to the Order of December 19, 1967, and for which the expected value of the benefits would not justify a rigorous calculation of energy gains, that an abbreviated method of calculation be adopted for this interim period. Staff proposes that the computations of payments consist of prorating the average annual payments, as determined by the Commission Order dated December 19, 1967, for Dorena, Cottage Grove, and Fern Ridge, to establish annual payments for Fall Creek and Blue river according to ratios of average annual energy gains as calculated under the provisions of the Pacific Northwest Coordination Agreement.

Any person desiring to be heard or make any protest to said proposed determinations should, on or before August 2, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.76-18825 Filed 6-28-76;8:45 am]

---

[Docket No. CP76-380]

## COLUMBIA GULF TRANSMISSION CO.

### Informal Conference

*Correction*

In FR Doc. 18190 appearing at page 25934 in the issue for Wednesday, June 23, 1976, the heading should have read as set forth above.

---

## MISSISSIPPI RIVER TRANSMISSION CORP., ET AL.

### Submission of Refund Report

*Correction*

In FR Doc. 76-18186 appearing at page 25936 in the issue for Wednesday, June 23, 1976, the docket numbers were omitted. They should have been included as follows:

(1) Mississippi River Transmission Corp.: Docket No. CP63-12, et al.

(2) United Gas Pipe Line Co.: Docket Nos. G-16388, RP61-18, RP63-1, and RP65-1.

(3) Natural Gas Pipeline Company of America: Docket Nos. RP68-17 and RP67-21.

---

[Docket No. ID-1686]

## ROBERT E. MAGUIRE

### Application

*Correction*

In FR Doc. 18197 appearing at page 25937 in the issue for Wednesday, June 23, 1976, the heading should have read as set forth above.

---

# FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 24]

## ACTIONS OF THE BOARD

### Applications and Reports Received During the Week Ending June 12, 1976

NOTE.—The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

ACTIONS OF THE BOARD

Statement by Governor J. Charles Partee, before the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Currency and Housing on the Monetary Policy process.

Statement by John D. Hawke, General Counsel, before the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations, with respect to the Board's ability to deal with the participation of U.S. banks in foreign boycott practices.

Regulation C, the Board announced adoption of a new regulation to implement the Home Mortgage Disclosure Act of 1975, the Act, and the new Regulation C implementing it, to become effective June 28.

Letters to Senators Brooks and Proxmire regarding a request for data on standby letters of credit.

At the direction of the Board of Governors, the Assistant Secretary returned to Mr. Anthony R. Martin-Trigona his "Motion to Strike Bizarre, Incompetent and Ridiculous Pleading" with an accompanying Affidavit, and his "Motion to Reopen Hearings," each dated May 26, 1976.

Letter to Chairman Barnett, Federal Deposit Insurance Corporation, regarding the uniform policy in setting due dates for the Income Report, the Report of Condition, and the Large Bank Supplements, all at 30 days following the date of the reports.

Report on bill S. 2304, letter to Honorable John Tower, Senate Committee on Banking, Housing, and Urban Affairs, in response to request for legislative language that would carry out the Board's recommended changes in S. 2304 as set forth in letter of June 2, 1976.

Report on bill S. 3368, the proposed "Interstate Taxation of Depositories Act of 1976," letter to Chairman Proxmire in response to request for Board's comments regarding the proposed Act.

First Security Corporation, Salt Lake City, Utah, extension of time to September 1, 1976, within which to comply with Board's order to divest certain impermissible land development activities of its subsidiary, Securities-Intermountain, Inc.[1]

Illinois National Bancorp, Inc., Springfield, Illinois, extension of time to September 9, 1976, within which to acquire the Illinois National Bank of Springfield, Illinois.[1]

Independent Financial, Ltd., Brown Deer, Wisconsin, extension of time to September 14, 1976, within which to acquire The Brown Deer Bank, Brown Deer, Wisconsin.[1]

Termination of registration under Regulation G for Central Oregon Production Credit Association.[1]

Texas American Bancshares, Inc., Fort Worth, Texas, extension of time to April 8, 1977, within which to dispose of shares of Acoustron Corporation, which were acquired by a subsidiary bank in partial satisfaction of a debt previously contracted.[1]

Shawmut Bank of Boston, N.A., Boston, Massachusetts, extension of time to June 25, 1977, within which to purchase and hold, directly or indirectly, additional shares of Atlantic International Bank Limited, London, England.[1]

*To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act*

APPROVED

First Virginia Bank, Fall's Church, Virginia. Branch to be established near the intersection of Burke Road and Burke Lake Road, Burke.[2]

United California Bank, Los Angeles, California. Branch to be established in the vicinity of the intersection of First Street and Herndon Avenue, City of Fresno, Fresno County.[2]

* * * * *

*International Investments and Other Actions Approved Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended*

Morgan Guaranty International Finance Corporation, New York, New York: investment—to acquire 100 percent of the shares of a *de novo* limited liability company, to be established in Nassau, Bahamas.

* * * * *

*To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956*

APPROVED

Leeds Holding Company, Leeds, North Dakota, for approval to acquire 98 percent of the voting shares of Farmers State Bank of Leeds, Leeds, North Dakota.

---

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed on behalf of the Board of Governors under delegated authority.

Dale Sprague Enterprises, Inc., Blue Mound, Kansas, for approval to acquire 80 percent or more of the voting shares of The Farmers State Bank of Blue Mound, Blue Mound, Kansas.

United Investments Corp., Wichita, Kansas, for approval to acquire 87.1 per cent of the voting shares of United American State Bank & Trust Company, Wichita, Kansas, through Sierra Petroleum Co., Wichita, Kansas.

DENIED

North Lawndale Economic Development Corporation, Chicago, Illinois, for approval to acquire 90 per cent of the voting shares of Community Bank of Lawndale, Chicago, Illinois, a proposed new bank.

SUSPENDED

Benson Bancshares, Inc., Benson, Minnesota, for approval to acquire 88 per cent or more of the voting shares of Swift County Bank, Benson, Minnesota.

* * * * *

*To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956*

APPROVED

The Royal Trust Company, Montreal, Quebec, Canada, for approval to acquire 80 per cent or more of the voting shares of The First Bank of Gulfport, Gulfport, Florida.

* * * * *

*To Expand a Bank Holding Company Pursuant to Section 3(a)(5) of the Bank Holding Company Act of 1956*

* * * * *

APPROVED

Sierra Petroleum Co., Inc., Wichita, Kansas, for approval to merge with United Investments Corp., Wichita, Kansas, and indirectly to acquire United American State Bank & Trust Company, Wichita, Kansas.

*To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956*

APPROVED

Dale Sprague Enterprises, Inc., Blue Mound, Kansas, for permission to engage *de novo* in general insurance agency activities in a community with a population not exceeding 5,000 persons.

DELAYED

U.S. Bancorp, Portland, Oregon, notification of intent to engage in *de novo* activities (making, acquiring, and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others, including the making, originating, acquiring, purchasing, arranging for holding, warehousing and selling, for its own account and for the account of others, loans of all types and other extensions of credit secured by mortgages or deeds of trust on real property such as would be made by a mortgage company, servicing such loans and other extensions of credit for any person; and acting as insurance agent with regard to credit life and disability insurance, property and casualty insurance solely in connection with extensions of credit by U.S. Bancorp Mortgage Company) at 309 Southwest Sixth Avenue, Portland, Oregon; 1218 Third Avenue, Seattle, Washington; W. 127 Boone Avenue, Spokane, Washington; 3 North 7th Avenue, Yakima, Washington; 1411 "C" Street, Vancouver, Washington; and 550 Kensington, Missoula, Montana, through a subsidiary, U.S. Bancorp Mortgage Company (6/11/76).[2]

DENIED

North Lawndale Economic Development Corporation, Chicago, Illinois, for approval to retain NLEDC Realty Management, Inc. and California Healthcare, Inc., both in Chicago, Illinois.

PERMITTED

CBT Corporation, Hartford, Connecticut, notification of intent to engage in *de novo* activities (commercial financing including the making of loans secured by accounts receivable, inventory, machinery and equipment, and real estate, and full payout leasing of equipment) at 630 Beach Street, San Francisco, California, through General Discount Corporation, an indirect subsidiary of CBT Financial Corporation (6/7/76).[2]

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. (6/7/76).[2]

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. (6/6/76).[2]

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 North Lafayette Street, Shelby, North Carolina to 205 West Dixon Boulevard, Shelby, North Carolina, through its subsidiary, Fidelcor Financial Center of Shelby, Inc. (6/6/76).[2]

Maryland National Corporation, Baltimore, Maryland, notification of intent to relocate *de novo* activities (investment or financial advisor to the extent of serving as advisory company to Maryland Realty Trust, a real estate investment trust) from The Maryland National Center, Rockville, Maryland to 325 John Knox Road, Tallahassee, Florida, through its subsidiary, Maryland National Advisers, Inc. (6/12/76).[2]

Southern Bancorporation, Inc., Greenville, South Carolina, notification of intent to engage in *de novo* activities (making extensions of credit as a licensed consumer finance lender under the Consumer Finance Act of South Carolina as supervised by the South Carolina Board of Bank Control, Consumer Finance Division; and acting as agent for the sale of credit related life/accident and disability insurance and credit related property and casualty insurance issued in connection with the abovementioned extensions of credit) at 222 Park Avenue, S.W., Aiken, South Carolina, through a subsidiary, World Finance Corporation of South Carolina (6/12/76).[2]

Southern Bancorporation, Inc., Greenville, South Carolina, notification of intent to engage in *de novo* activities (making extensions of credit as a licensed consumer finance lender under The Consumer Finance Act of South Carolina as supervised by the South Carolina Board of Bank Control, Consumer Finance Division; and acting as agent for the sale of credit related life/accident

and disability insurance, and credit related property and casualty insurance issued in connection with the above-mentioned extensions of credit) at 413 Montague Avenue, Greenwood, South Carolina and 232 West Evans, Florence, South Carolina, through a subsidiary, World Finance Corporation of South Carolina (6/10/76).[3]

*To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act*

Manufacturers and Traders Trust Company, Buffalo, New York. Branch to be established at 2400 Seneca Street, West Seneca.

Union Trust Company of Maryland, Baltimore, Maryland. Branch to be established in the Bel Air Plaza Shopping Center, Bel Air, Harford County.

Bank of Virginia, Richmond, Virginia. Branch to be established in the Canterbury Shopping Center, northwest corner of Patterson Avenue and Pump Road, Henrico County.

Dale Mabry State Bank, Tampa, Florida. Branch to be known as the Tampa Bay Center Office.

First Bank and Trust Company of South Bend, South Bend, Indiana. Branch to be established at the southeast corner of State Road No. 23 and Bittersweet Road, Granger, St. Joseph County.

Chemical Bank and Trust Company, Midland, Michigan. Branch to be established at 1908 South Saginaw Road, Midland.

* * * * *

*To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956*

Harlan National Company, Harlan, Iowa, for approval to acquire 98.2 percent of the voting shares of The Harlan National Bank, Harlan, Iowa.

Bancook Corporation, Cook, Nebraska, for approval to acquire 80 percent or more of the voting shares of Farmers Bank of Cook, Cook, Nebraska.

Platte Valley Bancorp, Inc., Brighton, Colorado, for approval to acquire 80 percent or more of the voting shares of Platte Valley Bank of Weld County, Frederick, Colorado and Platte Valley Bank, Brighton, Colorado.

*To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956*

Roger Billings, Inc., Delphos, Kansas, for approval to acquire an additional 4.6 percent of the voting shares of State Bank of Delphos, Delphos, Kansas.

* * * * *

*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 engage in *de novo* activities (consumer personal lending, preauthorized consumer revolving credit; 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 these proposals are effected, the subsidiary will offer to sell insurance as follows: credit life/accident and health or individual decreasing or level (in the case of single payment loans) life insurance to cover the outstanding balance of consumer credit transactions singly or jointly with their spouses or cosigners in the case of life coverage in the event of death, or, to make the contractual monthly payments on the consumer credit transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; and individual casualty insurance on personal property subject to security agreements and to include liability coverage in home or automobile owner "package" policies where such is the general practice; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 1701 North Kirling Street, Suite 205, Lakewood, Colorado, through its subsidiary, Nationwide Financial Service Corporation and its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (6/10/76).[3]

CB&T Bancshares, Inc., Columbus, Georgia, notification of intent to engage in *de novo* activities (writing and issuing credit life insurance policies and credit accident and health insurance policies in connection with the extensions of credit such as would be made by a second mortgage company) at 620 Shurling Drive, Macon, Georgia, 711 Pine, Albany, Georgia, and 1148 Broadway, Columbus, Georgia, through a subsidiary, CB&T Homeowners, Inc. (6/10/76).[3]

Harlan National Company, Harlan, Iowa, for permission to acquire all of the voting shares of Bank Insurance Agency, Harlan, Iowa.

Walter E. Heller International Corporation, Chicago, Illinois, notification of intent to engage in *de novo* activities (to engage in the business of commercial finance, factoring, and leasing) at 300 Delaware Avenue, Wilmington, Delaware, through its subsidiary, Walter E. Heller & Company (6/8/76).[3]

MPS Investment Company, Appleton, Minnesota, for permission to retain the general insurance agency d/b/a Farmers & Merchants Insurance Agency, Appleton, Minnesota (sale of insurance coverage relative to casualty, fire and windstorm, farm property, crop hail, life and health and accident, surety, motor, property and liability and all other insurance usual and incidental to a general insurance agency in a town of less than 5,000).

Bankshares of Nebraska, Inc., Grand Island, Nebraska, notification of intent to engage in *de novo* activities (sale of credit life and credit disability (accident and health) insurance on extensions of credit) at First Center, 3413 West Thirteenth Street, Grand Island, Nebraska, through a subsidiary, First Savings Company (6/8/76).[3]

Platte Valley Bancorp, Inc., Brighton, Colorado, for approval to continue to operate Platte Valley Insurance Agency, Frederick, Colorado.

BankAmerica Corporation, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account loans and other extensions of credit, servicing for itself and others loans and other extensions of credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, the following specific activities: making of consumer installment loans, purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses, and making loans secured by real or personal property or a combination thereof; acting as agent or broker for the sale of credit life and credit accident and health insurance and credit related property and casualty insurance in connection with extensions of credit by FinanceAmerica Corporation) at 31 A Black Horse Pike, Runnemede, New Jersey, through a subsidiary, FinanceAmerica Corp. (6/4/76).[3]

Patagonia Corporation, Tuscon, Arizona, notification of intent to engage in *de novo* activities (originating residential mortgages on commercial real estate for sale to permanent investors, servicing of mortgages for permanent investors, and interim lending for land development and construction financing where the loan will be sold to a permanent investor) at 1700 First Avenue, Yuma, Arizona, through its subsidiary, Western American Mortgage Company (6/7/76).[3]

U.S. Bancorp Portland, Oregon, notification of intent to engage in *de novo* activities (making, acquiring, and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others, including the making, originating, acquiring, purchasing, arranging for holding, warehousing and selling, for its own account and for the account of others, loans of all types and other extensions of credit secured by mortgages or deeds of trust on real property such as would be made by a mortgage company, servicing such loans and other extensions of credit for any person; and acting as insurance agent with regards to credit life and disability insurance, property and casualty insurance solely in connection with extensions of credit by U.S. Bancorp Mortgage Company) at 309 Southwest Sixth Avenue, Portland, Oregon; 1218 Third Avenue, Seattle, Washington; W. 127 Boone Avenue, Spokane, Washington; 3 North 7th Avenue, Yakima, Washington; 1411 "C" Street, Vancouver, Washington; and 550 Kensington, Missoula, Montana, through a subsidiary, U.S. Bancorp Mortgage Company (5/20/76).[3]

Washington Bancshares, Inc., Spokane, Washington, for approval to en-

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

gage de novo through a subsidiary, Old National Life Insurance Company, Phoenix, Arizona (in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance which is directly related to extensions of credit by the holding company system).

* * * * *

REPORTS RECEIVED

*Registration Statement Filed Pursuant to 12(g) of the Securities Exchange Act*

Union Trust Company of Wildwood, Wildwood, New Jersey.

* * * * *

*Current Report Filed Pursuant to Section 13 of the Securities Exchange Act*

The Maplewood Bank and Trust Company, Maplewood, New Jersey.

Union Bank, Los Angeles, California.

PETITIONS FOR RULEMAKING

None.

Board of Governors of Federal Reserve System, June 20, 1976.

[SEAL] J. P. GARBARINI,
*Assistant Secretary of the Board.*

[FR Doc.76-18758 Filed 6-28-76;8:45 am]

## BANK SHARES INC.

### Order Denying Merger of Bank Holding Companies

Bank Shares Incorporated, Minneapolis, Minnesota ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. § 1842(a)(5)) to merge with Mid America Bancorporation, Inc., Minneapolis, Minnesota ("Mid America"), a bank holding company within the meaning of the Act. Applicant would be the surviving corporation.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

On the basis of the record, the application is denied for the reasons set forth in the Board's Statement, which will be released at a later date.

By order of the Board of Governors,[1] effective June 21, 1976.

GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.76-18760 Filed 6-28-76;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, and Partee. Present and abstaining: Governor Lilly.

## ROGERS BILLINGS, INC.

### Acquisition of Bank

Roger Billings, Inc., Delphos, Kansas ("Applicant"), has applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. § 1842) to acquire 23 of the voting shares (4.6%) of the State Bank of Delphos, Delphos, Kansas ("Bank"). Applicant currently holds 111 shares (22.2%) of the outstanding voting shares of Bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 21, 1976.

Board of Governors of the Federal Reserve System, June 21, 1976.

J. P. GARBARINI,
*Assistant Secretary of the Board.*

[FR Doc.76-18761 Filed 6-28-76;8:45 am]

## SECURITY PACIFIC CORP.

### Order Approving Acquisition of The Bankers Investment Company

Security Pacific Corporation, Los Angeles, California ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), to acquire voting shares of The Bankers Investment Company, Hutchinson, Kansas ("BIC"), and thereby to acquire control of the wholly-owned subsidiaries of BIC. As a result of consummation of this proposal Applicant, through BIC's subsidiary companies, would engage in consumer finance activities, act as agent for the sale of credit life and credit accident and health insurance related to extensions of credit by the offices of BIC, and act as underwriter for credit life and credit accident and health insurance directly related to extensions of credit by the holding company systems.[1] Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(1), (9), and (10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 16616). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in § 4(c)(8) of the Act.

Applicant, the second largest banking organization in California, controls one subsidiary bank, Security Pacific National Bank, Los Angeles, California ("Bank"). Bank controls deposits of $9.9 billion, representing 12.3 per cent of the total deposits in commercial banks in the State,[2] and offers a full range of banking services. Applicant engages in a variety of permissible nonbank activities through its nonbanking subsidiaries. Applicant's nonbank activities include commercial finance, venture capital investment, mortgage banking, leasing, insurance agency, and investment advisor activities; and through Security Pacific Finance Corp. ("SPFC"), which was organized *de novo* in 1974, Applicant engages in consumer finance activities. SPFC has opened 11 offices as of March, 1976, all but one of which are located in California.

BIC (gross receivables of approximately $40 million, as of December 31, 1975) operates 57 offices in nine south-central States: Colorado, Idaho, Kansas, Missouri, New Mexico, Oklahoma, Texas, Utah, and Wyoming, with the largest group of offices, 23, being located in Kansas. Through these offices, BIC engages in direct consumer, agricultural, and commercial lending, and the purchase of installment sales contracts.[3] Additionally, BIC conducts a nationwide loan-by-mail program from its principal office in Hutchinson, Kansas. BIC engages in the sale of credit life and credit accident and health insurance related to its extensions of credit. BIC also presently engages in the sale of other lines of insurance, but Applicant has committed that BIC will cease to engage in the sale of these other lines of insurance following consummation of this proposal. Through two subsidiaries, BIC engages in the underwriting of various lines of insurance; however, Applicant has committed that, following consummation of this proposal, BIC's underwriting activities will be limited to the underwriting of credit life and credit accident and health insurance directly related to extensions of credit by Applicant's credit-granting subsidiaries.

None of Applicant's subsidiaries presently competes in any market in which offices of BIC are located;[4] nor does it appear likely that any significant competition would develop in the future between BIC and any of Applicant's subsidiaries. Applicant's existing consumer finance

[1] Applicant would not underwrite credit accident and health insurance for its credit-granting offices located in California.

[2] All banking data are as of June 30, 1975.

[3] BIC presently issues investment certificates as a source of funding. Applicant has committed to cause BIC to cease the issuance of investment certificates upon consummation of the proposed acquisition.

[4] BIC's nationwide receivables associated with its loan-by-mail program approximate $5.8 million and its customers are located throughout the United States. Thus, any competition with Applicant in this area is not deemed by the Board to be significant.

subsidiary is not regarded as a likely entrant into any of the markets served by BIC in view of its small size and its past record of limiting its expansion primarily to California. Accordingly, the Board concludes that consummation of the proposed acquisition would not result in a significant adverse effect on competition with respect to this activity in any relevant area. In addition, it does not appear that Applicant's acquisition of BIC's insurance activities would have any significant effect on competition in view of the limited nature of the insurance activities which Applicant proposes that BIC would retain following consummation of the acquisition.

It is anticipated that BIC's affiliation with Applicant will afford BIC access to Applicant's expertise and substantial financial resources, thus enabling it to compete more effectively with other consumer finance companies in the areas in which it operates. Applicant states that, as a result of this proposal, BIC would be able to expand its lending activities. Applicant proposes to provide BIC customers with a broader range of lending services and to increase the availability of larger-sized loans, loans with longer maturities, and loans at lower annual percentage rates.

Credit life and credit accident and health insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10) n. 7)

Applicant has stated that following consummation of the acquisition, BIC will offer at reduced premiums the several types of credit insurance policies that it will reinsure. Since credit life insurance will be sold in each of the nine States in which BIC operates as well as by Bank in California and SPFC in California and Colorado, Applicant's proposed rate reductions vary according to the permissible rate structures in each respective State. Thus, Applicant's proposal involves rate reductions for reducing-term single and joint credit life insurance at premium rates ranging from 2 per cent to 15 per cent below the rates presently charged in each of the respective States. Applicant does not propose to have BIC underwrite the credit accident and health insurance sold by the California offices of its subsidiaries. However, such insurance sold by SPFC's Colorado office and the offices of BIC in the above-mentioned nine States will be offered at rates ranging from 3.7 per cent to 5 percent below the premiums presently charged in each of the respective States. The Board is of the view that the reductions in insurance premiums that Applicant proposes to establish are in the public interest.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, decreased or unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. In its consideration of this application, the Board has taken into account several commitments made by Applicant with respect to the discontinuance, following consummation of the proposed acquisition, of certain impermissible nonbank activities in which BIC is presently engaged.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant, with respect to its proposed underwriting activities, to maintain on a continuing basis the public benefits that the Board has found to be reasonably expected to result from this proposal and upon which the approval of that aspect of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is conditioned upon Applicant's obtaining approval of the proposed transaction from the Commissioner of Insurance of the State of Kansas prior to consummation. This determination is further subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco, pursuant to authority hereby delegated.

By order of the Board of Governors,[5] effective June 21, 1976.

GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.76-18759 Filed 6-28-76;8:45 am]

## FEDERAL TRADE COMMISSION

### MAGNUSON-MOSS WARRANTY ACT

#### Modification of Implementation and Enforcement Policy

On June 18, 1975, the Federal Trade Commission announced an Implementation and Enforcement Policy to assist warrantors and suppliers of consumer products to comply with the Magnuson-Moss Warranty Act (Pub. L. 93-637, 15 U.S.C. 2301-2312). This policy statement was published on pages 25721-25724 of the June 18, 1975 FEDERAL REGISTER. In Part 2 of this policy statement the Commission included "small aircraft" among the examples of consumer products covered by the Act. In response to this interpretation the General Aviation Manufacturers Association (GAMA), by letter dated July 1, 1975, requested the Commission to reconsider its interpretation.

The data available to the Commission indicates that no appreciable portion of new aircraft are sold to consumers, for personal, family or household use. Therefore, it is the Commission's view that general aviation aircraft are not among the products whose users Congress intended to protect under the Act's regulatory scheme for consumer product warranties.

Therefore Part 2 of the Implementation and Enforcement Policy is amended to delete the phrase "small aircraft" from the list of examples of consumer products covered by the Act.

By direction of the Commission.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.76-18835 Filed 6-28-76;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### COST OF HOSPITAL AND MEDICAL CARE AND TREATMENT FURNISHED BY THE UNITED STATES

#### Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of the Act of September 25, 1962 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been determined to represent the reasonable cost of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals and nursing homes, administered by any of the three Federal agencies—Department of Defense, Veterans Administration, or Department of Health, Education, and Welfare—with the exception of Canal Zone Government Hospitals—

[5] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

*Effective July 1, 1976, and thereafter*

| | DOD | VA | HEW |
|---|---|---|---|
| Hospital care per inpatient day: | | | |
| Federal general medical, surgical, and tuberculosis care | $168 | $116 | $117 |
| Federal psychiatric care | | 68 | |
| Veterans' Administration nursing home care | | 53 | |
| Outpatient medical and dental treatment: Per outpatient visit | 20 | 39 | 25 |

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment.

(c) For such care and treatment at Canal Zone Government hospitals, the rates shall be those established, and in effect at the time the care and treatment is furnished, by the Canal Zone Government for such care and treatment furnished to beneficiaries of other United States Government agencies.

For the period beginning July 1, 1976, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on May 14, 1975 (40 FR 24254).

PAUL H. O'NEILL,
*Acting Director,*
*Office of Management and Budget.*

JUNE 17, 1976.

[FR Doc.76-18802 Filed 6-28-76;8:45 am]

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket 75-3]

### TRADE POLICY REVIEW GROUP

### Termination of Section 301 Review

Pursuant to Part 2006.4 of the Regulations of the Office of the Special Representative for Trade Negotiations, as amended, the Trade Policy Committee Review Group hereby terminates its review of a petition alleging unfair trade practices by Guatemala against U.S. shipping under section 301 of the Trade Act of 1974 (Docket No. 75-3).

On July 1, 1975, the Special Representative for Trade Negotiations received from Delta Steamship Lines, Inc., a petition alleging unfair trade practices by Guatemala against United States commerce and requesting relief under section 301 of the Trade Act of 1974. Public hearings were held in respect to this petition on September 25 and 26, 1975.

On April 21, 1976, the Special Representative for Trade Negotiations received a request from Petitioner Delta Steamship Lines, Inc., seeking withdrawal of its complaint filed under section 301 of the Trade Act of 1974.

Public comments on Petitioner's request for termination were solicited by publication in the FEDERAL REGISTER of June 3, 1976 (41 FR 108, pg. 22434). No comments seeking extension of the section 301 review were received. The Trade Policy Committee Review Group therefore deems it appropriate to terminate the review of Docket 75:3 as requested by Petitioner Delta Steamship Lines, Inc.

CLAYTON K. YEUTTER,
*Deputy Special Representative for Trade Negotiations Chairman, Trade Policy Committee Review Group.*

[FR Doc.76-18764 Filed 6-28-76;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19581; 70-5847]

### BLACK THUNDER COAL CO., ET AL.

### Proposed Coal Mining Transactions

JUNE 18, 1976.

In the matter of Black Thunder Coal Company, % American Electric Power Service Corporation, 2 Broadway, New York, New York 10004; Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; Ohio Power Company, 301 Cleveland Avenue S.W., Canton, Ohio 44701; American Electric Power Company, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, Indiana & Michigan Electric Company ("I&M") and Ohio Power Company ("Ohio"), its subsidiary electric utility companies, and Black Thunder Coal Company, a newly incorporated company, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9, 10, 12 and 13 and Rules 50(a)(3), 50(a)(5)(A), 89, and 100(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

On June 19, 1974, I&M entered into a coal supply contract with McCulloch Oil Corporation ("McCulloch") and Braztah Corporation ("Braztah"), a McCulloch subsidiary. The contract generally related to the sale by Braztah of low sulfur coal to AEP System companies from certain mines located in Carbon County, Utah ("Carbon County mines"). Thereafter I&M undertook to provide Braztah with interim financing by advancing to Braztah up to $10,000,000 in short-term notes, secured by these properties (HCAR No. 18614).

The coal supply contract further provided that if long-term leases had not been entered into by July 20, 1975, I&M would purchase the Carbon County mines. It is stated that in May 1975, it appeared that the long-term financing contemplated by the coal supply contract could not be effected as originally planned. Franklin Real Estate Company ("Franklin"), a real estate subsidiary of AEP, acting on behalf of I&M, purchased the Carbon County mines on June 27, 1975 (HCAR No. 19064); and the mines were to be operated by Braztah for I&M pursuant to a coal mining contract.

It is stated that Black Thunder has been incorporated under the laws of the state of Utah to own the Carbon County mines, to hold federal, state and county coal leases, and to engage in mining, processing, transporting and selling coal. Black Thunder is authorized to issue 500,000 shares of common stock, par value of $1.00 per share. It is proposed that Black Thunder will acquire from I&M and Franklin the Carbon County mines and all of I&M's right, title and interest under the coal mining contract and any contracts and agreements in connection with equipment or other materials purchased or contracted to be purchased for use at the Carbon County mines. In exchange, I&M will receive 400,000 shares of Black Thunder's common stock; and Black Thunder will assume the liabilities and contractual obligations of Franklin and I&M incurred in connection with the purchase, development and operation of the Carbon County mines.

It is further proposed that upon completion of this acquisition of the Carbon County mines by Black Thunder, I&M will sell to Ohio 200,000 shares of Black Thunder's common stock, constituting 50% of the outstanding shares of such common stock, for cash in an amount equal to 50% of I&M's investment in Black Thunder. It is expected that at the time of the consummation of this transaction, I&M's book investment in the Carbon County mines will approximate $40,000,000. Additionally it is proposed that Ohio will agree to pay to I&M 50% of any amounts which I&M may become obligated to pay on account of the liabilities and obligations of I&M and Franklin assumed by Black Thunder at the time of its acquisition of the Carbon County mines, to the extent not previously paid by Black Thunder.

Ohio, I&M and Black Thunder also propose to enter into a coal purchase agreement pursuant to which Black Thunder will make available to Ohio and I&M the coal mined from the coal reserves included in the Carbon County mines, each company entitled to 50% thereof. Ohio and I&M will each pay to Black Thunder 50% of such amounts as, when added to amounts received by Black Thunder from all other sources, will at least be sufficient to enable Black Thunder to pay, when due, all of its operating and other expenses, including (i) any amount which Black Thunder may be required to pay as rent pursuant to any lease of real or personal property, or on account of any interest on any indebtedness for borrowed money of Black Thunder and on account of the stated maturities of, and/or all required sinking fund payments and other regular amortization requirements applicable to, such indebtedness, (ii) amounts due, including interest, on account of the obligations to Braztah originally incurred by I&M in connection with the acquisition of the Carbon County mines and (iii) such additional amount which after pro-

vision for amounts payable as taxes upon, or measured by, income (x) will enable Black Thunder to pay dividends on any preferred stock which it may issue (other than to I&M, Ohio or any other member of the AEP System), and (y) will represent reasonable compensation to Black Thunder for the use of the capital invested in Black Thunder by I&M and Ohio as shall equal the product of (a) the amount of such capital invested in Black Thunder at the end of the month preceding each monthly payment and (b) one-twelfth of such percentage as shall be equal to the average "provision for return" of I&M and Ohio, determined as follows: the "provision for return" for each of I&M and Ohio shall be computed by applying to the respective Company's capital structure, as of March 31, 1976, an interest rate on long-term debt equal to the effective interest cost of the respective Company's last bond issue, a preferred dividend rate equal to the Company's last preferred stock issue and a rate of return on equity (excluding preferred stock) of 12½%; and the average "provision for return" of I&M and Ohio shall be determined by adding the respective "provisions for return" of each such company as determined above and then dividing the sum by two.

It is stated that upon the completion of the acquisition of the Carbon County mines by Black Thunder and the execution and delivery by Ohio, I&M and Black Thunder of the coal purchase agreement, Black Thunder and an unaffiliated bank or trust company as trustee ("Trustee"), under a trust agreement for the benefit of General Electric Credit Corporation ("GECC"), will enter into a lease, pursuant to which the Trustee will acquire new coal mining and processing equipment from time to time until December 31, 1980 and lease such equipment to Black Thunder for use in the development and operation of the Carbon County mines. The total cost of the equipment to be leased by Black Thunder is presently estimated by Ohio and I&M to be $78,100,000. GECC will provide 40% of the funds required to purchase the equipment to be leased, with the balance to be borrowed by the Trustee from a special purpose corporation (the "Note Issuer"), which in turn will borrow such funds from institutional investors. The Trustee will issue an Owner Certificate to GECC evidencing its equity investment in the equipment and Loan Certificates to the Note Issuer, all of the capital stock of which will be initially owned by GECC, evidencing the loans made by the Note Issuer to the Trustee. The Note Issuer will issue notes (the "Notes") to the institutional investors from which it borrows. The Loan Certificates and the Notes will be issued under an Indenture pursuant to which the trustee thereunder (the "Loan Trustee") will receive, as part of the trust estate and as security for the Notes, a first lien on the equipment, an assignment of the Trustee's rights under the lease, an assignment of the Trustee's rights under a lease guarantee by AEP, all of the right, title and interest of the Note Issuer in and to the Loan Certificates, a pledge of all of the capital stock of the Note Issuer, an assignment of a Ground Lease, including the Trustee's rights thereunder, in certain events, to mine coal from the reserves included in the Carbon County mines with the equipment through the year 2009 and an assignment of the coal mining contract which will have been assigned by Black Thunder to the Trustee to secure the performance of Black Thunder's obligations under the lease. The lease will be a so-called "net lease", the rental and termination payments under the lease being designed to protect GECC and the institutional investors from loss.

The Notes evidencing the loans from the institutional investors to the Note Issuer, and the Loan Certificates, will bear interest at the rate of 10% per annum and will mature either on December 31, 1999 or on a date approximately 8 years from their issuance, depending upon the lease term of the equipment purchased by the Trustee with the proceeds of the loan. The rent payable by Black Thunder to the Trustee for equipment placed under lease prior to June 30, 1976 will amount to a percentage, to be specified, of the cost of such equipment for each semiannual period during the lease form. The rent payable by Black Thunder to the Trustee for equipment under lease after such date is adjusted semiannually in accordance with a formula based on changes in the Baa corporate bond yield rate and the highest prime interest rate of The Chase Manhattan Bank, N.A., Morgan Guaranty Trust Company and Manufacturers Hanover Trust Company from an assumed Baa bond yield of 10.32% and a prime interest rate of 9.25%. It is stated that Ohio and I&M believe that the cost of money to Black Thunder under the lease arrangements outlined above will be lower than the cost of money which Black Thunder would incur in the event Black Thunder continued to own rather than lease the equipment involved and borrowed from unaffiliated lenders the amount necessary to finance the purchase of such equipment.

The GECC commitment letter provides that Black Thunder will pay to GECC a commitment fee of $50,000 at the time the lease and related documents are executed and that Black Thunder will pay all reasonable fees and out-of-pocket expenses of GECC in connection with the lease arrangements, other than the fee payable by GECC to United States Leasing International, Inc. ("USLI") of 1⅝% of the equipment cost for equipment placed under the lease and the first $100,000 of legal fees and disbursements of special counsel to GECC. I&M proposes to enter into a letter agreement with USLI by which USLI will agree to reimburse Black Thunder for fees and out-of-pocket expenses paid by it in connection with the lease arrangements at the rate of $65,000 for each $17,500,000 of equipment cost placed under the lease and that, if at least $70,000,000 in cost of equipment is purchased and placed under the lease and Black Thunder shall have paid fees and out-of-pocket expenses in excess of $260,000 (excluding the fees and disbursements of counsel for Black Thunder and expenses of obtaining regulatory approval), it will reimburse Black Thunder for amounts paid on account of such fees and out-of-pocket expenses in excess of $260,000 but in no event more than an additional $140,000. If less than $17,500,000 in cost of equipment is purchased by the Trustee and leased to Black Thunder, Black Thunder will pay to USLI a fee of $50,000.

Black Thunder also contemplates that it will, subsequent to its acquisition of the Carbon County mines, in addition to the transactions contemplated by the lease, sell to and lease-back from an unaffiliated concern certain of the equipment currently owned by I&M and Franklin which constitutes part of the Carbon County mines.

It is proposed that Black Thunder's obligation to pay rent and all of its other obligations under the lease be guaranteed by AEP. A lease guarantee will provide for notice to AEP of the specific default which is the basis for any demand upon AEP for performance under the lease guarantee and 10 days after such notice before such performance shall be required.

It is stated that I&M and Ohio each propose to make cash capital contributions to Black Thunder in an aggregate amount not in excess of $20,000,000, on or before December 31, 1982 to enable Black Thunder to continue the development of the Carbon County mines and acquire additional coal leases, coal reserves, and coal mining and processing equipment.

It is stated that the proposed transactions are necessary to assure Ohio and I&M of substantial quantities of low sulfur coal for consumption in their coal fired steam electric generating stations. They estimate that the development of the Carbon County mines in an annual rate of production of 6,500,000 tons per year by 1982 and the acquisition by Black Thunder of additional coal leases, reserves, mining and processing equipment through 1982 will require investments aggregating $156,000,000, including $10,000,000 already expended for purchase of equipment and $24,000,000 already expended for development and other costs.

AEP, I&M, Ohio and Black Thunder claim exemption from the competitive bidding requirements of Rule 50 by reason of paragraph (a)(3) thereof, or request an exemption pursuant to paragraph (a)(5)(A) thereof, as to those proposed transactions as involve the issuance of securities. It is also requested that, to the extent that the coal purchase agreement is subject to the requirements of Rule 89, it be exempted therefrom pursuant to Rule 100(a).

In addition to the fees, commissions and expenses to be incurred under the lease, further fees, commission and expenses will be filed by amendment. It is stated that Black Thunder will seek ap-

proval of the United States Department of the Interior ("Interior") to hold federal coal leases, and that the transfer from Franklin to Black Thunder of the federal coal leases included in the Carbon County mines will require the approval of Interior. The transfer from Franklin to Black Thunder of the Utah coal leases and the Carbon County, Utah coal leases will require, respectively, the approval of the Utah State Land Board and the Board of Commissioners of Carbon County, Utah. It is stated that no other state or local commission and no other federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 13, 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-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18809 Filed 6-28-76;8:45 am]

---

[File No. 500-1]

## GOVERNMENT EMPLOYEES INSURANCE CO.

### Suspension of Trading

JUNE 22, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Government Employees Insurance Company being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, Pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from June 23, 1976 through July 2, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18810 Filed 6-28-76;8:45 am]

---

## MIDWEST STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 22, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Sambo's Restaurants, Inc., Common Stock, no par value, File No. 7-4839.

Upon receipt of a request, on or before July 8, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18811 Filed 6-28-76;8:45 am]

---

## MIDWEST STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 22, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Saxon Industries, Inc., File No. 7-4840.

Upon receipt of a request, on or before July 8, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18812 Filed 6-28-76;8:45 am]

---

[Rel. No. 9328; 812-3935]

## NUVEEN INCOME FUND (SERIES 1 AND SUBSEQUENT SERIES) AND JOHN NUVEEN & CO. INC.

### Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From the Provisions of Section 14(a) of the Act and Rule 19b-1 Thereunder

JUNE 21, 1976.

Notice is hereby given that Nuveen Income Fund (Series 1 and Subsequent Series) (the "Fund"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") and its sponsor, John Nuveen & Co. Incorporated ("Sponsor", 209 South La Salle Street, Chicago, Illinois 60604 (hereinafter the Fund and the Sponsor are referred to collectively as "Applicants"), have filed, on June 9, 1976, an application pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of Section 14(a) of the Act, and the provisions of Rule 19b-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Each Series of the Fund will be a registered unit investment trust organized under the laws of the Commonwealth of Massachusetts. It is intended that United States Trust Company of New York will act as Trustee of each Series ("Trustee"), and State Street Bank and Trust Company will act as Co-Trustee ("Co-Trustee") pursuant to a trust indenture and agreement ("Indenture") among the Trustee, Co-Trustee, Sponsor and Tel-Stat Systems, Inc., as Evaluator ("Evaluator"). Each Series will be gov-

erned by a trust indenture and agreement which will contain standard terms and conditions common to all Series.

Pursuant to the Indenture governing the first Series, the Sponsor proposes to deposit with the Trustee at least $5,000,000 principal amount of debt securities of corporations and other entities, including contracts and funds for the purchase of such securities ("Bonds"), which the Sponsor will have accumulated for such purposes. For each additional Series, Applicants represent that the portfolio will be greatly in excess of $100,000, although the size of future series has not yet been established. Simultaneously with such deposit the Trustee will deliver to the Sponsor registered certificates for Units representing the entire ownership of the Series. These Units will in turn be offered for sale to the public by the Sponsor. Each Series will consist of Bonds, such securities as may continue to be held from time to time in exchange or substitution for any of the Bonds, and accumulated and undistributed income.

Distributions of interest on the first Series will be made semi-annually unless a Unitholder elects to receive them monthly or quarterly. It is proposed that principal be distributed semi-annually.

SECTION 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer nuless (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicants seek an exemption from the provisions of Section 14(a) in order that a public offering of Units of the Fund as described above may be made. In connection with the requested exemption from Section 14(a) the Sponsor agrees (1) to refund, on demand and without deduction, all sales charges to purchasers of Units of a Series if, within ninety days from the time that a registration statement for a Series becomes effective under the Securities Act of 1933, the net worth of the Series shall be reduced to less than $100,000, or if such Series is terminated; (2) to instruct the Trustee on the date bonds are deposited in each Series that in the event that redemption by the Sponsor of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 40% of the principal amount of Bonds originally deposited for such Series, the Trustee shall terminate the Series in the manner provided in the Indenture and distribute any bonds or other assets deposited with the Trustee pursuant to the Indenture as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales charges to any purchasers of Units purchased from the Sponsor on demand and without any deduction.

RULE 19b-1

Rule 19b-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not "a regulated investment company" but permits a unit investment trust to distribute capital gains dividends received from a "regulated investment company" within a reasonable time after receipt.

Distributions of principal on each Series will be made to unitholders semi-annually. Distributions of principal constituting capital gains to unitholders may arise in the following instances: (1) If an issuing authority calls or redeems an issue of bonds held in the portfolio, the sums received by the Fund will be distributed on a pro-rata basis to each unitholder on the next distribution date; (2) if units are redeemed by the Trustee and bonds from the portfolio are sold to provide the funds necessary for such redemption, each unitholder will receive his pro rata portion of the proceeds from the bonds sold over the amount required to satisfy such redemption distribution; and (3) if bonds held in the portfolio must be disposed of in order to maintain the qualification of a Series as a regulated investment company under the Internal Revenue Code, the sums received by the Fund will be distributed on a pro rata basis to each unitholder on the next distribution date. In such instances, a unitholder may receive in his distribution funds which constitute capital gains, since in some cases the value of the portfolio bonds redeemed or sold may have increased since the date of initial deposit.

As noted, Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicants assert that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end, and that the operations of Applicants in this regard are squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, each Series of Applicant would be forced to hold any monies which would constitute capital gains upon distribution until the end of its taxable year. The application contends that such practice would clearly be to the detriment of the Unitholders.

In the support of the requested exemption, Applicants state that the dangers against which Rule 19b-1 is intended to guard do not exist in the situation at hand since neither the Sponsor nor the Fund has control over events which might trigger capital gains, e.g., the tendering of Fund units for redemption and the prepayment of portfolio bonds by the issuing authorities. In addition, it is alleged that any capital gains distribution will be clearly indicated at capital gains in the accompanying report by the Trustee to the Unitholder.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or reguiation under the Act, if and to the extent 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 the Act.

Notice is further given that any interested person may, not later than July 15, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said dates unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18813 Filed 6-28-76;8:45 am]

---

[Rel. No. 19582; 70-5846]

## OHIO ELECTRIC CO. AND AMERICAN ELECTRIC POWER SERVICE CORP.

### Proposed Issuance and Sale of First Mortgage Bonds to Institutional Investors; Request for Exception From Competitive Bidding

JUNE 18, 1976.

Notice is hereby given that Ohio Electric Company ("Ohio Electric"), c/o American Electric Power Service Corporation, 2 Broadway, New York, New York 10004, an electric generating subsidiary company of Ohio Power Company ("Ohio"), an electric utility subsidiary

company of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(b) and 12(c) of the Act and Rules 42(b)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Ohio Electric was organized under the laws of the State of Ohio on January 31, 1972 in order to acquire, complete and operate the General James M. Gavin Plant ("Gavin Plant"), a fossil-fired steam electric generating station situated in Ohio along the Ohio River near Cheshire, Ohio. By order issued March 21, 1972 (HCAR No. 17504), the Commission approved the acquisition from Ohio. The Gavin Plant, which has been completed, consists of two nominally rated 1,300,000 kilowatt generating units. The first was placed in commercial operation on October 20, 1974; the second on July 6, 1975.

To finance the purchase from Ohio and to complete construction, Ohio Electric issued and has outstanding as of December 31, 1975, the following securities:

| | Thousands | Percent |
|---|---|---|
| Long-term debt: | | |
| 1st mortgage bonds | $75,000 | 11.1 |
| Notes payable to banks | 300,000 | 44.4 |
| Unamortized debt discount | (632) | (.1) |
| Total | 374,368 | 55.4 |
| Common stock equity | 301,166 | 44.6 |
| Total capitalization | 675,534 | 100.0 |

All of the common stock is held by Ohio. The $75,000,000 principal amount bonds, and 11% Series due 1983, were authorized by Commission order of July 30, 1975 (HCAR No. 19101). They were sold at competitive bidding and were issued pursuant to a mortgage and deed of trust, dated as of August 1, 1975 to Chase Manhattan Bank, N.A., as Trustee. The bank notes were issued to 17 banks through 1974 under a Bank Loan Agreement. They mature by their terms on May 31, 1979 and bear interest at the rate equal to the prime commercial loan rate of Manufacturers Hanover Trust Company in effect from time-to-time, plus one-half of one percent.

Ohio Electric proposes to issue and sell up to $100,000,000 principal amount of First Mortgage Bonds, to be issued in one or more series, the terms of which will be determined by negotiation. Such Bonds, if issued in more than one series, may include a first series to mature on a date to be determined but ranging between the 8th and 10th anniversary of the initial issue of Bonds of such series; if a second series is created, the Bonds of such series would mature on a date to be determined but ranging between the 12th and the 15th anniversary of the date of initial issue of Bonds of such series; and if a third series is created, the Bonds of such series would mature on a date to be determined but ranging between the 20th and the 25th anniversary of the date of initial issue of Bonds of such series. The terms of the Bonds will preclude Ohio Electric from redeeming any such Bonds during a period of 5 years subsequent to the date of the initial issue of such Bonds in 1976, if such redemption is for the purpose of refunding such Bonds at a lower annual interest cost. Ohio Electric states that the Bonds may have sinking fund provisions (except, possibly, for Bonds of a relatively short maturity) which will require the periodic application by Ohio Electric of cash to the redemption of such Bonds at a sinking fund redemption price. The Bonds will be issued under and secured by the Mortgage, and a new Indenture Supplemental thereto which will be dated as of the first day of the month in which the Bonds are to be issued. The proceeds realized from the sale of the Bonds will be used to retire a portion of the notes issued under the Bank Loan Agreement.

It is stated that since the notes issued by Ohio Electric under the Bank Loan Agreement will not mature by their terms until May 31, 1979, Ohio Electric is under no present necessity to refinance all or any substantial portion of the notes. It is further stated that although Ohio Electric has not approached any financial institution, it is apparent to Ohio Electric that funds for investment in debt securities such as the Bonds are currently available from certain life insurance companies and other financial institutions. Ohio Electric has received from one such institutional investor an indication that the institution may have funds in a substantial amount available for investment in debt securities of a utility such as Ohio Electric. Ohio Electric believes that if funds from such sources are in fact available to Ohio Electric on favorable terms in 1976, it would be desirable for Ohio Electric to utilize such sources of capital for the refunding in 1976 of up to $100,000,000 principal amount of its outstanding notes through the issuance and sale of a like principal amount of the Bonds. Such a step, it is stated, would minimize the amount to be refunded at or prior to maturity in 1979 at interest rate levels then prevailing. Ohio Electric requests an exemption from the competitive bidding requirements of Rule 50 under the Act and authorization to issue and sell the Bonds to institutional investors. Ohio Electric proposes, if the authorization herein requested is granted, to request the assistance of Blyth Eastman Dillon & Co. Incorporated and possibly one or more other investment banking firms, in identifying potential institutional purchasers of the Bonds and with respect to the terms required to effect sales of such Bonds to such purchasers. The terms of the negotiated sale of the bonds, including the interest rate, will be subject to authorization by the Commission.

Fees and expenses to be incurred in connection with the proposed transaction, including any compensation to be paid to investment banking firms, will be supplied by amendment. It is stated that the proposed issuance and sale of the Bonds is subject to the jurisdiction of the Public Utilities Commission of Ohio and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 13, 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-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18814 Filed 6-28-76;8:45 am]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 22, 1976.

In the matter of applications of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

MCA, Inc., Common Stock, No par value, File No. 7-4842.

UTAH INTERNATIONAL, INC., Common Stock, $2 Par Value, File No. 7-4843.
WANG LABORATORIES, INC., Class B Common Stock, 50¢ Par Value, File No. 7-4844.

Upon receipt of a request, on or before July 8, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18815 Filed 6-28-76;8:45 am]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 22, 1976.

In the matter of application of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Reserve Oil And Gas Company, Common Stock, $1 Par Value, File No. 7-4841.

Upon receipt of a request, on or before July 8, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18816 Filed 6-28-76;8:45 am]

[Rel. No. 9327; 812-3935]

## VARIED INDUSTRY PLAN, INC., ET AL.

### Filing of Application for Exemption Pursuant to Section 6(c) of the Act From Provisions of Section 15(a) of the Act

JUNE 21, 1976.

Notice is hereby given that Varied Industry Plan, Inc. (the "Fund"), 7551 U.S. Highway 24 West, Fort Wayne, Indiana, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), Executive Management Corporation ("EMC") and William Blair & Company ("Blair"), 135 S. LaSalle Street, Chicago, Illinois, investment advisers registered under the Investment Advisers Act of 1940 (collectively referred to as "Applicants"), filed an application on March 30, 1976, and amendments thereto on June 1, 1976, and June 10, 1976, pursuant to Section 6(c) of the Act for an order of the Commission exempting the Applicants from Section 15(a) of the Act to permit EMC and Blair to continue to render investment advisory services after termination of their present advisory contracts with the Fund and EMC, respectively. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

EMC, a wholly owned subsidiary of Midwestern United Life Insurance Company ("Midwestern"), serves as principal investment adviser to the Fund. Blair, a Chicago investment banking firm, serves the Fund as additional investment counsel pursuant to a separate research agreement which Blair has entered into with EMC. Both EMC and Blair serve pursuant to contracts approved by the Fund's shareholders for a term to end October 1, 1976. EMC receives an annual fee from the Fund of ½ of 1% of the average daily net assets of the Fund. EMC pays Blair an annual fee of $\frac{2}{10}$ of 1% of the Fund's daily net assets. Both the advisory agreement between EMC and the Fund and the research agreement between EMC and Blair provide for automatic termination in the event of assignment as defined in the Act.

On February 26, 1976, NV the Netherlands Insurance Company est 1845 ("Netherlands") made a cash tender offer for at least two-thirds of the outstanding shares of Midwestern. The tender period ended on March 17, 1976; and more than 77% of the Midwestern shares were purchased by Netherlands as of that date. An extension of the tender period until March 22, 1976, resulted in Netherlands purchasing an additional 3% of the Midwestern shares. Netherlands is a Netherlands corporation whose address is Prinses Beatrixlaan 15, The Hague, the Netherlands. It is a wholly-owned subsidiary of Nationale-Nederlanden N.V. "Nationale-Nederlanden", a Netherlands corporation whose head office address is also Prinses Beatrixlaan 15, The Hague, the Netherlands. Nationale-Nederlanden is the largest publicly owned insurance holding company in the Netherlands. Nationale-Nederlanden, with operations throughout the world, comprises twenty-nine life and non-life insurance companies, several reinsurance companies and several financial institutions engaged in investment activities, among which are property development and mortgage banking.

Section 15(a) of the Act provides, among other things, that it shall be unlawful for any person to act or serve as an investment adviser of a registered investment company except pursuant to a written contract which must be approved by the majority of the outstanding voting securities of such registered investment company, and requires that such written contract must provide for automatic termination in the event of its assignment.

Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignors outstanding voting securities by a security holder of the assignor.

Applicants believe that the sale and transfer of over 80% of the outstanding voting securities of Midwestern to Netherlands confers upon Netherlands voting control of Midwestern, and therefore terminates the investment advisory contract between the Fund and EMC. Applicants also believe that the research agreement between EMC and Blair may similarly have been terminated.

At a meeting held on March 19, 1976, the Fund's board of directors, including a majority of those persons who are not "interested persons" of EMC, Blair or the Fund approved continuation of the present advisory agreement between the Fund and EMC, and continuation of the research agreement between Blair and EMC, based upon the conclusion of the directors that control of Midwestern by Netherlands would not have a detrimental effect on the ability of EMC or Blair to provide advisory services to the Fund, and that the continuation of the above agreements would serve the best interests of the Fund's shareholders.

Applicants request an order of temporary exemption, commencing at the time of the termination of the advisory agreement between the Fund and EMC, and termination of the research agreement between EMC and Blair, from

Section 15(a) of the Act to permit EMC to continue to provide investment advisory services to the Fund on a lower of cost or fee basis, and to permit Blair to continue to provide certain research information to EMC without receiving any immediate compensation until a new investment advisory agreement between the Fund and EMC, and a new research agreement between EMC and Blair are presented for approval or disapproval by the Fund's shareholders at the Fund's 1976 annual meeting scheduled to be held on September 30, 1976. At this annual meeting the Fund's shareholders will also be asked to approve or disapprove the payment to EMC and Blair of the full fees specified in their present contracts with the Fund and EMC, respectively, for the period during which those contracts were not in effect.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transactions from any provision of the Act 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 the Act.

Applicants contend that the granting of the requested exemptions from Section 15(a) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support of their contention, Applicants assert that there has not been and will not be any disruption or change in the advisory services provided to the Fund by EMC. Applicants assert that the Fund will continue to receive the same advisory services provided by the same personnel as it has previously; and since there will be no change in the management of the Fund, there is no reason why EMC and Blair should not ultimately receive the compensation originally contemplated by the parties. Applicants also assert that the Netherlands management has represented that it believes Midwestern to be well managed, and does not have any present plans to make changes in Midwestern's management, business or corporate practices. Applicants further assert that Blair is completely removed from the Netherlands purchase. Finally, Applicants assert that the Fund should not be deprived of the research services provided EMC by Blair, and Blair should not be deprived of fair compensation for providing such research services.

Notice is further given that any interested person may, not later than July 15, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the appplication herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.76-18817 Filed 6-28-76;8:45 am]

## SMALL BUSINESS ADMINISTRATION

### HARTFORD DISTRICT ADVISORY COUNCIL

#### Public Meeting

The Small Business Administration Hartford District Advisory Council will hold a public meeting at 9:30 a.m., Thursday, July 15, 1976, at the Hartford District Office, Room 134, in the Federal Building, 450 Main Street, Hartford, Connecticut 06103, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Thomas E. Higgins at the above address, (203) 244-2511.

Dated: June 24, 1976.

MARY LOU GRIER,
*Deputy Advocate for Advisory Councils.*

[FR Doc.76-18998 Filed 6-28-76;9:03 am]

[Declaration of Disaster Loan Area 1254]

### ILLINOIS

#### Declaration of Disaster Loan Area

As a result of the President's declaration, I find that Cook and Du Page Counties, and adjacent counties within the State of Illinois, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on June 13, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 19, 1976, and for economic injury until the close of business on March 18, 1977, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Illinois 60604

or other locally announced locations.

Dated: June 22, 1976.

MITCHELL P. KOBELINSKI,
*Administrator.*

[FR Doc.76-18803 Filed 6-28-76;8:45 am]

[Declaration of Disaster Loan Area 1253]

### NORTHERN MARIANA ISLANDS OF THE PACIFIC

#### Declaration of Disaster Loan Area

As a result of the President's declaration, I find that the Northern Mariana Islands of the Pacific constitute a disaster area because of damage resulting from Typhoon Pamela beginning about May 20, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 16, 1976, and for economic injury until the close of business on March 17, 1977, at:

Small Business Administration, Branch Office, Ada Plaza Center, Agana, Guam 96910

or other locally announced locations.

Dated: June 21, 1976.

MITCHELL P. KOBELINSKI,
*Adminstrator.*

[FR Doc.76-18804 Filed 6-28-76;8:45 am]

[License No. 06/10-5157]

### SCDF INVESTMENT CORP.

#### Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that SCDF Investment Corporation (Licensee), 1006 Surrey Street, Lafayette, Louisiana 70501, a federal licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to 13 C.F.R. 107.1004 (1976) for approval of the following transaction:

Licensee proposes to provide financing to Pamoja Tutashinda, Inc. (Pamoja), 1006 Surrey Street, Lafayette, Louisiana 70501. The financing is to be in the form of a $40,000, ten (10) year loan, the proceeds of which will be used to purchase the business and assets of Cormiers Meats and Groceries and to provide it with initial working capial.

Marvin Beaulieu, Ricardo Landry, and Sheila Nelson will be officers and directors and 9 percent stockholders of Pamoja if the loan is approved. Mr. Beaulieu is an employee of the licensee's parent, Southern Cooperative Development Fund, Inc. Mr. Landry and Ms. Nelson are employees of the licensee.

Accordingly, the transaction falls within the purview of 13 C.F.R. 107.1004 requiring the prior written approval of the Small Business Administration (SBA).

Notice is further given that any interested person may, on or before July 14,

1976 submit to SBA, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by SCDF Investment Corporation in a newspaper of general circulation in Lafayette, Louisiana.

(Catalog of Federal Domestic Assistance Programs Number 59.011, Small Business Investment Companies)

Dated: June 18, 1976.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.76-18805 Filed 6-28-76;8:45 am]

## DEPARTMENT OF LABOR

### Employment and Training Administration

### KENTUCKY

#### Ending of Federal Supplemental Benefit Period for Emergency Unemployment Compensation

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Kentucky, effective June 26, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Kentucky on February 2, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Kentucky has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on June 5, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Kentucky for the week ending on June 5, and that the Federal Supplemental Benefit Period in that State terminates on June 26, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Kentucky Department for Human Resources of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Kentucky should contact the nearest Employment Office of the Kentucky Department for Human Resources in their locality.

Signed at Washington, D.C., on June 23, 1976.

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

[FR Doc.76-18686 Filed 6-28-76;8:45 am]

### TENNESSEE

#### Ending of Federal Supplemental Benefit Period for Emergency Unemployment Compensation

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Tennessee, effective June 26, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Tennessee on January 19, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Tennessee has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on June 5, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary

of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Tennessee for the week ending on June 5, and that the Federal Supplemental Benefit Period in that State terminates on June 26, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Tennessee Department of Employment Security of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The Notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Tennessee should contact the nearest Employment Security Office of the Tennessee Department of Employment Security in their locality.

Signed at Washington, D.C., on June 23, 1976.

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

[FR Doc.76–18687 Filed 6–28–76;8:45 am]

## WEST VIRGINIA

### Ending of Federal Supplemental Benefit Period for Emergency Unemployment Compensation

This notice announces the ending of the Federal Supplemental Benefit Period in the State of West Virginia, effective June 26, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93–572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of West Virginia on January 19, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of West Virginia has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on June 5, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of West Virginia for the week ending on June 5, and that the Federal Supplemental Benefit Period in that State terminates on June 26, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the West Virginia Department of Employment Security of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The Notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of West Virginia should contact the nearest Employment Office of the West Virginia Department of Employment Security in their locality.

Signed at Washington, D.C., on June 23, 1976.

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

[FR Doc.76–18688 Filed 6–28–76;8:45 am]

## Occupational Safety and Health Administration

## WYOMING STATE STANDARDS

### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming plan and the adoption of

Subpart BB to Part 1952 containing the decision.

Section 1952.340 of Subpart BB sets forth the State's intentions with regard to promulgation of Federal standards covering all the issues contained in 29 CFR Parts 1910 and 1926 (with the exception of those pertaining to ship repairing, ship building, ship breaking and longshoring) and the adoption of additional vertical standards not provided by the Federal program.

Section 1952.343 of Subpart BB sets forth the State's schedule for the adoption of Federal standards as State standards. By letter dated March 17, 1976, from William W. Wilkins, State Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, to be incorporated as part of the plan in accordance with 29 CFR Part 1953, the State submitted the following amended State standards comparable to OSHA amended standards 29 CFR Part 1910; amendment to §§ 1910.28 dated June 27, 1974, 1910.67 dated March 26, 1975, 1910.70 dated March 26, 1975, 1910.100 dated May 28, 1975, 1910.94 dated June 9, 1975, 1910.103 dated March 15, 1974, 1910.104 dated March 15, 1974, 1910.106 dated March 15, 1974, 1910.107 dated March 15, 1974, 1910.110 dated March 15, 1974, 1910.157 dated January 9, 1974, 1910.158 dated February 14, 1974, 1910.179 dated June 27, 1975, 1910.183 dated March 26, 1975, 1910.184 dated July 28, 1975, 1910.-211 dated December 3, 1974, 1910.217 dated December 3, 1974, and 1910.268 dated March 26, 1975.

These standards were promulgated by the State after public hearings on August 8, 1975, and are published in the Wyoming Occupational Health and Safety General Rules and Regulations.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. In addition, the State standards are more specific in several areas, particularly with respects to the rules and regulation which apply to Housekeeping, Scaffolding, Flammable and Combustible Liquids, Storage and Handling of Liquified Petroleum Gases, and Changing and Charging Storage Batteries.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, CO 80202; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and the Technical Data Center, Room N3620, 200 Constitution Avenue, NW, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective June 29, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this twenty-seventh day of May, 1976.

CURTIS A. FOSTER,
*Regional Administrator.*

[FR Doc.76-18853 Filed 6-28-76;8:45 am]

## Office of the Secretary

[TA-W-877]

### AMPEX CORP.

**Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance**

On June 10, 1976 the Department of Labor received a petition dated June 3, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers on behalf of the workers and former workers of Ampex Corporation, Redwood City, California (TA-W-877). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with magnetic head components produced by Ampex Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of June 1976.

DOMINIC SORRENTINO,
*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc.76-18689 Filed 6-28-76;8:45 am]

[TA-W-770]

### CYCLOPS CORPORATION, EMPIRE DETROIT STEEL DIVISION, DOVER, OHIO

**Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-770: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America on behalf of workers formerly producing galvanized steel sheets and coils and fabricated galvanized products at the Cyclops Corporation, Empire-Detroit Steel Division, Dover, Ohio plant.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 17031) on April 23, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Cyclops Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met. The evidence developed in the Department's investigation reveals that imports of galvanized steel sheets and coils declined from 1,284.2 thousand net tons in 1974 to 739.0 thousand net tons in 1975. The ratios of imports to domestic shipments and consumption declined from 21.0 percent and 17.6 percent, respectively, in 1974 to 19.9 percent and 16.7 percent, respectively, in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of galvanized steel sheets and coils like or directly competitive with those produced by the Cyclops Corporation are not being imported in increased quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18690 Filed 6-28-76;8:45 am]

---

[TA-W-268]

## FULTON CLOTHES COMPANY, INC. PHILADELPHIA, PENNSYLVANIA

### Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on January 17, 1976 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to all hourly, piecework and salaried workers of Fulton Clothes Company, Inc., Philadelphia, Pennsylvania (TA-W-268). The notice of certification was published in the FEDERAL REGISTER (41 FR 3928) on January 27, 1976.

On the basis of a further showing and further investigation by the Director of the Office of Trade Adjustment Assistance, the certification issued by the Department on January 17, 1976 is hereby revised to change the termination date to include an additional employee whose employment extended beyond the termination date specified in the notice of certification.

Such revised certification is hereby made as follows:

All hourly, piecework, and salaried workers of Fulton Clothes Company, Inc. who became totally or partially separated from employment on or after October 14, 1974 and before December 29, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Except that the following named individual who became totally or partially separated on January 31, 1975 is eligible to apply for adjustment assistance:

Barbara Sirkin, 425 Righters Mill Rd., Narberth, Pa. 19072.

Signed at Washington, D.C., this 15th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18691 Filed 6-28-76;8:45 am]

---

[TA-W-22T]

## GENERAL ELECTRIC CO.

### Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on July 7, 1975, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Portsmouth, Virginia plant of the General Electric Company, New York, New York, engaged in employment related to the production of television receivers.

The notice of certification was published in the FEDERAL REGISTER on July 14, 1975, (40 FR 29576).

On the basis of further showing, the Director of the Office of Trade Adjustment Assistance has instituted an investigation directed to the termination of the certification, as provided for in Section 223(d) of the Act and 29 CFR 90.17(a).

The purpose of the investigation is to determine whether the total or partial separations of the certified workers of General Electric Company are no longer attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. *Provided*, That such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The record of the certification (TA-W-22) containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave., N.W. Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of*
*Trade Adjustment Assistance.*

[FR Doc.76-18692 Filed 6-28-76;8:45 am]

---

[TA-W-785]

## JONES AND LAUGHLIN STEEL CORP., LOUISVILLE, OHIO

### Certfication Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-785: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 8, 1976 in response to a worker petition received on April 8, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel sheet and strip at the Louisville, Ohio plant of Jones and Laughlin.

The notice of investigation was published in the FEDERAL REGISTER on April 23, 1976, (41 FR 17034). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones and Laughlin, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Louisville plant increased 8.5 percent from 1973 to 1974. Average weekly hours declined 2.3 percent during the same period. Employment declined 18.4 percent from 1974 to 1975. Average weekly hours during this period declined 16.0 percent.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual production of stainless sheet by the Louisville plant increased 75.0

percent in quantity from 1973 to 1974. Production declined 64.4 percent from 1974 to 1975.

Annual production of stainless strip declined 16.7 percent in quantity from 1973 to 1974 and 34.4 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of stainless steel strip declined 9.1 percent from 1970 to 1971. Imports increased 52.7 percent from 1971 to 1972. Imports declined 26.9 percent from 1972 to 1973 and 1.9 percent from 1973 to 1974. Imports increased 36.5 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 3.0 percent and 3.2 percent, respectively, in 1974 to 6.9 percent and 6.8 percent in 1975.

Imports of stainless steel sheet increased 14.4 percent from 1970 to 1971. Imports declined 48.6 percent from 1971 to 1972 and 11.9 percent from 1972 to 1973. Imports increased 39.0 percent from 1973 to 1974. Imports declined 5.0 percent from 1974 to 1975. The ratios of imports to domestic shipments and consumption increased from 10.5 percent and 10.0 percent, respectively, in 1974 to 22.4 percent and 19.1 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Louisville plant have indicated that they have reduced purchases from Jones and Laughlin and increased purchases of imported stainless steel products. The price differential between domestic and imported steel was the factor cited most frequently as the reason that customers switched from domestic to foreign suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel sheet and strip produced by the Louisville plant of Jones and Laughlin contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Louisville, Ohio plant of Jones and Laughlin Steel Corporation who became totally or partially separated from employment on or after March 29, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18693 Filed 6-28-76;8:45 am]

---

[TA-W-689]

## MACK SHIRT CO., CINCINNATI, OHIO

### Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-689: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 19, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's woven shirts and women's woven blouses at the Mack Shirt Company plant located in Cincinnati, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on April 2, 1976 (41 FR 14221). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Mack Shirt Company, the Department of Commerce, the International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that without regard to whether any of the other criteria have been met, criterion (1) and criterion (4) have not been met.

Employment at the Mack Shirt Company declined steadily from 1973 through the first two months of 1975, and could be attributed to the adverse impact of imported men's shirts. These separations occurred prior to March of 1975, the earliest possible date that could be covered by a certification of eligibility. Between March of 1975 and February of 1976 employment increased 7.3 percent.

Plant adjustment to the incursion of imports occurring prior to March of 1975 manifested itself in a reconcentration of production in the manufacture of men's shirts. This shirt in production resulted in a 15.9 percent increase in the number of men's shirts produced in 1975 compared to 1974.

Customers have not decreased the amount of purchases from the Mack Shirt Company in the 12 months prior to the date of the petition. The number of garments purchased has remained relatively stable.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increased imports did not contribute importantly to the total or partial separation of workers as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18694 Filed 6-28-76;8:45 am]

---

[TA-W-8 T]

## MAGNAVOX CO.

### Investigation Regarding Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on June 11, 1975 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Jefferson City, Tennessee plant of Magnavox Company, Ft. Wayne, Indiana, engaged in employment related to the production of television receivers and radio/stereo/tape combination sets.

The notice of certification was published in the FEDERAL REGISTER on June 20, 1975 (40 FR 6084).

On the basis of further showing, the Director of the Office of Trade Adjustment Assistance has instituted an investigation directed to the termination of the certification, as provided for in Section 223(d) of the Act and 29 CFR 90.17(a).

The purpose of the investigation is to determine whether the total or partial separations of the certified workers of Magnavox Company are no longer attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. *Provided,* That such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The record of the certification (TA-W-8) containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of*
*Trade Adjustment Assistance.*

[FR Doc.76-18695 Filed 6-28-76;8:45 am]

[TA-W-855]

## PATTIN MANUFACTURING CO., MARIETTA, OHIO

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-855: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed on behalf of workers and former workers producing mine roof-support bolts and plate washers for Pattin Manufacturing Company, Marietta, Ohio.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 20957) on May 21, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pattin Manufacturing Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that imports of mine roof-support bolts decreased 64 percent in quantity during the first six months of 1975 compared to the same period of 1974 and, also, that imports amounted to less than one percent of domestic production from 1971 through the first six months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that mine roof-support bolts and plate washers like or directly competitive with those produced by the Pattin Manufacturing Company, Marietta, Ohio are not being imported in increasing quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18696 Filed 6-28-76;8:45 am]

---

[TA-W-856]

## REPUBLIC CORP., HARMONY INDUSTRIES DIVISION, MINGO JUNCTION, OHIO

### Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-856: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed on behalf of workers and former workers producing mine roof-support bolts and plate washers for Republic Corporation, Harmony Industries Division, Mingo Junction, Ohio.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 20961) on May 21, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Harmony Industries Division of the Republic Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that imports of mine roof-support bolts decreased 64 percent in quantity during the first six months of 1975 compared to the same period of 1974 and, also, that imports amounted to less than one percent of domestic production from 1971 through the first 6 months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with mine roof-support bolts produced by the Harmony Industries Division of the Republic Corporation, Mingo Junction, Ohio are not being imported in increasing quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18697 Filed 6-28-76;8:45 am]

---

[TA-W-751]

## REPUBLIC STEEL CORP., GULFSTEEL WORKS, GADSDEN, ALABAMA

### Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-751: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1976 in response to a worker petition received on March 29, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing specialty steel plate and strip at the Republic Steel Corporation, Gulfsteel Works plant, Gadsden, Alabama. The Department's investigation revealed that the Gadsden plant produces carbon steel sheet, strip and plate.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 17035) on April 23, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, its customers, the American Iron Steel Institute, the International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been meet, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

The average number of production workers declined 8.3 percent in 1974 compared to 1973, declined 8.0 percent in 1975 compared with 1974 and declined 16.0 percent in the first quarter of 1976 compared with the first quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Shipments declined 5.1 percent in 1974 compared to 1973, declined 23.1 percent in 1975 compared with 1974 and declined 12.9 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production declined 5.0 percent in 1974 compared with 1973, declined 13.7 percent in 1975 compared with 1974 and declined 25.2 percent in the first quarter of 1976 compared with the first quarter of 1975.

INCREASED IMPORTS

Imports of carbon steel sheet and strip have decreased absolutely each year since 1971. Imports decreased 9.7 percent in 1972 compared with 1971, decreased 15.8 percent in 1973 compared with 1972, decreased 3.1 percent in 1974 compared with 1973 and decreased 23.3 percent in 1975 compared with 1974. The ratios of imports to domestic shipments and consumption increased from 13.3 percent and 12.1 percent, respectively, in 1974 to 14.9 percent and 13.0 percent, respectively, in 1975.

Imports of carbon steel plate increased 6.4 percent in 1972 compared with 1971, decreased 19.9 percent in 1973 compared with 1972, increased 28.5 percent in 1974 compared with 1973 and decreased 20.4 percent in 1975 compared with 1974. The ratios of imports to domestic shipments and consumption increased from 18.8 percent and 16.4 percent, respectively, in 1974 to 19.4 percent and 16.6 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Customers of the Gadsden plant stated that they purchased almost no imported carbon steel sheet, strip or plate. Customers generally have reduced purchases from all domestic suppliers. These customers indicated that their own business had slowed as a result of a sluggish economy which dictated a decrease in steel requirements.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel sheet, strip and plate produced at the Republic Steel Corporation, Gulfsteel Works plant, Gadsden, Alabama did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 17th Day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18698 Filed 6-28-76;8:45 am]

[TA-W-870]

## STAGG ZIPPER CORP., BROOKLYN, NEW YORK

### Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of former workers producing slide fasteners and parts at Stagg Zipper Corp., Brooklyn, New York.

Notice of the investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20964). No public hearing was requested and none was held.

During the course of the investigation, it was established that all employment at Stagg Zipper Corporation was terminated prior to February 28, 1975. Section 223(b) (1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in this case is April 15, 1976 and, thus, workers terminated prior to April 15, 1975 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of*
*Trade Adjustment Assistance.*

[FR Doc.76-18699 Filed 6-28-76;8:45 am]

[TA-W-905]

## SUPERIOR PLASTICS INC.

### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 27, 1976 the Department of Labor received a petition dated May 12, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers on behalf of the workers and former workers of Chicago, Illinois plant of Superior Plastics Incorporated, Highland Park, Illinois (TA-W-905). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with plastic cabinets & plastic backs covering the casting & picture tubes for black & white & colored televisions produced by Superior Plastics Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline is sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of*
*Trade Adjustment Assistance.*

[FR Doc.76-18700 Filed 6-28-76;8:45 am]

[TA-W-11T]

## TRW, INC.

### Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in

accordance with Section 223 of the Act, on June 19, 1975, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of Philadelphia, Pennsylvania Division of TRW, Incorporated, Cleveland, Ohio engaged in employment related to the production of carbon composition resistors.

The notice of certification was published in the FEDERAL REGISTER on June 26, 1975 (40 FR 27084).

On the basis of further showing, the Director of the Office of Trade Adjustment Assistance has instituted an investigation directed to the termination of the certification, as provided for in Section 223(d) of the Act and 29 CFR 90.17(a).

The purpose of the investigation is to determine whether the total or partial separations of the certified workers of TRW, Incorporated are no longer attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. *Provided*, That such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The record of the certification (TA-W-11) containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

[FR Doc.76-18701 Filed 6-28-76;8:45 am]

---

[TA-W-807]

## ZIMMER MANUFACTURING INDUSTRIES, INC., DETROIT, MICHIGAN

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-807: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 23, 1976 in response to a worker petition received on April 23, 1976 which was filed on behalf of workers and former workers producing threaded screws and nuts at Zimmer Manufacturing Industries, Inc., Detroit, Michigan, a division of the Lamson & Sessions Company, Cleveland, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20049). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Lamson and Sessions Company and the Allied Industrial Workers of America. The Lamson and Sessions Company owns Zimmer Manufacturing Industries, Inc., and maintains the records of Zimmer Manufacturing Industries, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The evidence developed during the Department's investigation reveals that there have been no involuntary total or partial separations of workers at Zimmer Manufacturing Industries, Inc., since March 1975. This fact was confirmed by officials of the Lamson and Sessions Company and the Allied Industrial Workers of America.

CONCLUSION

After careful review of the fact obtained in the investigation, I conclude that increased imports of metal fasteners have not contributed importantly to the total or partial separation of workers at Zimmer Manufacturing Industries, Inc., Detroit, Michigan, as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of June 1976.

JAMES F. TAYLOR,
*Director, Planning and Evaluation Staff.*

[FR Doc.76-18702 Filed 6-28-76;8:45 am]

---

### Office of the Secretary

[TA-W-779]

## NEVADA NORTHERN RAILWAY CO., EAST ELY, NEVADA

### Negative Determination Regarding Eligibility to Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-779: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 2, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers transporting blister copper for the Nevada Northern Railway Company, East Ely, Nevada, a subsidiary of Kennecott Copper Corporation.

The notice of investigation was published in the FEDERAL REGISTER on April 27, 1976 (41 FR 17645). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nevada Northern Railway Company, the Kennecott Copper Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that imports of blister copper and refined copper declined absolutely by 56 percent and 55 percent, respectively, from 1974 to 1975.

The ratios of imports of blister copper to domestic production and consumption in 1975 of 6.3 percent and 5.9 percent, respectively, were lower than the 1970–1974 average of 11.1 percent and 10.0 percent, respectively. The ratios of imports of refined copper to domestic production and consumption in 1975 of 7.9 percent and 8.0 percent, respectively, were lower than the 1970–1974 average of 9.1 percent and 8.9 percent, respectively. The ratio of imports to domestic production and consumption declined from 1974 to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those transported by Nevada Northern Railway Company are not being imported in increased quantities, either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of June 1976.

JAMES F. TAYLOR,
*Director,*
*Planning and Evaluation Staff.*

[FR Doc.76-18851 Filed 6-28-76;8:45 am]

[TA-W-55T]

## ROCKWELL INTERNATIONAL CORP.

### Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on August 12, 1976 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Hopedale plant of Rockwell International Corporation, Hopedale, Massachusetts engaged in employment related to the production of textile machinery (looms and knitting machines). The notice of certification was published in the FEDERAL REGISTER on August 21, 1975 (40 FR 36634).

On the basis of further showing, the Director of the Office of Trade Adjustment Assistance has instituted an investigation directed to the termination of the certification, as provided for in Section 223(d) of the Act and 29 CFR 90.17(a).

The purpose of the investigation is to determine whether the total or partial separations of the certified workers of Rockwell International Corporation are no longer attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. *Provided*, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 1976.

The record of the certification (TA-W-55) containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of May 1976.

MARVIN M. FOOKS,
*Director, Office of*
*Trade Adjustment Assistance.*

[FR Doc.76-18852 Filed 6-28-76;8:45 am]

### Wage and Hour Division

## ADVISORY COMMITTEE ON SHELTERED WORKSHOPS

### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Department of Labor's Advisory Committee on Sheltered Workshops to be held on July 14, 1976, beginning at 9:30 a.m. in Room N-5437 A, B, C and D of the New U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Advisory Committee on Sheltered Workshops advises the Department of Labor with respect to the application of the Federal minimum wage laws to nonprofit sheltered workshops, patient employment in hospitals and institutions and related matters.

The agenda for the meeting is as follows:

1. Opening remarks.
2. Introduction of new members.
3. Status report on previous recommendations of the Committee.
4. Report of the Subcommittee on Group Homes and Institutional Cottages. (Patient Workers)
5. Report of the Subcommittee on Work Activities Centers and Competitive Pricing. (Sheltered Workshops)

a. Recommendations on possible revision of work activities centers certification requirements.

b. Recommendations on composition and operation of proposed voluntary groups to monitor enforcement of work activities center requirements.

c. Recommendations to "flesh-out" the Committee's recommendation that the problem of unfair competition in relation to overhead be met by self-policing by peer groups.

d. Development of recommendations on changes to be made in the sections on "Business Practices" and "Business Records" of the Committee publication "A Statement of Principles, . . ." by detailing the overhead factors in competitive pricing.

6. Proposed modification of patient-worker certification procedures.
7. Notification to patient-worker and parent or guardian of rights under the Fair Labor Standards Act.
8. Examination of guidelines to determine adequacy of wage rates paid handicapped workers in sheltered workshops.
9. Examination of concepts of "in the vicinity" and "prevailing wages" as related to determinations of workshop wage rates.
10. Status report on Sheltered Workshop Study being conducted by the Department of Labor.
11. Matters to be raised by Committee members.

The meetings are open to the public. It is suggested that persons having any questions about the meeting or agenda contact Mr. Harry Katz, Secretary, Advisory Committee on Sheltered Workshops, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (Telephone: 202-523-8724).

Signed at Washington, D.C., this 25th day of June 1976.

RONALD J. JAMES,
*Administrator,*
*Wage and Hour Division.*

[FR Doc.76-18884 Filed 6-28-76;8:45 am]

# INTERSTATE COMMERCE COMMISSION

[Section 5b Application No. 1]

## ALASKA RAIL-WATER AGREEMENT

JUNE 11, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed: May 24, 1976 by: W. Donald Boe, Jr., 1416 Dodge Street, Omaha, Nebraska 68179, (Counsel for), William R. Watson, Chairman, Alaska Rail-Water Association, Union Station, Room 315, Seattle, Washington 98104.

Agreement involves: Organization, practices and procedures between and among rail and water common carrier members of the Alaska Rail-Water Association for the joint initiation, consideration or establishment of joint rates and through intermodal routes, classifications, divisions, allowances and charges (including charges between carriers and compensation paid or received for the use of carrier facilities and equipment), and rules pertaining thereto, governing the transportation of property partly by railroad and partly by water when both are used for continuous carriage or shipment in interstate or foreign commerce between points in Alaska and North Pacific Coast port areas.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before July 29, 1976. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-18869 Filed 6-28-76;8:45 am]

[Notice No. 81]

## ASSIGNMENT OF HEARINGS

JUNE 24, 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.

No. AB 1 (Sub-No. 9), Chicago and North Western Transportation Company Abandonment Between Wren, Iowa, and Iroquois, South Dakota in Sioux and Plymouth Counties, Iowa, and Union Lincoln, now assigned July 7, 1976, at Sioux Falls, S.D., July 12, 1976, at Harwarden, Iowa, July 13, 1976, at Beresford, S.D. and July 15, 1976, at Salem, S.D. has been postponed to August 17, 1976, (4 days), at Sioux Falls, S.D., Community Room, 2nd Floor, Minnehaha County Courthouse, 6th & Dakota Avenue, August 23, 1976 (1 day), at Harwarden, Iowa, City Hall, Council Chamber, 725 Central Avenue, August 24, 1976 (2 days), at Beresford, S.D., V.F.W. Legion Meeting Room and August 26, 1976 (2 days), at Salem, S.D., Community Room, McCook County National Bank.

MC 119789 (Sub 287), Caravan Refrigerated Cargo, Inc. now being assigned August 2, 1976 (2 weeks) at San Francisco, California and will be held at the U.S. Tax Court Room, Federal Building & Courthouse, 450 Golden Gate Avenue.

MC 130349, Marvin R. Stewart, DBA Stewarts Travel Agency, now being assigned September 22, 1976 (3 days), at Frankfort, Ky., in a hearing room to be later designated.

MC 141371, Bill Burley, DBA Buyers Refrigerated Truck Service, now assigned July 19, 1976, at San Francisco, Calif, is canceled and application dismissed.

MC-C 8735, Ligon Specialized Hauler, Inc., Virginia Hauling Company, a Corporation, Cherokee Hauling & Rigging, Inc., ECK Miller Transportation Corporation, Heavy & Specialized Haulers, Inc., O'Nan Transportation Company, Inc., Carriers Management Service, Inc. and Foote Mineral Company—Investigation of Operations and Practices and Revocation of Certificates, MC-F 12631, Ligon Specialized Hauler, Inc.—Investigation of Control—Dixie Truck Line, Inc., Haggard Heavy Hauling, Inc. Roy Smith, Inc., and L & B Express, Inc., and MC 119777 (Sub 245), Ligon Specialized Hauler, Inc. now being assigned July 22, 1976 for pre-hearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 138512 (Sub-No. 13), Roland's Transportation Service, Inc., d.b.a. Wisconsin Provisions Express, now assigned September 14, 1976, at Chicago, Ill. is canceled and application dismissed.

MC 114552 (Sub 110), Senn Trucking Company now being assigned September 16, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 116915 Sub 19, Eck Miller Transportation Corp., now being assigned September 20, 1976 (1 day), at Louisville, Ky., in a hearing room to be later designated.

MC 118959 Sub 129, Jerry Lipps, Inc., now being assigned September 21, 1976 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC-F 12784, Smith's Transfer Corp.—Purchase—A&W Service, Inc., now being assigned September 23, 1976 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC 111729 Sub 557, Purolator Courier Corp., now being assigned September 14, 1976 (4 days), in a city and State to be later designated.

MC 114569 (Sub 136), Shaffer Trucking, Inc. now being assigned September 21, 1976 (1 day), at Kansas City, Missouri in a hearing room to be later designated.

MC 133095 (Sub-No. 89), Texas-Continental Express, Inc., now assigned July 29, 1976, at Washington, D.C. is canceled and application dismissed.

MC 9859 (Sub 3), Kane Transfer Company now being assigned October 13, 1976 (3 days), at Salisbury, Maryland in a hearing room to be later designated.

MC 46421 (Sub 12), Escro Storage & Cartage, Inc. now being assigned October 18, 1976 (1 week), at New York, New York in a hearing room to be later designated.

No. 36098, The Salt River Project Agricultural Improvement and Power District V. The Atchison, Topeka and Santa Fe Railway Company, now being assigned September 14, 1976 at Phoenix, Arizona in a hearing room to be later designated.

MC 110 63 (Sub 172), Coldway Food Express, Inc. now being assigned October 18, 1976 (1 day), at New York, New York in a hearing room to be later designated.

MC-C 8997, Owens Bros., Inc. v. Midwest Emery Freight Systems, Inc. now being assigned October 19, 1976 (1 day), at New York, New York in a hearing room to be later designated.

MC 140231 (Sub 2), Lumber Distributors, Inc. now being assigned October 20, 1976 (2 days), at New York, New York in a hearing room to be later designated.

MC 110563 (Sub 174), Coldway Food Express, Inc. now being assigned October 22, 1976 (1 day), at New York, New York in a hearing room to be later designated.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-13871 Filed 6-28-76;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

JUNE 24, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43184—*Paper Between Points in Official Territory.* Filed by Traffic Executive Association-Eastern Railroads, Agent (E.R. No. 3052), for interested rail carriers. Rates on paper and paper articles, in carloads, as described in the application, from and to points in official territory.

Grounds for relief—Rate relationship.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-18868 Filed 6-28-76;8:45 am]

[Notice No. 283]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 29, 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 C.F.R. 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 July 19, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 28129. By order of June 23, 1976 the Motor Carrier Board approved the transfer to Swift International Forwarders, a division of Microton Industries, Inc., Irving, Texas, of the operating rights in Permit and Order No. FF-402, issued December 5, 1972, to Swift Home-Wrap, Inc., Irving, Texas, authorizing operations as a freight forwarder of used household goods and unaccompanied baggage, between points in the United States (including Hawaii but excluding Alaska, North Dakota and South Dakota). R. C. Dawe, Chairman of the Board, Microtron Industries, Inc., 618 North Beltline Foad, Irving, Texas 75061.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-18872 Filed 6-28-76;8:45 am]

[Notice No. 284]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 29, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 12a(b) in connection with transfer

application under Section 212a(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC-76634. By application filed June 18, 1976, DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, UT 84120, seeks temporary authority to transfer a portion of the operating rights of GOODMAN TRANSPORTATION, INC., 4255 South 300 West, Salt Lake City, UT 84107, under section 210a(b). The transfer to DICK SIMON TRUCKING, of a portion of the operating rights of GOODMAN TRANSPORTATION, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-18873 Filed 6-28-76;8:45 am]

---

[Section 5b Application No. 10]

## TIDEWATER COAL DEMURRAGE AGREEMENT

JUNE 14, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed: May 28, 1976 by: R. Curtis Steele, Jr., Norfolk and Western Railway Co., 8 North Jefferson St., Roanoke, VA 24042, (of Counsel).

Agreement involves: Organization, practices, and procedures between and among rail common carrier members of North Atlantic Port Railroads, Tidewater Coal Demurrage Committee, relating to the joint consideration, initiation or establishment of demurrage charges and rules and regulations pertaining thereto, relating to the detention of cars loaded with coal, or products thereof, while awaiting delivery to, or transhipment by vessels at North Atlantic Ports named in specified tariffs.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.76-18870 Filed 6-28-76;8:45 am]

federal register

TUESDAY, JUNE 29, 1976




PART II:

# DEPARTMENT OF LABOR

## Office of the Secretary

■

# FARM LABOR CONTRACTOR

## Registration

## Title 29—Labor

## SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

## PART 40—FARM LABOR CONTRACTOR REGISTRATION

On December 8, 1975 (40 FR 57332), a proposal was issued to amend Part 40 by issuance of Subpart A entitled, "Registration of Farm Labor Contractors and Their Full Time Employees." In this proposal it was stated that Subpart B entitled, "Administrative Proceedings" would be issued at a later date.

Sixty-one comments on Subpart A were were received. The objections were directed principaliy at (1) the increased amounts of insurance coverage, (2) the applicability of the amended Act to include intrastate, as well as interstate, farm labor contracting activities, (3) the proposed regulations relating to illegal aliens, (4) the regulations affecting compliance with the housing requirements of the 1974 amendments, and (5) the acceptance as sufficient proof of compliance with Federal and State housing standards of a statement issued by a farm labor contractor or the grower.

In considering these comments, we concluded that the increased amounts of insurance coverage was necessary to protect the workers. The inclusion of intrastate, as well as interstate, farm labor contracting activities is now required by the 1974 amendments. We find that the proposed regulations relating to illegal aliens are necessary to reasonably protect American workers. The housing requirement regulations are, in our opinion, a reasonable balance between protection of the workers and the burden imposed by the law upon the owners. Criticism concerning the acceptance of self-serving statements as to housing standards submitted by growers or farm labor contractors, in our opinion, is counterbalanced by the procedures relating to revocation of certificates and civil money penalties. In furtherance of this concern, § 40.9 was added in which the criminal sanctions for false statements were pointed out.

As a result of the comments, we have broadened the definition of immediate family in § 40.2(f) to include brothers and sisters.

Additional comments were received which were of a nature more properly includable in Part 41, Interpretations of the Farm Labor Contractor Registration Act. Revision of Part 41 is in process, and these comments are being considered in conjunction with that revision.

The full analysis of all comments is on file and may be viewed at the Office of the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Subpart B, Administrative Proceedings, is procedural in character and therefore publication in the FEDERAL REGISTER as a proposal, with opportunity for comment, is not required by 5 U.S.C. 553. Subpart B is included in this document with Subpart A.

This Part 40 shall be effective July 29, 1976.

Part 40 is revised to read as follows:

1. Sections 40.1 to 40.29 of Part 40 are hereby superseded by this Part 40. However, all matters initiated under §§ 40.16 through 40.26 inclusive shall proceed to completion in accordance with the provisions of these sections unless the person charged requests in writing that these new regulations be applicable.

2. Part 40 is hereby revised to read as follows:

### Subpart A—Registration of Farm Labor Contractors and Their Full-Time Employees

#### GENERAL


Sec.
40.1 Purpose and scope.
40.2 Definitions.
40.3 Certificate of Registration required.
40.4 Farm Labor Contractor Employee Identification Card required.
40.5 Corporations, partnerships, associations and other organizations.
40.6 Public central registry.
40.7 Compliance with State statutes.
40.8 Filing of applications, notices and documents.
40.9 Accuracy of information, statements and data.


#### REGISTRATION REQUIREMENTS


40.11 Filing of applications for Certificate of Registration.
40.12 Execution of application for Certificate of Registration.
40.13 Appointment of Secretary as agent for substituted service.
40.14 Vehicle liability insurance.
40.15 Proof of financial responsibility in lieu of insurance.
40.16 Qualifications and eligibility of insurance carriers.
40.17 Duration of insurance or liability bond.
40.18 Limitations on cancellation of insurance or liability bond.
40.19 Authorization to transport migrant workers.
40.20 Authorization to house migrant workers.
40.21 Expiration and renewal of Certificate of Registration.
40.22 Replacement of Certificate of Registration.


#### EMPLOYEE IDENTIFICATION


40.31 Filing of application for Farm Labor Contractor Employee Identification Card.
40.32 Execution and Content of application for Farm Labor Contractor Employee Identification Card.
40.33 Authorized use of Farm Labor Contractor Employee Identification Card.
40.34 Replacement of Farm Labor Contractor Employee Identification Card, lost card or change of employment.
40.35 Expiration and renewal of Farm Labor Contractor Employee Identification Card.


#### ACTION ON APPLICATIONS


40.41 Office of filing, action.
40.42 Issuance, refusal to issue, suspension, revocation or refusal to renew: Farm Labor Contractor Certificate of Registration or Farm Labor Contractor Employee Identification Card.


#### OBLIGATIONS AND PROHIBITED ACTS


40.51 Obligations of a farm labor contractor.
40.52 Obligations of person holding valid Farm Labor Contractor Employee Identification Card.
40.53 Obligations of grower, processor, and other user.
40.54 Discrimination prohibited.


#### VIOLATIONS AND SANCTIONS


40.61 Report of violations, investigations, issuance of subpenas.
40.62 Sanctions.
40.63 Certificates of Registration and Farm Labor Contractor Employee Identification Cards—grounds for revocation or suspension or refusal to issue or to renew.
40.64 Denial of facilities and services of Wagner-Peyser Act.
40.65 Civil money and other administrative penalties.
40.66 Waiver of rights.


### Subpart B—Administrative Proceedings

#### GENERAL


40.101 Establishment of procedures and rules of practice.
40.102 Applicability of procedures and rules.


#### PROCEDURES RELATING TO HEARINGS ON REFUSAL TO ISSUE OR RENEW, OR TO SUSPEND OR REVOKE, A CERTIFICATE OF REGISTRATION OR A FARM LABOR CONTRACTOR EMPLOYEE IDENTIFICATION CARD


40.111 Refusal to issue or renew, or to suspend or revoke—written notice required.
40.112 Contents of notice.
40.113 Request for hearing.


#### PROCEDURES RELATING TO HEARINGS ON CIVIL MONEY PENALTIES


40.121 Assessment of civil money penalty, written notice required.
40.122 Contents of notice.
40.123 Request for hearing.
40.124 Civil money penalties—payment and collection.


#### PROCEDURES RELATING TO HEARINGS FOR DENIAL OF WAGNER-PEYSER FACILITIES


40.131 Denial of facilities and services authorized by Wagner-Peyser Act.
40.132 Contents of notice.
40.133 Request for hearing.
40.134 Automatic denial of facilities and services authorized by Wagner-Peyser Act—duration.


#### PROCEDURES RELATING TO THE FILING OF A COMPLAINT ALLEGING DISCRIMINATORY CONDUCT


40.141 Discriminatory conduct—complaint.


#### FORM AND TIME OF REQUEST FOR HEARING


40.151 Form of request.
40.152 Time for making request.


#### PROCEDURES RELATING TO SUBSTITUTE SERVICE


40.161 Change of address.
40.162 Substituted service.
40.163 Responsibility of Secretary for service.


#### RULES OF PRACTICE

##### GENERAL


40.201 Commencement of proceeding.
40.202 Designation of record.
40.203 Caption of proceeding.


#### REFERRAL FOR HEARING


40.210 Referral to Administrative Law Judge.
40.211 Notice of hearing.
40.212 Supplemental Pleadings.

SERVICE OF PLEADINGS AND DOCUMENTS

Sec.
40.220 Service of documents—manner of service.
40.221 Service upon the Department of Labor—number of copies.
40.222 Proof of service.
40.223 Computation of time.

PROCEDURES BEFORE ADMINISTRATIVE LAW JUDGE, GENERALLY

40.230 Authority of Administrative Law Judge.
40.231 Appearances; representation of parties.
40.232 Pleadings allowed.
40.233 Motions and requests.
40.234 Subpenas.
40.235 Witnesses and fees.
40.236 Depositions.
40.237 Prehearing conferences.
40.238 Consent findings and order.

HEARINGS

40.251 Hearing procedures generally.
40.252 Evidence at the hearing.
40.253 Official notice.
40.254 Transcripts.

POST-HEARING PROCEDURES

40.261 Proposals by the parties.
40.262 Decision and order of Administrative Law Judge.

RECORD

40.271 Retention of official record.
40.272 Certification of official record.

AUTHORITY: Sec. 14, 78 Stat. 924, and sec. 17, 88 Stat. 1659 (7 U.S.C. 2053); Secretary's Order No. 16-75, 40 FR 55913; and Employment Standards Order 2-75, 40 FR 56743.

## Subpart A—Registration of Farm Labor Contractors and Their Full-Time Employees

GENERAL

### § 40.1 Purpose and scope.

(a) Congress, in enacting the Farm Labor Contractor Registration Act of 1963, as amended ("the Act"), found "that the channels and instrumentalities of interstate commerce are being used by certain irresponsible contractors for the services of the migrant agricultural laborers who exploit producers of agricultural products, migrant agricultural laborers, and the public generally * * *." It therefore requires "that all persons engaged in the activity of contracting for the services of workers for agricultural employment comply with the provisions of this Act and all regulations prescribed hereunder by the Secretary of Labor."

(b) These regulations implement this finding and policy.

(c) The Act requires certain persons to obtain Certificates of Registration or Farm Labor Contractor Employee Identification Cards prior to performing any activities which constitute engagement in farm labor contracting within the meaning of the Act and prescribes the responsibilities for holders of such certificates or employee identification cards. In addition, persons to whom farm workers are furnished by farm labor contractors also have specific responsibilities.

(d) The Act empowers the Secretary of Labor to enforce the Act, conduct investigations, issue subpenas, and, in the case of designated violations of the Act, to impose sanctions, including the refusal to issue or to renew or the suspension or revocation of a Certificate of Registration or Farm Labor Contractor Employee Identification Card. As provided in the Act, the Secretary is empowered, among other things, to impose an assessment and to collect a civil money penalty of not more than $1,000 for each violation, to deny a person the facilities and services available under the Wagner-Peyser Act, to seek a temporary or permanent restraining order in a Federal District Court, and to seek the imposition of criminal penalties on farm labor contractors or their employees who willfully and knowingly violate any provisions of the Act.

(e) This Subpart A sets forth the substantive regulations promulgated by the Secretary, pursuant to authority contained in the Act, relating to the issuance, renewal or replacement of a Farm Labor Contractor Certificate of Registration or a Farm Labor Contractor Employee Identification Card, the obligations and responsibilities of persons issued such certificates or identification cards, the obligations and responsibilities of persons furnished farm workers by farm labor contractors, the grounds for refusal to issue or to renew or for the revocation or suspension of such certificates or identification cards, and the sanctions authorized by the Act. It also provides for the imposition of civil money penalties for violation of the Act or regulations issued thereunder and indicates factors to be considered by the Secretary of Labor or authorized representative in assessing the amount of such penalty.

(f) Subpart B sets forth the rules of practice for administrative hearings relating to a refusal to issue or to renew, or the suspension or revocation of either document. It also outlines the procedure for filing a challenge to a proposed administrative action relative to violations and summarizes the methods provided for collection and recovery of the civil money penalty.

### § 40.2 Definitions.

For purposes of this part:

(a) The term "person" includes any individual, partnership, association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means "any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes or transports migrant workers (excluding members of the contractor's immediate family) for agricultural employment. This term shall not include—

(1) Any nonprofit charitable organization, public or nonprofit private educational instiuttion, or similar organization;

(2) Any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) Any full-time or regular employee of any entity referred to in Paragraph (b)(1) or (2) of this section who engages in such activity solely for his employer on no more than an incidental basis;

(4) Any person who engages in such activity—

(i) Solely within a 25 mile intrastate radius of his permanent place of residence and

(ii) For not more than 13 weeks per year;

(5) Any person who engaged in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment of such workers is subject to—

(i) An agreement between the United States and such foreign nation or

(ii) An arrangement with the Government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

(6) Any full-time or regular employee of any person holding a Certificate of Registration under this Act;

(7) Any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers; or

(8) Any custom combine, hay harvesting, or sheep shearing operation.

(c) The term "fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor.

(d) The term "agricultural employment" means employment in any service or activity included within the provisions of Section 3(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(f)), or Section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(e) The term "migrant worker" means an individual whose primary employment is in agriculture, as defined in Section 3(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(f)), or who performs agricultural labor, as defined in Section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)), on a seasonal or other temporary basis.

(f) The term "immediate family" of the farm labor contractor includes only—

(1) A spouse;

(2) Children, stepchildren, and foster children;

(3) Parents, stepparents, and foster parents; and

(4) Brothers and sisters.

(g) The term "Secretary" means the Secretary of the United States Department of Labor or the Secretary's duly authorized representative.

(h) "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, and such authorized representative as may be

designated by the Administrator to perform any of the functions of the Administrator under this part.

(i) "Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under this part.

(j)(1) The "Administrative Law Judge" means a person appointed as provided in 5 U.S.C. 3105 and Subpart B of Part 930 of Title 5 of the Code of Federal Regulations (see 37 FR 16787) and qualified to preside at hearings under 5 U.S.C. 557.

(2) The "Chief Administrative Law Judge" means the Chief Administrative Law Judge, United States Department of Labor, Washington, D.C. 20210.

(k) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

(l) "Convicted" means that a final judgment of guilt has been rendered by a court of competent jurisdiction from which no opportunity for appeal remains.

(m) A "full-time or regular employee" who is required to obtain a Farm Labor Contractor Employee Identification Card is a person who performs farm labor contracting activities solely on behalf of a farm labor contractor holding a valid Certificate of Registration and is not an independent contractor.

(n) A "Certificate of Registration" is the certificate issued by the Administrator which permits a person to engage in activities as a farm labor contractor.

(o) A "Farm Labor Contractor Employee Identification Card" is a card issued pursuant to this part permitting a full-time or regular employee of a person holding a valid Certificate of Registration to engage in activities as a farm labor contractor.

(p) A farm labor contractor is deemed an "owner" of a vehicle or housing facilities if said person has a legal or equitable interest therein.

(q) A farm labor contractor is in "control" of a vehicle or housing facilities regardless of the location of such facilities if said person is in charge of or has the power or authority to oversee, manage, superintend or administer the vehicle or housing, either personally or through an authorized agent or employee acting on behalf of said farm labor contractor, irrespective of whether compensation is paid for engaging in any of the aforesaid capacities.

(r) An "illegal alien" is any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(s) A "common carrier" by motor vehicle is one which holds itself out to the general public to engage in transportation of passengers for hire, whether over regular or irregular routes, and which holds a valid certificate of authorization for such purposes from an appropriate local, State or Federal agency.

(t) The "Wagner-Peyser Act" is the Act of June 6, 1933 (48 Stat. 113; codified in 29 U.S.C. 49, *et seq.*), providing *inter alia* for the establishment of the U.S. Employment Service.

(u) The term "Employment Service of the various States" means a State agency vested with all powers necessary to cooperate with the U.S. Employment Service under the Wagner-Peyser Act.

**§ 40.3 Certificate of Registration required.**

Any person who desires to engage in any activity as a farm labor contractor, as defined in the Act and these regulations, must first obtain a Certificate of Registration authorizing each such activity.

**§ 40.4 Farm Labor Contractor Employee Identification Card required.**

Any person desiring to engage in recruiting, soliciting, hiring, furnishing, or transporting migrant workers solely on behalf of a farm labor contractor holding a valid Certificate of Registration, issued pursuant to the Act and these regulations, as a full-time or regular employee of such contractor must obtain a Farm Labor Contractor Employee Identification Card authorizing such activity or activities. Such identification card must be obtained prior to the employee's engagement in any of the aforementioned farm labor contractor activities and must show the name of the farm labor contractor for whom such activities are to be performed.

**§ 40.5 Corporations, partnerships, associations and other organizations.**

Any corporation, partnership, association or other organization which is a farm labor contractor within the meaning of the Act must obtain a Certificate of Registration. Any employee, including any officer or director of such a corporation, or partner or employee of a partnership, or member, officer, or other employee of an association or any other organization, who engage in farm labor contractor activities as a full-time or regular employee of such business organization, shall obtain a Farm Labor Contractor Employee Identification Card prior to so engaging.

**§ 40.6 Public central registry.**

The Administrator shall maintain a public central registry of all persons issued Certificates of Registration or Farm Labor Contractor Employee Identification Cards. All information filed therein shall be made available upon request in accordance with Part 70 of this title. Requests for information concerning such registry may be directed to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210.

**§ 40.7 Compliance with State statutes.**

This Act and the provisions contained in this part are intended to supplement State action and compliance with this Act or this part shall not excuse anyone from compliance with appropriate State law and regulation.

**§ 40.8 Filing of applications, notices and documents.**

Unless otherwise prescribed hereinafter, all applications, notices and other documents required or permitted to be filed by these regulations shall be filed in accordance with the provisions of §§ 40.220 through 40.223 of this part.

**§ 40.9 Accuracy of information, statements and data.**

Information, statements and data submitted in compliance with the provisions of the Act or this part are subject to Title 18, Section 1001, of the United States Code which provides:

§ 1001. *Statements or entries generally*

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

REGISTRATION REQUIREMENTS

**§ 40.11 Filing of applications for Certificates of Registration.**

(a) Applications for an initial or renewal Certificate of Registration are available at, and may be filed in, any office of the Employment Service of the various States.

(b) Registration under the Federal law is required whether or not licensing or registration of farm labor contractors is required under State law.

**§ 40.12 Execution of application for Certificate of Registration.**

The application shall set forth the information required thereon, shall be subscribed and sworn to by the applicant, and shall have attached the applicant's fingerprints on Form FD-258 as prescribed by the U.S. Department of Justice.

**§ 40.13 Appointment of Secretary as agent for substituted service.**

No Certificate of Registration shall be issued unless and until each applicant executes a writing which shall be subscribed and sworn to and which shall contain the following declaration:

I do hereby designate and appoint the Secretary of Labor, United States Department of Labor, as my lawful agent to accept service of summons in any action against me, at any and all times during which I have departed from the jurisdiction in which such action is commenced or otherwise have become unavailable to accept service, and under such terms and conditions as are set by the court in which such action has been commenced.

**§ 40.14 Vehicle liability insurance.**

Before any person may transport, within the meaning of the Act, migrant workers and their property in any vehicle which such person owns, operates, controls, or causes to be operated, compliance with the insurance or financial responsibility requirements of the Act

must be shown by submitting the following, except to the extent that other arrangements pursuant to § 40.15 of this part have been approved by the Secretary:

(a) A completed Farm Labor Contractor vehicle liability certificate of insurance showing that the passenger hazard is included (as evidence of liability insurance which covers the workers while being transported). Such certificate represents that a vehicle liability insurance policy, including a farm labor contractor liability endorsement, provides insurance in an amount not less than the amounts applicable to vehicles used in the transportation of passengers under the Interstate Commerce Act and regulations promulgated pursuant thereto. These amounts currently are as follows:

*Insurance required for passenger equipment*

| | 12 or less passengers | More than 12 passengers |
|---|---|---|
| Limit for bodily injuries to or death of 1 person | $100,000 | $100,000 |
| Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of $100,000 for bodily injuries to or death of 1 person) | 300,000 | 500,000 |
| Limit for loss or damage in any 1 accident to property of others (excluding cargo) | 50,000 | 50,000 |

The certificate also represents that the insurance was obtained from an insurance carrier licensed or otherwise authorized to do business in the State in which the insurance is obtained.

(b) If the passenger hazard has been excluded from the farm labor contractor vehicle liability certificate of insurance referred to in paragraph (a) of insurance as evidence of the issuance of this section applicant shall submit in addition to such certificate of insurance a completed farm labor contractor standard accident policy certificate of a farm labor contractor standard accident policy. Said policy or policies shall be issued by an insurance carrier licensed or otherwise authorized to do business in the State in which the insurance is obtained. The coverage afforded by such substitute insurance policy or policies shall not be less than the minimum amounts required in paragraph (a) of this section.

**§ 40.15 Proof of financial responsibility in lieu of insurance.**

Financial responsibility in lieu of insurance may be evidenced by a liability bond executed by the applicant, identified in the instrument as the "principal," together with a third party, identified in the instrument as the "surety," to assure payment of any liability up to $500,000 for damages to persons or property arising out of the applicant's ownership of, operation of, or causing to be operated any vehicle for the transportation of migrant workers in connection with the business, activities, or operations as a farm labor contractor. The "surety" shall be one which appears on the list contained in Treasury Department Circular 570, or which has been approved by the Secretary under the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406). Treasury Department Circular 570 may be obtained from the U.S. Treasury Department, Audit Staff, Bureau of Government Financial Operations, Washington, D.C. 20226.

**§ 40.16 Qualifications and eligibility of insurance carriers.**

(a) No certificate of insurance issued by an insurance carrier in accordance with this part will be accepted, unless said insurance carrier meets the following requirements:

(1) The insurance carrier possesses and maintains surplus funds (policyholders' surplus) of not less than the minimum amount required by the U.S. Treasury Department, which minimum shall be determined on the basis of the values of assets and liabilities as shown in its financial statements filed with and approved by the insurance department or other insurance regulatory authority of the State of domicile (home State) of such company, except in instances where in the judgment of the Administrator additional evidence with respect to such values is considered necessary; and

(2) The insurance carrier has a general policyholder's rating of B or better in the current issue of "Best's—Insurance Reports—Fire and Casualty," or a "recommended" rating in the current issue of "Best's—Insurance Reports—Life."

(b) If the insurance carrier is not listed in the current issue of Best's, or, if listed, is not assigned a general policyholder's rating of B or better or "recommended" whichever is applicable, such carrier may request approval for eligibility by submitting to the Administrator its latest financial statement, as filed with the insurance department of its home State, on the standard form, with all exhibits and schedules included, and copies of reports of examination on conditions and affairs, as prepared by State supervisory authorities and such other information as the Administrator may request.

**§ 40.17 Duration of insurance or liability bond.**

Any insurance policy or liability bond which is obtained pursuant to this Act shall provide the required coverage for the full period during which the applicant for a Certificate of Registration shall be engaged in transporting migrant workers within the meaning of the Act during a calendar year.

**§ 40.18 Limitations on cancellation of insurance or liability bond.**

Any insurance policy or liability bond required by the Act or this part shall provide that it shall not be cancelled, rescinded, or suspended, nor become void for any reason whatsoever during such period in which the insurance or liability bond is required by the Act to be effective, except upon the expiration of the term for which it is written; or unless the parties desiring to cancel shall have first given thirty (30) days notice to the Administrator. The notice will include a statement setting forth the reason for cancellation, rescission, or suspension of such policy or bond. The notice shall be in writing and forwarded via certified or registered mail, addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Said thirty (30) days notice shall commence to run from the date notice is actually received by the Administrator.

**§ 40.19 Authorization to transport migrant workers.**

(a) No farm labor contractor may transport migrant workers within the meaning of the Act, unless said person shall submit—

(1) Written proof of insurance or financial responsibility, as required by §§ 40.14 and 40.15 of this part;

(2) A statement in the manner prescribed by the Secretary identifying each vehicle to be used by the applicant for the transportation of migrant workers and under the applicant's ownership or control; and

(3) Written proof that every such vehicle is in compliance with all applicable Federal and State safety and health standards and with the rules and regulations promulgated by the Bureau of Motor Carrier Safety, Federal Highway Administration of the U.S. Department of Transportation.

(b) If the farm labor contractor is to drive a vehicle for the transportation of migrant workers, the contractor must seek authorization for such activity by—

(1) Submitting with the application for the initial Certificate of Registration a doctor's certificate on the prescribed form, and when applying for a renewal Certificate of Registration with authorization to drive, a new completed doctor's certificate must be submitted if the previous doctor's certificate is more than 3 years old; and

(2) Submitting evidence of an appropriate license to operate such vehicle.

**§ 40.20 Authorization to house migrant workers.**

(a) If an applicant for a Certificate of Registration is the owner of or will control facilities to be used for housing migrant workers during any period for which such a certificate is sought, said applicant shall submit—

(1) A statement identifying such facilities; and

(2) Written proof that the housing facilities comply with Federal safety and health standards as prescribed in either 20 CFR 620.4 or 29 CFR 1910.142 and applicable State standards of safety and health. Such written proof may be either a statement signed by the person to whom migrant workers are furnished by a farm labor contractor attesting that the housing facilities comply with Federal safety and health standards and also with applicable State safety and health standards, or a written statement containing an attestation with equal effect and signed by the applicant, or written statements issued by an authorized State and Federal Agency.

(b) Should the required written proof be unavailable at the time of filing an application, the applicant must attest in writing that migrant workers in the applicant's crew will not be housed in any facilities under the ownership or control of the applicant that do not conform to all applicable Federal and State safety and health standards. In such event, if otherwise eligible, the applicant will be issued a Certificate of Registration without a housing authorization. This certificate may be amended to include an authorization to house migrant workers at such time as the required written proof is forthcoming: *Provided*, That such proof as prescribed herein will have been submitted not more than sixty (60) days or less than thirty (30) days before actual use or occupancy of the housing facilities to the regional office which had issued the initial certificate.

**§ 40.21 Expiration and renewal of Certificate of Registration.**

A Certificate of Registration, once issued, may not be transferred or assigned and shall be effective for the remainder of the calendar year during which it was issued unless suspended or revoked. In any case in which an application for renewal of a valid Certificate of Registration submitted in accordance with the requirements of §§ 40.11 through 40.20 of these regulations has been made on or before November 30 of the year preceding the year for which renewal is sought, the authority to operate as a farm labor contractor under an existing certificate shall not expire until the renewal application shall have been finally determined by the Administrator.

**§ 40.22 Replacement of Certificate of Registration.**

If a Certificate of Registration is lost or destroyed, a duplicate Certificate of Registration may be obtained by the submission to the regional office that issued it or to any regional office of the Wage and Hour Division, Employment Standards Administration of a written statement explaining its loss or destruction, indicating where the original application was filed and requesting that a duplicate be issued.

EMPLOYEE IDENTIFICATION

**§ 40.31 Filing of application for Farm Labor Contractor Employee Identification Card.**

(a) Applications for an initial or renewal Farm Labor Contractor Employee Identification Card are available at, and may be filed in, any office of the Employment Service of the various States.

(b) An Employee Identification Card issued under Federal law is required whether or not registration, licensing or identification of such person is required under State law.

**§ 40.32 Execution and Content of application for Farm Labor Contractor Employee Identification Card.**

(a) The application shall set forth the information required thereon, shall be subscribed and sworn to by the applicant, and shall have attached the applicant's fingerprints on Form FD–258 as prescribed by the U.S. Department of Justice.

(b) If a full-time or regular employee of a farm labor contractor is to drive any vehicle for the transportation of migrant workers in connection with the business activities or operations of a farm labor contractor, such employee shall seek authorization for such activity by (1) submitting with the application for the initial Employee Identification Card a doctor's certificate on the prescribed form, and when applying for a renewal of such card with authorization to drive, a new completed doctor's certificate must be submitted if the previous doctor's certificate is more than 3 years old; and (2) submitting evidence of an appropriate license to operate such vehicle.

**§ 40.33 Authorized use of Farm Labor Contractor Employee Identification Card.**

(a) Any employee holding a valid Farm Labor Contractor Employee Identification Card described in § 40.4 of this part is authorized to engage in the activity or activities stated on such card solely on behalf of the employee's named employer who is a holder of a valid Certificate of Registration without obtaining a Certificate of Registration as a farm labor contractor in such employee's own name.

(b) The authorization provided by Section 4(b) of the Act and paragraph (a) of this section shall continue as long as the Farm Labor Contractor Employee Identification Card—

(1) Remains valid;

(2) Is in the immediate personal possession of such holder when engaging in any activity authorized thereby; and

(3) Is exhibited to any person with whom said holder undertakes to deal in such capacity.

**§ 40.34 Replacement of Farm Labor Contractor Employee Identification Card, lost card or change of employment.**

(a) If a Farm Labor Contractor Employee Identification Card is lost or destroyed, a duplicate card may be obtained by submitting to the regional office that issued it or to any regional office of the Wage and Hour Division, Employment Standards Administration, a written statement explaining its loss or destruction, indicating where the original application was filed, the name and number of the farm labor contractor by whom employed, and requesting that a duplicate be issued.

(b) A Farm Labor Contractor Employee Identification Card is valid only during the period in which the holder is a full-time or regular employee of the registered farm labor contractor named on the identification card. If, prior to the expiration of the identification card, the holder, through a change in employment, should become a full-time or regular employee of a different registered farm labor contractor, a replacement identification card which names the new employer may be obtained by submitting to the regional office that issued the original card or to any regional office of the Wage and Hour Division, Employment Standards Administration a written statement that includes the date of the change in employment status and the name, home address, current address and certificate registration number of the new employer.

(c) Any change of employment referred to in paragraph (b) of this section must be reported immediately.

**§ 40.35 Expiration and renewal of Farm Labor Contractor Employee Identification Card.**

(a) A Farm Labor Contractor Employee Identification Card, once issued, may not be transferred or assigned and shall expire on December 31 of the year of issuance, unless suspended or revoked prior thereto. The holder of such a card may request renewal of such card by executing and filing in any office of the Employment Service of the various States, the following—

(1) An application for renewal;

(2) Upon request, a completed U.S. Department of Justice Fingerprint Card, Form FD–258; and

(3) A prescribed doctor's certificate and appropriate operator's license in accordance with § 40.32(b), if such applicant is to be engaged as a driver for transporting migrant workers.

(b) In any case in which an application for renewal of an Employee Identification Card has been submitted in accordance with the requirements of paragraph (a) of this section on or before November 30 of the year preceding the year for which renewal is sought, the authority to operate as a full-time or regular employee of a holder of a Certificate of Registration shall not expire until the renewal application shall have been finally determined by the Administrator.

ACTION ON APPLICATIONS

**§ 40.41 Office of filing, action.**

Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed at any of the offices designated in §§ 40.11 and 40.31 respectively shall be transmitted promptly to the appropriate regional office of the Wage and Hour Division, Employment Standards Administration.

**§ 40.42 Issuance, refusal to issue, suspension, revocation or refusal to renew: Farm Labor Contractor Certificate of Registration or Farm Labor Contractor Employee Identification Card.**

(a) The Administrator or authorized representative shall:

(1) Review each application transmitted by the offices of filing and determine whether such application is complete and properly executed.

(2) When appropriate, notify the applicant in writing of any incompleteness or error in execution of an application and return the application for correction and completion.

(3) Determine after appropriate investigation whether the applicant has complied with the requirements of the

Act and this part and if appropriate issue a Certificate of Registration or a Farm Labor Contractor Employee Identification Card authorizing the performance of any or all activities permitted under the Act.

(b) The Administrator, upon notice and hearing in accordance with Subpart B of this part, may refuse to renew a Certificate of Registration or a Farm Labor Contractor Employee Identification Card when an investigation presents grounds as set forth in § 40.63 of this part for such action.

OBLIGATIONS AND PROHIBITED ACTS

**§ 40.51 Obligations of a farm labor contractor.**

The Act and these regulations imposes the following obligations on all farm labor contractors:

(a) The farm labor contractor shall obtain an appropriate Certificate of Registration before engaging in any activities of a farm labor contractor.

(b) The farm labor contractor shall provide the Secretary with a notice of each and every address change within 10 days after such change of address.

(c) Whenever a farm labor contractor obtains a vehicle or learns of the intended use of a vehicle for the transportation of migrant workers by said contractor and such vehicle or vehicles are under the contractor's ownership or control, said contractor shall, within 10 days after he obtains or learns of such intended use—

(1) Furnish a statement which shall identify each such vehicle;

(2) Provide written proof that each such vehicle conforms to all applicable Federal and State safety and health standards; and

(3) Furnish written proof of insurance or financial responsibility for such vehicle or vehicles to the office which originally had issued the Certificate of Registration.

(d) If the farm labor contractor is to drive a vehicle for the transportation of migrant workers, the contractor must seek advance authorization for such activity by (1) submitting on a prescribed form a doctor's certificate with the application for the initial Certificate of Registration and when applying for a renewal certificate with authorization to drive, a new completed doctor's certificate, if the previous doctor's certificate is more than 3 years old; and (2) submitting evidence of an appropriate license to operate such vehicle.

(e) If the farm labor contractor obtains housing facilities, or learns that certain facilities will be used for housing migrant workers and such facilities are under the ownership or control of the contractor, said contractor shall provide the documentation as prescribed in paragraph (a) of § 40.20 to the regional office which had issued the initial certificate. This document shall be submitted within 10 days after the contractor obtains or learns of the intended use of such real property and prior to its actual use.

(f) A registered farm labor contractor shall carry the Certificate of Registration at all times while engaging in farm labor contracting activities and shall exhibit the same to all persons with whom the contractor intends to deal as a farm labor contractor, including, but not limited to, workers, growers, processors, and State Employment Agency personnel, prior to so dealing.

(g) The farm labor contractor shall ascertain and disclose to the worker to the best of the contractor's knowledge and belief at the time the worker is recruited, the following information in writing, in a language and manner understandable to such worker on a form such as WH-416 (information on wages and working conditions)—

(1) The area of employment;

(2) The crops and operations on which the worker may be employed;

(3) The transportation, housing, and insurance to be provided the worker;

(4) The wage rates to be paid the worker;

(5) The charges to be made by the farm labor contractor for such contractor's services;

(6) The period of employment;

(7) The existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of contracted employment; and

(8) The existence of any arrangements between the farm labor contractor and any owner, proprietor, or agent of any commercial or retail establishment in the area of employment, under which the contractor is to receive a commission or any other benefit resulting from any sales provided to such establishment from the migrant workers.

(h) Upon arrival at a given place of employment, the farm labor contractor shall post in a conspicuous place a written statement of the terms and conditions of that employment in a language in which the workers are fluent and written in a manner understandable by such workers.

(i) In the event the contractor owns, manages, supervises, or otherwise controls the housing facilities, such person shall post in a conspicuous place the terms and conditions of occupancy in a language in which the worker is fluent and in a manner understandable by such worker.

(j) The farm labor contractor shall provide to each migrant worker engaged in agricultural employment with whom the contractor deals in a capacity as a farm labor contractor a statement of all sums paid to such contractor (including sums received on behalf of such migrant worker) on account of the labor of such migrant worker. The farm labor contractor shall additionally provide each such worker with an itemized statement showing all sums withheld by said contractor from the amount received on account of the labor of such worker, and the purpose for which such sums were withheld.

(k) In the event the farm labor contractor pays the migrant workers engaged in agricultural employment, either on behalf of such contractor or on behalf of another person, such contractor shall also keep payroll records which shall show for each worker in each workweek of the payroll period, name in full, home address, total earnings, itemized statement of all withholdings or deductions from earnings, net earnings, the hours worked each day, the total hours worked each workweek, and hourly rate of pay. If the worker is employed on a time basis other than hourly, this record shall also show the time period constituting the basis for payment. In addition, if the worker is employed on a piece rate basis, the payroll records shall show the number of units of work performed and the rate per unit.

(l) The farm labor contractor shall provide to the person to whom a migrant worker is furnished all information and records required to be kept by such contractor under paragraph (k) of this section and all information required to be provided to any migrant worker under paragraph (j) of this section.

(m) The farm labor contractor shall promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to said farm labor contractor by any farm operator for such purposes.

(n) A farm labor contractor shall refrain from requiring any worker to purchase any goods solely from such farm labor contractor or any other person.

(o) The farm labor contractor shall refrain from violating or from taking any action in violation of Section 5(b) of the Act.

(p) A farm labor contractor shall refrain from recruiting, employing or utilizing with knowledge the services of any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment, and must evidence an affirmative showing of a *bona fide* inquiry of each prospective employee's status as a United States citizen or as a person lawfully authorized to work in the United States. Such affirmative showing will be deemed to be met by written documentation that reliance in good faith was based on any of the following:

(1) Acceptable evidence of United States citizenship—

(i) Birth certificate.

(ii) Certificate of citizenship.

(iii) Certificate of naturalization.

(iv) U.S. identification card (INS—Form I–179 or I–197).

(v) Passport issued by United States identifying person as citizen of United States.

(vi) Consular report of birth (State Department Form FS–240).

(2) INS—Form I–151, Alien Registration Receipt Card (green card), which is proof that the alien has been lawfully admitted to the United States for permanent residence and may accept any employment in this country without restriction. It is a green or blue-green wallet-sized laminated card, bearing a photograph of the alien and contains information concerning his alien registration number, date of admission as an immigrant, birth date and sex.

(3) INS—Form I–94 (with or without a passport)—

(i) INS—Form I–94 bearing an employment authorization consisting of the words "Employment Authorized."

(ii) INS—Form I–94 bearing the designation of H–2, as endorsed on the front or back of the form, authorizing a person to engage only in agricultural employment during the period of such person's authorized stay in the United States.

(q) A farm labor contractor is responsible for assuring that every full-time or regular employee employed by such Contractor has obtained either a Farm Labor Contractor Employee Identification Card or a Certificate of Registration, as required by the Act and these regulations, prior to such employee's engagement in any activity enumerated in Section 3(b) of the Act.

**§ 40.52 Obligations of person holding a valid Farm Labor Contractor Employee Identification Card.**

Any person holding a valid Farm Labor Contractor Employee Identification Card in accordance with the provisions of §§ 40.31 through 40.35 of this part is subject to and is required to comply with all of the provisions of the Act and these regulations to the same extent as if said person had been required to obtain a Certificate of Registration in such person's own name.

**§ 40.53 Obligations of grower, processor, and other user.**

Any person who is furnished any migrant worker by a farm labor contractor shall—

(a) Maintain all payroll records required to be kept by such person under Federal law;

(b) Obtain and maintain records containing the information required to be provided to such person by the farm labor contractor under Section 6(e) of the Act and § 40.51(1) of this part with respect to migrant workers paid by a farm labor contractor; and

(c) determine before engaging the services of a farm labor contractor to supply farm labor that the contractor possess a Certificate of Registration that is in full force and effect at the time he contracts with the farm labor contractor.

**§ 40.54 Discrimination prohibited.**

(a) Any person is deemed to have violated the Act if such person intimidates, threatens, restrains, coerces, blacklists, discharges, or in any manner discriminates against any migrant worker who for just cause has—

(1) filed a complaint with reference to this Act with the Secretary of Labor; or

(2) instituted or caused to be instituted any proceeding under or related to this Act; or

(3) has testified or is about to testify in any proceeding under or related to this Act; or

(4) has exercised on behalf of others any right or protection afforded by this Act to such persons.

(b) A complaint alleging such discriminatory conduct may be filed with the Secretary within 180 days after the happening of such unlawful acts.

VIOLATIONS AND SANCTIONS

**§ 40.61 Report of violations, investigations, issuance of subpenas.**

(a) Any person may report a violation of the Act or regulations of this part to the Administrator by advising any local office of the Employment Service of the various States, or any office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or any other representative of the Administrator. The office or person receiving such a report shall refer it to the regional office of the Wage and Hour Division, Employment Standards Administration for the region in which the reported violation is alleged to have occurred and the Administrator shall direct that an appropriate investigation of any alleged violation shall be made.

(b) The Administrator, upon receipt of a complaint or upon his own initiative, may investigate and gather data respecting such case, may enter and inspect such places and records (and make copies thereof), may question persons being investigated or proceeded against, may issue subpenas requiring the attendance and testimony of witnesses or the production of any documentary or other evidence from any place in the United States at any designated place of hearing as may be appropriate, to determine whether a violation of this Act or this part has been committed. In connection with the foregoing, the said officer or his agent may administer oaths and affirmations, examine witnesses and receive evidence.

(c) In case of disobedience to a subpena, the aid of a Federal District Court which is authorized to issue an order requiring the person or business organization to obey such subpena may be invoked.

(d) Investigations are to be conducted in a manner which protects the confidentiality of any complainant or other person who provides information on a confidential basis, in accordance with Part 70 of this title.

**§ 40.62 Sanctions.**

(a) Violations of the Act or regulations thereunder may result in the imposition of civil injunctive relief or, in the case of willful and knowing violations by a farm labor contractor or employee thereof, the imposition of criminal sanctions. In addition, civil money penalties of not more than $1,000 for each violation may be assessed administratively. Further, administrative action may be taken to suspend, revoke, refuse to issue or renew a Certificate of Registration or Employee Identification Card, and to deny the facilities and services afforded by the Wagner-Peyser Act. The taking of any one of the above actions shall not be a bar to the concurrent taking of any other action enumerated in this section.

(b) If, upon the receipt of a complaint in which a worker has alleged discriminatory action of a type specified in section 13(a) of the Act and § 40.54 of this part, the ensuing investigation results in a determination that such discriminatory conduct had been committed, an action shall be instituted in an appropriate Federal District Court to restrain such violation and to seek such other relief as may be appropriate, including rehiring or reinstatement of the worker, with backpay, or, damages.

**§ 40.63 Certificates of Registration and Farm Labor Contractor Employee Identification Cards—grounds for revocation or suspension or refusal to issue or to renew.**

Certificates of Registration and Farm Labor Contractor Employee Identification Cards may be revoked or suspended, or issuance or renewal thereof refused, if the applicant or registrant—

(a) Fails or refuses to comply with any provisions of § 40.51 of this part;

(b) Knowingly has made any misrepresentations or false statements in an application for a Certificate of Registration or for Farm Labor Contractor Identification Card or any renewal thereof;

(c) Knowingly has given false or misleading information to migrant workers concerning the terms, conditions, or existence of agricultural employment;

(d) Has failed, without justification, to perform agreements entered into or arrangements with farm operators;

(e) Has failed, without justification, to comply with the terms of any working arrangements that the applicant or registrant has made with migrant workers;

(f) Has failed to show financial responsibility satisfactory to the Administrator or has failed to keep in effect a policy of insurance as required by Section 5(a)(2) of the Act;

(g) Has recruited, employed or utilized, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;

(h) Has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered with a period of 5 years preceding the action of the Secretary under this paragraph;

(i) Has failed to comply with rules and regulations as required by §§ 40.19 and 40.20 of this part;

(j) Knowingly employs or continues to employ any person, to whom subsection (b) of Section 4 of the Act applies, who has taken any action, except for that listed in paragraph (f) of this section, which could be used by the Administrator under this section to refuse to issue a Certificate of Registration;

(k) Is not in fact the real party in interest in any such application for a Certificate of Registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a Certificate of Registration, has had a Certificate of Registration suspended or revoked, or who does not presently qualify for a Certificate of Registration;

(l) Has failed to furnish, or refused to allow a designated representative of the Administrator to obtain appropriate information necessary to make a determination of eligibility for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card as provided by Sections 5(b) and 7 of the Act;

(m) Has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor;

(n) Has intimidated, threatened, restrained, coerced, blacklisted, discharged, or in any manner discriminated against any migrant worker who has filed a complaint or instituted or caused to be instituted any proceeding or has exercised any right or protection afforded by this Act, whether such action is on behalf of said worker or on behalf of others; or

(o) Has failed to comply with any of the provisions of this Act or any regulations issued thereunder.

**§ 40.64 Denial of facilities and services of Wagner-Peyser Act.**

(a) (1) Upon determination by the Secretary that a person has knowingly engaged the services of a farm labor contractor who did not possess a valid Certificate of Registraiton as required by the Act, such person may be denied the facilities and services authorized by the Wagner-Peyser Act for a period of up to 3 years.

(2) Evidence that a farm labor contractor possesses a Certificate of Registration that is in full force and effect may consist of—

(i) The Certificate of Registration submitted by the farm labor contractor; or

(ii) A confirmation of such fact obtained from the Secretary's public central registry of all persons issued Certificates of Registration.

(3) If an investigation results in a finding of violation, the Secretary shall notify any persor charged with such violation of any proposal to deny such person the facilities and services available under the Wagner-Peyser Act, and of such person's right to request a hearing, as prescribed in Subpart B of this part.

(b) If a farm labor contractor fails or refuses to exhibit a valid Certificate of Registration to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing, as required by Section 6(a) of the Act and § 40.51(f) of this part, the contractor shall be denied the facilities and services authorized by the Wagner-Peyser Act and shall also be subject to such penalties as are provided in the Act or in this part.

**§ 40.65 Civil money and other administrative penalties.**

(a) Where violations by any persons of the Act or any regulations promulgated thereunder have been disclosed and have resulted in proposals to refuse renewal or issuance or to suspend or to revoke a Certificate of Registration or a Farm Labor Contractor Employee Identification Card or to assess a civil money penalty or to deny persons the services and facilities of the Wagner-Peyser Act, any one so charged is entitled to an opportunity for a proceeding before an administrative law judge as described in Subpart B of this part.

(b) Any assessment of a civil money penalty shall be based on the available evidence and shall take into consideration among others, one or more of the following factors:

(1) Previous history of violation or violations.

(2) The number of migrant workers affected by the violation or violations.

(3) The gravity of the violation or violations.

(4) Efforts made in good faith to comply with the Act.

(5) Explanation of person charged with the violation or violations.

(6) Assurances of future compliance, taking into account the public health, interest or safety.

(7) Financial gain on the part of the violator or financial losses to worker or workers.

**§ 40.66 Waiver of rights.**

Any agreement by an employee purporting to waive or modify any rights inuring to said person under this Act or rules promulgated thereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act or rules promulgated thereunder.

## Subpart B—Administrative Proceedings

### General

**§ 40.101 Establishment of procedures and rules of practice.**

This subpart codifies, amends, and establishes the procedures and rules of practice necessary for the enforcement of the Act.

**§ 40.102 Applicability of procedures and rules.**

(a) The procedures and rules contained herein establish the administrative processes necessary for a determination:

(1) To refuse to issue or renew, or to suspend or revoke, either a "Certificate of Registration" or a "Farm Labor Contractor Employee Identification Card";

(2) To impose a civil money penalty for any violation of the Act or the provisions of Subpart A of these regulations;

(3) To deny the facilities and services authorized by the Wagner-Peyser Act; and

(4) To the filing of a complaint alleging discriminatory conduct.

(b) The procedures and rules contained herein also summarize the methods to be utilized in the assessment, collection, and recovery of any civil money penalties administratively assessed under the Act and these regulations.

(c) Finally, the procedures and rules contained herein specify the administrative responsibility resulting from section 5(a)(5) of the Act relating to the service of summons upon the Secretary on behalf of farm labor contractors.

### Procedures Relating to Hearings on Refusal To Issue or Renew, or To Suspend or Revoke, a Certificate of Registration or a Farm Labor Contractor Employee Identification Card

**§ 40.111 Refusal to issue or renew, or to suspend or revoke—written notice required.**

(a) Whenever the Administrator finds and determines that a Certificate of Registration or a Farm Labor Contractor Employee Identification Card should be suspended or revoked or that issuance or renewal thereof should be refused, the applicant or holder of the Certificate of Registration or identification card shall be notified in writing of such determination.

(b) In cases involving a determination relating to a farm labor contractor, written notice shall also be given to every holder of an Employee Identification Card which was issued or applied for on behalf of such farm labor contractor.

(c) In cases involving a determination relating to a Farm Labor Contractor Employee Identification Card, written notice shall also be given to the holder of the Certificate of Registration under which the identification card was issued or applied for.

**§ 40.112 Contents of notice.**

The notice referred to in § 40.111 shall:

(a) Set forth the determination of the Administrator and the reason or reasons therefor.

(b) Apprise the applicant or holder of the right to request a hearing on the determination to refuse to issue, or renew or to suspend or revoke, a Certificate of Registration or a Farm Labor Contractor Employee Identification Card.

(c) Apprise the applicant or holder of the time and method for making such request, and the procedures relating thereto, in accordance with the provisions of § 40.113.

(d) Inform the applicant or holder that in the absence of a request for a hearing, the determination of the Administrator shall become the final and unappealable order of the Secretary.

**§ 40.113 Request for hearing.**

(a) Any applicant or holder desiring to request an administrative hearing on

the determination to refuse to issue or renew, or to suspend or revoke, a Certificate of Registration or a Farm Labor Contractor Employee Identification Card shall make such request in writing to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, no later than twenty (20) days after the service of the notice referred to in § 40.111.

(b) The request for such hearing shall be in writing, signed by the person making the request or by an authorized representative of such person, and delivered in person or by mail to the above address, within the time set forth in paragraph (a) of this section. For the affected party's protection, if this notice is by mail, such notice should be by certified mail.

PROCEDURES RELATING TO HEARINGS ON CIVIL MONEY PENALTIES

**§ 40.121 Assessment of civil money penalty, written notice required.**

Whenever the Administrator finds that any person has violated any provision of the Act or these regulations and has determined that a civil money penalty shall be assessed, a written notification of such determination shall be served upon the person against whom such penalty has been assessed.

**§ 40.122 Contents of notice.**

The notice referred to in § 40.121 shall:

(a) Set forth the determination of the Administrator and shall include:

(1) A description of each violation for which a civil money penalty has been assessed; and

(2) The amount of civil money penalty assessed for each violation identified in subparagraph (1) above.

(b) Apprise the affected person or persons of the right to request a hearing on the determination of the assessment of the civil money penalty or penalties referred to in § 40.121.

(c) Inform the affected person or persons that in the absence of a request for a hearing, the determination of the Administrator shall become the final and unappealable order of the Secretary.

(d) Apprise the affected person or persons of the time and method for making such request, and the procedures relating thereto, in accordance with the provisions of § 40.123.

**§ 40.123 Request for hearing.**

(a) Any person desiring to request an administrative hearing on the determination to assess civil money penalties shall make such request in writing to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, no later than thirty (30) days after the service of the notice referred to in § 40.121.

(b) The request for such hearing shall be in writing, signed by the person making the request or by an authorized representative of such person, and delivered in person or by mail to the above address, within the time set forth in paragraph (a) of this section. For the affected person's protection, if this notice is by mail, such notice should be by certified mail.

**§ 40.124 Civil money penalties—payment and collection.**

Where the assessment is directed in a final order by the Secretary or in a final judgment issued by a Federal District Court, the amount of the penalty is immediately due and payable to the United States Department of Labor. The person charged with such penalty shall remit promptly the amount thereof, as finally determined, to the Secretary by certified check or by money order, made payable to the order of "Wage and Hour Division, Labor." The remittance shall be delivered or mailed to the Administrator, either in Washington, D.C., or to the Regional Wage and Hour Division Office located in the area in which the violations occurred.

PROCEDURES RELATING TO HEARINGS FOR DENIAL OF WAGNER-PEYSER FACILITIES

**§ 40.131 Denial of facilities and services authorized by Wagner-Peyser Act.**

Whenever the Administrator finds and determines that any person should be denied the facilities and services authorized by the Wagner-Peyser Act for violations of the Farm Labor Contractor Registration Act (see § 40.64 of Subpart A) or these regulations, that person shall be notified in writing of such determination and the length of such denial.

**§ 40.132 Contents of notice.**

The notice referred to in § 40.131 shall:

(a) Set forth the determination of the Administrator and the reason or reasons therefor.

(b) Apprise the affected person or persons of the right to request a hearing on the determination to deny the Wagner-Peyser Act facilities and services referred to in § 40.131.

(c) Inform the affected person or persons that in the absence of a request for a hearing, the determination of the Administrator shall become the final and unappealable order of the Secretary.

(d) Apprise the affected person or persons of the time and method for making such request, and the procedures relating thereto, in accordance with the provisions of § 40.133.

**§ 40.133 Request for hearing.**

(a) Any person desiring to request an administrative hearing on the determination referred to in § 40.131 shall make such request in writing to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, no later than twenty (20) days after the service of the notice referred to in § 40.131.

(b) The request for such hearing shall be in writing, signed by the person making the request or by an authorized representative of such person, and delivered in person or by mail to the above address, within the time set forth in paragraph (a) of this section. For the affected party's protection, if this notice is by mail, such notice should be by certified mail.

**§ 40.134 Automatic denial of facilities and services authorized by Wagner-Peyser Act—duration.**

In accordance with section 6(a) of the Act, the facilities and services authorized by the Wagner-Peyser Act are denied to any farm labor contractor or holder of a Farm Labor Contractor Employee Identification Card issued under this Act, during the period and whenever such person fails to exhibit a valid Certificate of Registration or Employee Identification Card to a representative of the employment service.

PROCEDURES RELATING TO THE FILING OF A COMPLAINT ALLEGING DISCRIMINATORY CONDUCT

**§ 40.141 Discriminatory conduct—complaint.**

Any worker who believes that he or she has been discriminated against within the meaning of section 13 of the Act and § 40.54, may file a complaint with the Secretary within one-hundred and eighty (180) days of such discriminatory act.

FORM AND TIME OF REQUEST FOR HEARING

**§ 40.151 Form of request.**

No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(a) Be typewritten or legibly written;

(b) Be directed to the issue or issues stated in the notice of determination giving rise to such request;

(c) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;

(d) Be signed by the person making the request or by an authorized representative of such person; and

(e) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

**§ 40.152 Time for making request.**

Any request for a hearing pursuant to these regulations shall be made within the time prescribed by §§ 40.113, or 40.123, or 40.133, of this subpart, as may be appropriate to the matter in controversy, except that if such request is filed pursuant to a notice involving a combination of any of the foregoing, any one of which requires thirty (30) days notice, the time for such notice shall be thirty (30) days after issuance of such notice of determination.

PROCEDURES RELATING TO SUBSTITUTE SERVICE

**§ 40.161 Change of address.**

(a) Pursuant to sections 5(a)(5) and 5(d) of the Act and §§ 40.13, 40.51(b), and 40.52, every holder of a certificate or identification card shall notify the

Administrator within ten (10) days after each and every change of address.

(b) The notification required in paragraph (a) shall be in writing, by certified mail, and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(c) Such change of address shall be deemed effective upon receipt by the Administrator, unless a later date is specified in the notice.

**§ 40.162 Substituted service.**

(a) Pursuant to section 5(a)(5) of the Act and § 40.13, the Secretary shall accept service of summons for any person issued and holding a valid Certificate of Registration or a valid Employee Identification Card whenever such person has departed from the jurisdiction in which the action giving rise to the service of summons was commenced or whenever such person has become otherwise unavailable to accept service.

(b) Acceptance of service of summons referred to in paragraph (a) shall be under such terms and conditions as are set by the court in which such action has been commenced.

(c) To be effective, such service shall be made by delivery personally or by certified mail to the Administrator of the Wage and Hour Division, either in Washington, D.C., or to the Office of the Administrator, located in the area in which the action has been commenced.

**§ 40.163 Responsibility of Secretary for service.**

Upon receipt of any substituted service, as described in § 40.162, the same shall be forwarded by certified mail to the last known address furnished by the person for whom service is accepted. Such mailing shall complete the Secretary's responsibility in connection with the substituted service requirement of the Act.

## Rules of Practice

### General

**§ 40.201 Commencement of proceeding.**

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely "request for hearing" filed in accordance with §§ 40.113, 40.123, 40.133, or 40.152.

**§ 40.202 Designation of record.**

(a) Each administrative proceeding instituted under the Act and these regulations shall be identified of record by a number preceded by the letters "FLCRA" and followed by one or more of the following four designations:

(1) Proceedings involving the "refusal to issue or renew, or to suspend, or revoke, a Certificate of Registration or an Employee Identification Card" provided for in §§ 40.111 through 40.113 shall be designated as "R."

(2) Proceedings involving the "assessment of civil money penalties" provided for in §§ 40.121 through 40.124 shall be designated as "P."

(3) Proceedings involving the "denial of facilities and services authorized by the Wagner-Peyser Act" provided for in §§ 40.131 through 40.133 shall be designated as "W."

(b) Proceedings involving a combination of the actions designated in (a)(1) through (a)(3) of this section shall carry each and every such designation as may be appropriate.

(c) The number, letters, and designation assigned to each such proceeding shall be clearly displayed on each pleading, motion, brief, or other formal document filed and docketed of record.

**§ 40.203 Caption of proceeding.**

(a) Each administrative proceeding instituted under the Act and these regulations shall be captioned in the name of the person requesting such hearing, and shall be styled as follows:

In The Matter of:_____,
respondent.

(b) For the purposes of such administrative proceeding the "Secretary of Labor" shall be identified as plaintiff and the person requesting such hearing shall be named as respondent.

### Referral for Hearing

**§ 40.210 Referral to Administrative Law Judge.**

(a) Upon timely receipt of a request for a hearing filed pursuant to and in accordance with §§ 40.113, 40.123, 40.133, or 40.152, the Administrator, by Order of Reference, shall promptly refer an authenticated copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a final determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment as may be permitted under these regulations.

(b) A copy of the Order of Reference referred to herein, together with a copy of these regulations, shall be served by counsel for the Administrator upon the person requesting the hearing, in the manner provided in § 40.220.

(c) The Chief Administrative Law Judge, upon receipt of the Order of Reference, shall promptly designate an Administrative Law Judge to conduct the proceeding, which shall be in accordance with section 554 of Title 5, United States Code, and the provisions of this part.

**§ 40.211 Notice of hearing.**

The Administrative Law Judge to whom the matter is referred shall, within ten (10) days following such referral, notify the parties by certified mail of a day, time, and place set for hearing thereon or for a prehearing conference to be held as provided in § 40.237, or both. No date earlier than fifteen (15) days after the date of such notice shall be set for such hearing or conference, except by agreement of the parties. Service of such notice shall be made upon the parties as provided in § 40.220.

**§ 40.212 Supplemental pleadings.**

If upon review of the notice of administrative determination or the request for hearing thereon, it appears to either party that such document, as originally drafted, requires supplementation in order to clarify the issues for a hearing thereon, an amended notice of administrative determination may be filed by the Secretary or an amended response thereto may be filed by respondent, as the case may be. Such supplemental pleading shall be filed with the Chief Administrative Law Judge, with proof of service upon the opposing party, at least ten (10) days prior to the date set for hearing or for a prehearing conference by the Administrative Law Judge before whom the matter is pending, unless the time for filing such document is extended by the judge. If an amended notice of administrative determination is filed by the Secretary, the respondent shall be entitled to file with the Chief Administrative Law Judge an amended response in response within five (5) days after service upon the respondent of such amended notice. No response is required, but if filed, it must be signed either by the person answering or responding or by the representative of such person.

### Service of Pleadings and Documents

**§ 40.220 Service of documents—manner of service.**

(a) *General.* Any pleading, notice, or other document required by this Subpart B to be filed or served on any person shall be filed or served either personally upon such person or by mail to the last known address of such person. If done by certified mail, filing or service is complete upon mailing. If done by regular mail, filing or service is complete upon receipt by addressee.

(b) *Upon parties.* Service of any pleading, notice, or other document by mail upon an applicant for or a holder of a Certificate of Registration or a Farm Labor Contractor Employee Identification Card shall be made at the address designated either on such applicant's or holder's most recent application, or on any subsequent written communication to the Administrator as provided in §§ 40.151 or 40.161.

(1) Service upon any other party to a proceeding under the Act or these regulations of a pleading or document shall also be made by delivering a copy or mailing a copy to the last known address. When any party is represented by an attorney, service shall be made upon the attorney.

(c) *Additional time for service by mail.* Whenever a party to any proceeding under this part has a right or is required to take any action within a prescribed

period after the service of a pleading, notice, or other document upon such party, and the pleading, notice, or document is served upon said party by certified mail, five (5) days shall be added to the prescribed period.

**§ 40.221 Service upon the Department of Labor—number of copies.**

An original and four copies of all pleadings and other documents required for any administrative proceeding provided herein shall be filed with the Department of Labor, the original and a copy thereof to the Chief Administrative Law Judge, a copy to the Administrative Law Judge assigned to the proceeding, a copy to the Associate Solicitor for General Legal Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, and a copy to the attorney representing the Department in the proceeding.

**§ 40.222 Proof of service.**

The filing of a certificate by the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of service, shall be proof thereof.

**§ 40.223 Computation of time.**

(a) Saturdays, Sundays, and Federal legal holidays shall be included in computing the time allowed for filing any pleading, notice, or document under this part, but when the filing time expires on such a day, the period shall be extended to include the next following day which is not a Saturday, Sunday, or a Federal legal holiday.

(b) In computing any period of time prescribed or permitted by this part, the day of the act, event, notice, or default from which the designated period of time begins to run shall not be included.

PROCEDURES BEFORE ADMINISTRATIVE LAW JUDGE, GENERALLY

**§ 40.230 Authority of Administrative Law Judge.**

(a) *General powers.* In any proceeding under this part, the Administrative Law Judge shall have all powers necessary to the conduct of fair and impartial hearings, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas upon proper applications as provided in § 40.234;

(3) To rule upon offers of proof and receive relevant evidence;

(4) To take or cause to be taken depositions and to determine their scope;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To consider and rule upon procedural requests;

(8) To make and file decisions in conformity with this part;

(9) To take any action authorized by the rules in this part or in conformance with the Administrative Procedure Act;

(10) To exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Secretary by Section 7 of the Act as are necessary and appropriate therefor; and

(11) To take any action authorized by the rules of civil procedure for the United States District Court, issued and from time to time amended pursuant to 28 U.S.C. 2072, as deemed necessary and appropriate, unless otherwise proscribed herein.

(b) *Consultation.* The Administrative Law Judge shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When an Administrative Law Judge deems himself/herself disqualified to preside in a particular proceeding, such judge shall withdraw therefrom by notice on the record directed to the Chief Administrative Law Judge.

(2) Whenever any party shall deem the Administrative Law Judge for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, that party shall file with the Chief Administrative Law Judge a motion to disqualify and remove such Administrative Law Judge. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The Chief Administrative Law Judge shall rule upon the motion, and such ruling shall be final.

(3) In the event of disqualification of an Administrative Law Judge as provided in paragraph (c)(1) or (c)(2) of this section, the Chief Administrative Law Judge shall refer the matter to another Administrative Law Judge for further proceedings.

**§ 40.231 Appearances; representation of parties.**

The Associate Solicitor for General Legal Services and other counsel, as designated, shall represent the Secretary in any proceeding under these regulations. Respondents shall have the right to appear by or with counsel of their choice, who shall qualify for such representation as provided in 5 U.S.C. 500(b). If not represented by counsel, respondents may appear in person or through authorized agents and may submit necessary documents with their own signatures.

**§ 40.232 Pleadings allowed.**

All matters other than the notice of administrative determination and a request for hearing shall be presented by motion.

**§ 40.233 Motions and requests.**

Motions or requests shall be in writing, filed with the Chief Administrative Law Judge, and copies served upon the other parties to the proceeding, except that motions or requests made during the course of any hearing or appearance before the Administrative Law Judge shall be filed with such judge or shall be stated orally and made part of the transcript. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The Administrative Law Judge is authorized to rule upon all motions or requests filed or made prior to the filing of the judge's decision as provided in § 40.262.

**§ 40.234 Subpenas.**

All applications for subpenas *ad testificandum* and subpenas *duces tecum* shall be made in writing to the Administrative Law Judge. Applications for subpenas *duces tecum* shall specify as exactly as possible the documents to be produced, showing their general relevancy and reasonable scope.

**§ 40.235 Witnesses and fees.**

(a) The Administrative Law Judge, either at the request of the parties or upon the judge's own motion, may request persons to appear and testify as witnesses, where such action is deemed necessary to serve the purposes of the hearing.

(b) Witnesses subpenaed by any party or by the Administrative Law Judge shall be paid the same fees and mileage as are paid for like services in the District Courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

**§ 40.236 Depositions.**

(a) *When, how, and by whom taken.* For good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written questions before any person designated by the Administrative Law Judge and having power to administer oaths.

(b) *Application.* Any party desiring to take the deposition of a witness shall make application in writing to the Administrative Law Judge, setting forth the reasons why such deposition should be taken; the time and place it is to be taken; the name and address of the person before whom the deposition is to be taken; the name and address of each witness from whom a deposition is to be taken; and the subject matter concerning which each such witness is expected to testify.

(c) *Notice.* Such notice as the Administrative Law Judge shall order shall be given for the taking of a deposition, but this shall not be less than five (5) days' written notice when the deposition is to be taken within the United States and not less than twenty (20) days' written notice when the deposition is to be taken elsewhere.

(d) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and the adverse party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing; read by or to, and subscribed by the witness; and certified by the person administering the oath. Thereafter, such officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by certified mail to the Administrative Law Judge. Subject to such ob-

jections to the questions and answers as were noted at the time of taking the deposition and which would have been valid if the witness were personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

**§ 40.237 Prehearing conferences.**

(a) Upon motion of either party, or when deemed appropriate by the Administrative Law Judge, the judge may direct the parties or their authorized representatives to meet with the judge for a conference to consider:

(1) Simplification or clarification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitations;

(3) Stipulations, admissions of fact, and admissions of contents and authenticity of documents;

(4) Limitation of the number of witnesses, including expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The Administrative Law Judge shall issue a prehearing order showing the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such order.

**§ 40.238 Consent findings and order.**

(a) *General.* At any time after the commencement of a proceeding under this part, but prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice of administrative determination (or amended notice, if one is filed), and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their authorized representative or their counsel may:

(1) Submit the proposed agreement for consideration by the Administrative Law Judge; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the Administrative Law Judge, within thirty (30) days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.

HEARINGS

**§ 40.251 Hearing procedures generally.**

(a) Pursuant to notice given as provided in § 40.211, the designated Administrative Law Judge shall hold such hearings, as provided in this part, as are necessary for determination of the issue or issues submitted for decision, exercising the powers set forth in § 40.230 and conducting the proceeding in accordance with the provisions of 5 U.S.C. 554. In any such hearing, the burden of supporting the Administrator's determination shall be upon the Secretary. Except as may be determined otherwise by the Administrative Law Judge, counsel for the Secretary shall proceed first at the hearing. The hearing shall be open to the public unless otherwise ordered by the Administrative Law Judge.

(b) For good cause shown, the Administrative Law Judge may permit any interested party or person to intervene at a hearing. A petition to intervene shall be in writing and shall state briefly and with particularity the petitioner's relationship to and interest in the matters involved in the proceedings and the nature of the presentation to be made.

(c) If any party to the proceeding, after being properly served with notice of the hearing, should fail to appear at the hearing, the matter may be set for further hearing upon notice to all parties, but a party who is present shall first have an election to present such party's evidence in whole or such portion thereof sufficient to make a *prima facie* case, in which event the Administrative Law Judge may make a decision without further hearing. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's decision.

(d) Contemptuous conduct at any hearing shall be grounds for exclusion from the hearing.

**§ 40.252 Evidence at the hearing.**

(a) *In general.* The testimony of witnesses shall be upon oath or affirmation administered by the Administrative Law Judge and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The Administrative Law Judge shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(b) *Objections.* A party who objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. A formal exception to an adverse ruling is not required.

(c) *Failure or refusal of witness to appear or answer.* The failure or refusal of a witness to appear at any hearing or to answer any question which has been ruled to be proper shall be grounds for the action provided in sections 49 and 50 of Title 15, United States Code, pursuant to the provisions of section 7 of the Act, and, in the discretion of the Administrative Law Judge, for striking out all or part of the testimony which may have been given by such witness.

**§ 40.253 Official notice.**

Official notice may be taken of any material fact, not appearing in evidence in the record, which is among the traditional matters of judicial notice or which concerns matters as to which the Department, by reason of its functions, is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

**§ 40.254 Transcripts.**

Hearings shall be stenographically reported.

POST-HEARING PROCEDURES

**§ 40.261 Proposals by the parties.**

At the conclusion of the hearing, the Administrative Law Judge shall afford any party a reasonable opportunity, but not less than fifteen (15) days, upon request, to file with such officer proposed findings of fact, conclusions of law, and a proposed order together with a supporting brief. There may be included statements of the reasons for any such proposed findings of fact, conclusions of law, and the proposed order, including a reference to the portions of the record and to the authorities relied upon in support of each proposal. Such proposals shall be accompanied by a certification that service of the proposals has been made upon all other parties.

**§ 40.262 Decision and order of Administrative Law Judge.**

(a) The Administrative Law Judge shall prepare, as promptly as practicable after the expiration of the time set for filing proposed findings and related papers provided for in § 40.231, and the judge's decision in the matter shall become the final decision in the administrative process, as provided in the Act. The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and

basis therefor, upon each material issue of fact, law, or discretion presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator. The reason or reasons for such order shall be stated in the decision.

(b) The Administrative Law Judge shall transmit to the Chief Administrative Law Judge the entire record including the original of the decision. The Chief Administrative Law Judge shall serve copies of the decision on each of the parties.

(c) The decision when served shall constitute the final order of the Secretary.

(d) Upon service of this decision, the administrative remedies available to the parties have been exhausted.

RECORD

**§ 40.271 Retention of official record.**

(a) The official record of every completed administrative hearing provided by this part shall be maintained and filed under the custody and control of the Chief Administrative Law Judge.

(b) The official record of every completed administrative proceeding provided by this part, other than the record of an administrative hearing, shall be maintained and filed under the custody and control of the Administrator.

**§ 40.272 Certification of official record.**

(a) Upon timely receipt of either a notice pursuant to section 9(b)(3) of the Act or a petition pursuant to Section 11 of the Act, the Chief Administrative Law Judge shall promptly certify and file with the appropriate United States District Court, a full, true, and correct copy of the entire record, including the transcript of proceedings, under the custody and control of the Chief Administrative Law Judge. This shall include the record upon which any penalty may have been imposed or any order complained of which may have been entered.

(b) Upon the timely receipt of a petition under Section 11 of the Act, in any action in which no administrative hearing was held, the Administrator shall file with the appropriate United States District Court a full, true, and correct copy of any transcript of proceedings or record upon which the order complained of was entered.

Signed at Washington, D.C., on this 18th day of June 1976.

RONALD J. JAMES,
*Administrator,*
*Wage and Hour Division.*

[FR Doc.76-18413 Filed 6-28-76;8:45 am]

federal register

TUESDAY, JUNE 29, 1976




PART III:

# DEPARTMENT OF LABOR

## Wage and Hour Division

■

## CHILD LABOR

### Employment of Minors Under Certain Ages, Records, Certificates of Age

## Title 29—Labor

## CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

## PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

## PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

### Employment of Minors Under Certain Ages, Records, Certificates of Age

The Fair Labor Standards Amendments of 1974 (Pub. L. 93-259, 88 Stat. 55) amend section 12 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1067, 29 U.S.C. 212) to authorize the Secretary of Labor, in his discretion, to issue regulations requiring employers to obtain proof of age from young employees. To implement this amendment, notice of a proposal to make certain changes in the recordkeeping requirements of 29 CFR Part 516 and to amend 29 CFR Part 570 by revising Subparts A and B and providing in Subpart B new requirements with respect to proof of age of young workers was published in the FEDERAL REGISTER (39 FR 36940) on October 15, 1974. A period of 30 days was provided for comment by interested parties, such comments to be received on or before November 14, 1974. This period was extended to December 14, 1974 (39 FR 40590).

The proposal submitted for public consideration suggested changes in the recordkeeping requirements of Part 516 which would have required employers to maintain supporting records of proof of age with respect to employees under 19 years of age. It also included suggested changes in Subparts A and B of Part 570 with respect to definition of terms, minimum age standards for employment, and certificates of age, including designation for an indefinite period of time of those States in which State age, employment and working certificates or permits would be accepted under section 3(1) of the Act. It also included new provisions requiring employers to obtain and preserve evidence of proof of age from employees under specific ages.

After careful consideration of the comments received, the majority of which recommended against the adoption of the proposed proof of age requirements, and after reconsideration of the need for these requirements, I find that they are not necessary at this time in order to carry out the objectives of the child labor provisions of the Act. Therefore, the proposed proof of age requirements have been deleted from Subpart B of Part 570 and from Part 516. Subsequent experience may, of course, result in the reconsideration of this decision.

The other proposed changes in Subparts A and B of Part 570 with respect to certificates of age, as summarized in the second paragraph of this preamble, are adopted.

Paragraphs (3) and (4) of § 579.3(a), Part 579, Title 29 of the Code of Federal Regulations, provide that failure of an employer to obtain and preserve evidence of proof of age would constitute a violation of the child labor provisions of the Act subject to a civil money penalty. When Part 579 was published on June 18, 1975 (40 FR 25792) the effective date of these two paragraphs was delayed so as to be concurrent with the effective date of the proof of age regulations. Therefore, deletion of the proposed proof of age provisions necessitates the deletion of §§ 579.3(a)(3) and 579.3(a)(4).

These regulations as revised shall be effective on June 29, 1976.

Title 29, Code of Federal Regulations, Part 570 is amended by revising the table of contents and Subparts A and B and Part 579 is amended by revoking and reserving paragraphs (a)(3) and (4) of § 579.3 as set forth below.

1. The table of contents is amended and Subparts A and B of Part 570 are revised to read as follows:


**Subpart A—General**

Sec.
570.1 Definitions.
570.2 Minimum age standards.

**Subpart B—Certificates of Age**

570.5 Authorized certificates and their effect.
570.6 Contents and disposition of certificate.
570.7 Documentary evidence required for issuance of certificate.
570.8 Federal certificates of age.
570.9 States in which State certificates are accepted.
570.10 Designation of the State of Alaska and the Territory of Guam.
570.11 Continued acceptability of certificates.
570.12 Revoked certificates.

PROVISIONS OF OTHER LAWS

570.25 Effect on other laws.

PROVISION FOR REVISION

570.27 Revision of this subpart.


* * * * *

## Subpart A—General

AUTHORITY: The provisions of this Subpart A issued under Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

### § 570.1 Definitions.

As used in this part:

(a) "Act" means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) "Oppressive child labor" means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in § 570.2 of this subpart.

(c) "Oppressive child-labor age" means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) A "certificate of age" means a certificate as provided in § 570.5(b) (1) or (2) of this part.

(e) [Reserved.]

(f) "Secretary" or "Secretary of Labor" means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) "Wage and Hour Division" means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) "Administrator" means the Administrator of the Wage and Hour Division or his authorized representative.

(i) "State agency" means any officer, executive department, board, bureau or commission of a State or any division or unit thereof authorized to take action with respect to the application of laws relating to minors.

### § 570.2 Minimum age standards.

(a) *All occupations except in agriculture.* (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see Subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being (see Subpart E of this part).

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

(b) *Occupations in agriculture.* The Act sets a 16-year age minimum for employment in agriculture during school hours for the school district in which the employed minor is living at the time, and also for employment in any occupation in agriculture that the Secretary of Labor finds and declares to be particularly hazardous except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person (see Subpart E–1 of this part). There is a minimum age requirement of 14 years generally for employment in agriculture outside school hours for the school district where such employee is living while so employed. However, (1) a minor 12 or 13 years of age may be so employed with written consent of his parent or person standing in place of his parent, or may work on a farm where such parent or person is also employed, and (2) a minor under 12 years of age may be employed by his parent or by a person standing in place of his parent on a farm owned or operated by such parent or

person, or may be employed with consent of such parent or person on a farm where all employees are exempt from the minimum wage provisions by virtue of section 13(a)(6)(A) of the Act.

## Subpart B—Certificates of Age

AUTHORITY: The provisions of this Subpart B issued under secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

### § 570.5 Authorized certificates and their effect.

(a) To protect an employer from unwitting violation of the minimum age standards under the Act, section 3(l) of the Act provides that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age." The provisions of this subpart provide for age certificates based on the best available documentary evidence of age. Certificates issued and effective pursuant to this subpart furnish an employer with proof of the age of a minor employee upon which he may rely in determining whether the minor is at least the minimum age for the occupation in which he is to be employed.

(b) The employment of any minor shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate, issued and held in accordance with this subpart, which shall be either:

(1) A Federal certificate of age, issued by a person authorized by the Administrator of the Wage and Hour Division, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or

(2) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in a State which has been designated for this purpose by the Administrator showing that such minor is above the oppressive child-labor age applicable to the occupation in which the is employed. States so designated are listed in § 570.9(a). Any such certificate shall have the force and effect specified in § 570.9.

(c) The prospective employer of a minor, in order to protect himself from unwitting violation of the Act, should obtain a certificate (as specified in paragraphs (b)(1) and (2) of this section) for the minor if there is any reason to believe that the minor's age may be below the applicable minimum for the occupation in which he is to be employed. Such certificate should always be obtained where the minor claims to be only 1 or 2 years above the applicable minimum age for the occupation in which he is to be employed. It should also be obtained for every minor claiming to be older than 2 years above the applicable minimum age if his physical appearance indicates that this may not be true.

### § 570.6 Contents and disposition of certificate.

(a) Except as provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall contain the following information:

(1) Name and address of minor.

(2) Place and date of birth of minor, together with a statement indicating the evidence on which this is based. The place of birth need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(3) Sex of minor.

(4) Signature of minor.

(5) Name and address of minor's parent or person standing in place of parent. This information need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(6) Name and address of employer, if minor is under 18.

(7) Industry of employer, if minor is under 18.

(8) Occupation of minor, if minor is under 18.

(9) Signature of issuing officer.

(10) Date and place of issuance.

(b)(1) A certificate of age for a minor under 18 years of age shall be sent by a person authorized to issue such certificates to the prospective employer of the minor, who shall keep such certificate on file at the place of the minor's employment and who on the termination of the employment of the minor shall return the certificate to the person issuing it, except that a certificate issued for employment in agriculture may be given to the minor. A certificate returned to the issuing officer may be accepted as proof of age for the issuance of any subsequent certificate of age for that minor, without presentation of further proof of age, unless it is found that the proof of age originally submitted was in error.

(2) Whenever a certificate of age is issued for a minor 18 or 19 years of age it may be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment, the employer shall return the certificate to the minor.

### § 570.7 Documentary evidence required for issuance of certificate.

(a) Except as otherwise provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall be issued only upon application of the minor desiring employment or of the prospective employer to the person authorized to issue such certificate and only after acceptable documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following to be required in the order of preference herein designated:

(1) A birth certificate or attested transcript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Administrator, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy: *Provided*, That such other documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence: And *provided further*, That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in paragraph (a)(3) of this section;

(3) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor. Such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the date of birth of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

(b) The officer issuing a certificate of age for a minor shall require the evidence of age specified in paragraph (a)(1) of this section in preference to that specified in paragraphs (a)(2) and (3) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that reasonable efforts have been made to obtain the preferred evidence required by the preceding paragraph or paragraphs before accepting any subsequently named evidence: *Provided*, That to avoid undue delay in the issuance of certificates, evidence specified in paragraph (a)(2) of this section may be accepted, or if such evidence is not available, evidence specified in paragraph (a)(3) of this section may be accepted if a verification of birth has been requested but has not been received from the appropriate bureau of vital statistics.

### § 570.8 Federal certificates of age.

A Federal certificate of age which shall have the effect specified in § 570.5 shall be issued by a person authorized by the

Administrator of the Wage and Hour Division and shall be issued in accordance with the provisions of §§ 570.6 and 570.7.

**§ 570.9 States in which State certificates are accepted.**

(a) The States in which age, employment, or working certificates or permits have been found by the Administrator to be issued by or under the supervision of a State agency substantially in accordance with the provisions of §§ 570.6 and 570.7 and which are designated as States in which certificates so issued shall have the force and effect specified in § 570.5, except as individual certificates may be revoked in accordance with § 570.11 of this subpart, are:

| | |
|---|---|
| Alabama. | Montana. |
| Arkansas. | Nebraska. |
| California. | Nevada. |
| Colorado. | New Hampshire. |
| Connecticut. | New Jersey. |
| Delaware. | New Mexico. |
| District of Columbia. | New York. |
| Florida. | North Carolina. |
| Georgia. | North Dakota. |
| Hawaii. | Ohio. |
| Illinois. | Oklahoma. |
| Indiana. | Oregon. |
| Iowa. | Pennsylvania. |
| Kentucky. | Puerto Rico. |
| Louisiana. | Rhode Island. |
| Maine. | South Dakota. |
| Maryland. | Tennessee. |
| Massachusetts. | Vermont. |
| Michigan. | Virginia. |
| Minnesota. | West Virginia. |
| Missouri. | Wisconsin. |
| | Wyoming. |

(b) State certificates requiring conditions or restrictions additional to those required by this subpart shall not be deemed to be inconsistent herewith.

(c) The designation of a State under this section shall have force and effect indefinitely unless withdrawal of such designation is deemed desirable for the effective administration of the Act. No withdrawal of the designation of a State under this section shall make any certificate invalid if it was issued by or under the supervision of a State agency as herein provided prior to such withdrawal.

**§ 570.10 Designation of the State of Alaska and the Territory of Guam.**

The State of Alaska and the Territory of Guam are designated as States in which any of the following documents shall have the same effect as Federal certificates of age as specified in § 570.5:

(a) A birth certificate or attested transcript thereof, or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A record of baptism or attested transcript thereof showing the date of birth of the minor, or

(c) With respect to the State of Alaska, a statement on the census records of the Bureau of Indian Affairs and signed by an administrative representative thereof showing the name, date of birth, and place of birth of the minor.

**§ 570.11 Continued acceptability of certificates.**

(a) Whenever a person duly authorized to make investigations under this Act shall obtain substantial evidence that the age of the minor as given on a certificate held by an employer subject to this Act is incorrect, he shall inform the employer and the minor of such evidence and of his intention to request through the appropriate channels that action be taken to establish the correct age of the minor and to determine the continued acceptability of the certificate as proof of age under the Act. The said authorized person shall request in writing through the appropriate channels that action be taken on the acceptability of the certificate as proof of age under the Fair Labor Standards Act and shall state the evidence of age of the minor which he has obtained and the reasons for such request. A copy of this request shall be sent to the Administrator of the Wage and Hour Division for further handling through the State agency responsible for the issuance of certificates, except that in those States where Federal certificates of age are issued, action necessary to establish the correct age of the minor and to revoke the certificate if it is found that the minor is under age shall be taken by the Administrator of the Wage and Hour Division or his designated representative.

(b) The Administrator shall have final authority in those States in which State certificates are accepted as proof of age under the Act for determining the continued acceptability of the certificate, and shall have final authority for such determination in those States in which Federal certificates of age are issued. When such determination has been made in any case, notice thereof shall be given to the employer and the minor. In those cases involving the continued acceptability of State certificates, the appropriate State agency and the official who issued the certificate shall also be notified.

**§ 570.12 Revoked certificates.**

A certificate which has been revoked as proof of age under the Act shall be of no force and effect under the Act after notice of such revocation.

PROVISIONS OF OTHER LAWS

**§ 570.25 Effect on other laws.**

No provision of this subpart shall under any circumstances justify or be construed to permit noncompliance with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this subpart.

PROVISION FOR REVISION

**§ 570.27 Revision of this Subpart.**

Any person wishing a revision of any of the provisions of this subpart may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary believes that reasonable cause for amendment of the regulation is set forth, he shall make other provision for affording interested parties an opportunity to present their views, both in support of and in opposition to the proposed changes.

**§ 579.3 [Amended.]**

2. Section 579.3 of Part 579 is amended by deleting paragraphs (a)(3) and (a)(4) thereof, which shall be marked "Reserved."

Signed at Washington, D.C., this 21st day of June 1976.

WARREN D. LANDIS,
*Acting Administrator,*
*Wage and Hour Division.*

[FR Doc.76-18684 Filed 6-28-76;8:45 am]

federal register

TUESDAY, JUNE 29, 1976




PART IV:

# FEDERAL ENERGY ADMINISTRATION

■

## DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for April 1976

## FEDERAL ENERGY ADMINISTRATION

### DOMESTIC CRUDE OIL ALLOCATION PROGRAM

#### Entitlement Notice for April 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and eligible firms as to crude oil receipts, crude oil runs to stills and eligible product imports for April 1976, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for April 1976 is calculated to be .356219.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of April 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .177171 of a barrel of deemed old oil.

The issuance of entitlements for the month of April 1976 to refiners and eligible firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other eligible firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of April 1976 at $7.85, which is the exact differential as reported for the month of April between the weighted average per barrel costs to refiners of old oil and of imported crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of April 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of April 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of April 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and eligible firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through March 1976 pursuant to 10 CFR 211.67(j)(1). Pursuant to an amendment to § 211.67(j)(2), corrections for reporting errors for months prior to September 1975 will be reflected in the entitlement notices for the months July 1976 through February 1977.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix reflects relief granted by FEA's Office of Exceptions and Appeals. The following refiners are shown in the listing with a zero purchase and sale obligation, due to their receipt of full relief under exception decisions or stays: Beacon, Fletcher, Good-Hope, Husky, J&W, Mohawk, OKC, Sunland, Thagard, Warrior, and Young. The following firms received partial exception relief: Edgington-Oil, Kern, Navajo, Pasco, Rock-Island, San-Joaquin, and Southland.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 12,028,051 barrels for April 1976. For that month, imports of residual fuel oil eligible for entitlements issuances totaled 29,624,786 barrels.

The total number of entitlements required to be purchased and sold under this notice is 21,096,354.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for April 1976 must be made by June 30, 1976.

On or prior to July 10, 1976, each firm which is required to purchase or sell entitlements for the month of April 1976 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of April. FEA has mailed the monthly transaction report forms for the month of April to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by June 30, 1976 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to June 30, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 29, 1976.

Issued in Washington, D.C., on June 23, 1976.

MICHAEL F. BUTLER,
*General Counsel.*

APPENDIX.—*Entitlements for domestic crude oil*

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | |
|---|---|---|---|---|---|
| | | Total issued | Product entitlements | Required to buy | Required to sell |
| A-Johnson | 0 | 204,521 | 10,994 | 0 | 204,521 |
| Allied | 47,507 | 84,106 | 0 | 0 | 36,599 |
| Amer-Petrofina | 1,874,908 | 1,836,594 | 0 | 38,314 | 0 |
| Amerada-Hess | 2,350,137 | 4,126,287 | 160,087 | 0 | 1,776,250 |
| Amoco | 12,021,114 | 9,751,658 | 20,571 | 2,269,456 | 0 |
| Apco | 495,561 | 538,785 | 0 | 0 | 43,224 |
| Arco | 6,418,378 | 6,862,853 | 0 | 0 | 444,475 |
| Arizona | 30,872 | 21,071 | 0 | 9,801 | 0 |
| Asamera | 11,351 | 27,430 | 0 | 0 | 16,079 |
| Ashland | 2,152,719 | 3,540,210 | 0 | 0 | 1,387,491 |
| Asiatic | 0 | 312,505 | 312,505 | 0 | 312,505 |
| Augsbury | 0 | 4,482 | 4,482 | 0 | 4,482 |
| Bayou | 37,149 | 44,668 | 0 | 0 | 7,519 |
| Beacon | 289,751 | 289,751 | 0 | 0 | 0 |
| Belcher | 0 | 144,955 | 144,955 | 0 | 144,955 |
| Blue-Ridge | 0 | 3,206 | 3,206 | 0 | 3,206 |
| Calumet | 10,733 | 34,570 | 0 | 0 | 24,337 |
| Canal | 68,663 | 71,085 | 0 | 0 | 2,422 |
| Caribou | 89,666 | 112,318 | 0 | 0 | 22,652 |
| Champlin | 2,169,147 | 1,483,301 | 0 | 685,846 | 0 |
| Charter | 1,091,314 | 761,309 | 0 | 330,005 | 0 |
| Cirillo | 0 | 12,718 | 12,718 | 0 | 12,718 |
| Citgo | 4,092,546 | 2,943,048 | 0 | 1,149,498 | 0 |
| Claiborne | 7,372 | 14,910 | 0 | 0 | 7,538 |
| Clark | 384,062 | 1,137,231 | 0 | 0 | 753,169 |
| Coastal | 675,473 | 1,641,501 | 0 | 0 | 966,028 |
| Colonial | 0 | 48,848 | 48,848 | 0 | 48,848 |
| Conoco | 3,839,964 | 3,305,595 | 0 | 534,369 | 0 |
| Corco | 0 | 1,516,466 | 0 | 0 | 1,516,466 |
| CRA-Farmland | 532,342 | 782,519 | 0 | 0 | 250,177 |
| Cross | 38,011 | 68,749 | 0 | 0 | 30,738 |
| Crown | 353,746 | 903,253 | 0 | 0 | 549,507 |
| Crystal-Oil | 159,159 | 211,327 | 0 | 0 | 52,168 |
| Crystal-Ref | 2,199 | 43,267 | 0 | 0 | 41,068 |
| Deepwater | 0 | 14,758 | 14,758 | 0 | 14,758 |
| Delta | 328,283 | 451,113 | 0 | 0 | 122,830 |
| Diamond | 623,979 | 602,979 | 0 | 21,000 | 0 |
| Dorchester | 5,624 | 13,149 | 0 | 0 | 7,525 |
| Dow | 69,443 | 209,280 | 0 | 0 | 139,835 |
| E-Seaboard | 0 | 226,005 | 226,005 | 0 | 226,007 |
| Eddy | 31,555 | 46,043 | 0 | 0 | 14,488 |
| Edgington-Oil | 413,192 | 437,797 | 0 | 0 | 24,605 |
| Edgington-Oxn | 6,495 | 13,942 | 0 | 0 | 7,447 |
| Elm | 0 | 41,027 | 41,027 | 0 | 41,027 |
| Evangeline | 38,852 | 48,398 | 0 | 0 | 9,546 |
| Exxon | 14,076,059 | 10,946,485 | 539,290 | 3,129,574 | 0 |
| Famariss | 260,126 | 425,483 | 0 | 0 | 165,357 |
| Farmers-Un | 191,318 | 415,552 | 0 | 0 | 224,234 |

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | |
|---|---|---|---|---|---|
| | | Total issued | Product entitlements | Required to buy | Required to sell |
| Fletcher | 272,493 | 272,493 | 0 | 0 | 0 |
| Flint | 13,831 | 11,520 | 0 | 2,311 | 0 |
| Gary | 32,341 | 58,622 | 0 | 0 | 26,281 |
| Getty | 696,346 | 747,709 | 0 | 0 | 51,363 |
| Giant | 13,790 | 35,122 | 0 | 0 | 21,332 |
| Gladieux | 135,881 | 151,205 | 0 | 0 | 15,324 |
| Golden-Eagle | 9,426 | 117,275 | 0 | 0 | 107,849 |
| Golden-Eagle-NY | 0 | 40,572 | 40,572 | 0 | 40,572 |
| Good-Hope | 331,277 | 331,277 | 0 | 0 | 0 |
| Guam | 0 | 414,977 | 0 | 0 | 414,977 |
| Gulf | 10,818,856 | 8,831,955 | 11,340 | 1,986,901 | 0 |
| Gulf-Sts | 20,729 | 90,944 | 0 | 0 | 70,215 |
| Hiri | 0 | 612,661 | 0 | 0 | 612,661 |
| Howard | 0 | 139,604 | 139,604 | 0 | 139,604 |
| Howell | 822,108 | 432,519 | 0 | 389,589 | 0 |
| Hunt | 235,330 | 358,606 | 0 | 0 | 123,276 |
| Husky | 535,658 | 535,658 | 0 | 0 | 0 |
| Indiana-Farm | 136,476 | 283,977 | 0 | 0 | 147,501 |
| Inger-Oil | 186 | 4,680 | 0 | 0 | 4,494 |
| Irving | 0 | 22,771 | 22,771 | 0 | 22,771 |
| J&W | 37,964 | 37,964 | 0 | 0 | 0 |
| Kentucky | 3,526 | 7,459 | 0 | 0 | 3,933 |
| Kern | 437,131 | 404,233 | 0 | 32,898 | 0 |
| Kerr-McGee | 1,570,479 | 1,934,744 | 0 | 0 | 364,265 |
| Koch | 548,380 | 1,191,892 | 0 | 0 | 643,512 |
| Lagloria | 526,544 | 346,907 | 0 | 179,637 | 0 |
| Lakeside | 17,159 | 54,813 | 0 | 0 | 37,654 |
| Laketon | 102,399 | 98,847 | 0 | 3,552 | 0 |
| Little-Amer | 181,278 | 251,350 | 0 | 0 | 70,072 |
| Louisiana-Land | 136,806 | 360,115 | 0 | 0 | 223,309 |
| MacMillan | 83,565 | 197,445 | 0 | 0 | 113,880 |
| Marathon | 3,528,573 | 3,250,338 | 0 | 278,235 | 0 |
| Marion | 160,440 | 297,624 | 0 | 0 | 137,184 |
| Mid-Amer | 12,967 | 43,047 | 0 | 0 | 30,080 |
| Midland | 197,314 | 267,092 | 0 | 0 | 69,778 |
| Mobil | 9,066,391 | 7,584,235 | 10,785 | 1,482,156 | 0 |
| Mohawk | 497,262 | 497,262 | 0 | 0 | 0 |
| Monsanto | 401,466 | 346,187 | 0 | 55,279 | 0 |
| Morrison | 5,795 | 5,950 | 0 | 0 | 155 |
| Mountaineer | 4,891 | 5,451 | 0 | 0 | 560 |
| Murphy | 1,330,759 | 1,042,229 | 0 | 288,530 | 0 |
| N-Amer-Petro | 24,878 | 108,229 | 0 | 0 | 83,351 |
| Natl-Coop | 424,851 | 571,137 | 0 | 0 | 146,286 |
| Navajo | 460,754 | 398,892 | 0 | 61,862 | 0 |
| New-Engl-Petro | 0 | 541,745 | 541,745 | 0 | 541,745 |
| Newhall | 185,389 | 158,647 | 0 | 26,742 | 0 |
| Northeast-Petro | 0 | 108,779 | 108,779 | 0 | 108,779 |
| Northland | 34,071 | 114,749 | 0 | 0 | 80,078 |
| Oil-Shale | 2,433,798 | 1,652,896 | 0 | 780,902 | 0 |
| OKC | 367,237 | 367,237 | 0 | 0 | 0 |
| Pasco | 898,026 | 736,954 | 0 | 161,072 | 0 |
| Patchogue | 0 | 18,099 | 18,099 | 0 | 18,099 |
| Pennzoil | 888,257 | 616,463 | 0 | 271,794 | 0 |
| Phillips | 3,404,361 | 3,229,133 | 0 | 175,228 | 0 |
| Pioneer | 20,584 | 42,175 | 0 | 0 | 21,591 |
| Pittston | 0 | 38,142 | 38,142 | 0 | 38,142 |
| Placid | 320,535 | 493,103 | 0 | 0 | 172,568 |
| Plateau | 137,071 | 193,050 | 0 | 0 | 55,979 |
| Powerine | 319,088 | 481,977 | 0 | 0 | 162,889 |
| Pride | 136,098 | 353,913 | 0 | 0 | 217,815 |
| Quaker-St | 98,886 | 270,236 | 0 | 0 | 171,350 |
| Road-Oil | 1,344 | 2,440 | 0 | 0 | 1,096 |
| Rock-Island | 454,384 | 402,802 | 0 | 51,582 | 0 |
| Saber-Tex | 46,539 | 141,211 | 0 | 0 | 94,672 |
| Sabre-Cal | 10,059 | 37,772 | 0 | 0 | 27,713 |
| Sage-Creek | 1,532 | 2,652 | 0 | 0 | 1,120 |
| San-Joaquin | 208,531 | 188,919 | 0 | 19,612 | 0 |
| Sears | 0 | 62,316 | 62,316 | 0 | 62,316 |
| Seminole | 241,218 | 281,914 | 0 | 0 | 40,696 |
| Shell | 11,945,077 | 9,888,746 | 798 | 2,056,331 | 0 |
| Sigmor | 7,028 | 0 | 0 | 7,028 | 0 |
| Skelly | 1,312,971 | 873,424 | 0 | 439,547 | 0 |
| So-Hampton | 37,790 | 198,127 | 0 | 0 | 160,337 |
| Socal | 9,473,402 | 9,989,876 | 33,248 | 0 | 516,474 |
| Sohio | 1,561,422 | 4,359,012 | 0 | 0 | 2,797,590 |
| Somerset | 32,128 | 54,788 | 0 | 0 | 22,660 |
| Sound | 0 | 54,075 | 0 | 0 | 54,075 |
| Southland | 313,484 | 326,867 | 0 | 0 | 13,383 |
| Southwestern | 3,988 | 2,798 | 0 | 1,190 | 0 |
| Sprague | 0 | 85,149 | 85,149 | 0 | 85,149 |
| Steuart | 0 | 58,554 | 58,554 | 0 | 58,554 |
| Sunland | 62,706 | 62,706 | 0 | 0 | 0 |
| Sunoco | 6,567,356 | 5,139,046 | 0 | 1,428,310 | 0 |
| Swann | 0 | 33,963 | 33,963 | 0 | 33,963 |
| Tenneco | 699,864 | 986,736 | 0 | 0 | 286,872 |
| Tesoro | 1,448,867 | 732,993 | 0 | 715,874 | 0 |
| Texaco | 11,422,588 | 11,733,652 | 325,626 | 0 | 311,064 |
| Texas-Asph | 5,474 | 3,699 | 0 | 1,775 | |
| Texas-City | 619,489 | 760,419 | 0 | 0 | 140,930 |
| Thagard | 118,248 | 118,248 | 0 | 0 | 0 |
| The-Refinery | 114,958 | 190,649 | 0 | 0 | 75,691 |
| Thriftway | 35,507 | 43,993 | 0 | 0 | 8,486 |
| Thunderbird | 111,777 | 164,693 | 0 | 0 | 52,916 |
| Tonkawa | 30,038 | 73,996 | 0 | 0 | 43,958 |
| Total-Leonard | 288,932 | 503,118 | 0 | 0 | 214,186 |
| Union-Oil | 6,209,898 | 4,234,354 | 0 | 1,975,544 | 0 |
| Union-Petro | 0 | 83,667 | 83,667 | 0 | 83,667 |
| Union-Texas | 171,704 | 157,643 | 0 | 14,061 | 0 |
| Untd-Ref | 198,242 | 502,583 | 0 | 0 | 304,341 |
| US-Oil | 11,162 | 182,226 | 0 | 0 | 171,064 |
| USA-Petrochem | 155,237 | 114,288 | 0 | 40,949 | 0 |
| Vickers | 464,829 | 667,536 | 0 | 0 | 202,707 |
| Vulcan | 0 | 40,322 | 0 | 0 | 40,322 |
| Waller | 0 | 10,672 | 10,672 | 0 | 10,672 |

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | |
|---|---|---|---|---|---|
| | | Total issued | Product entitlements | Required to buy | Required to sell |
| Warrior | 31,857 | 31,857 | 0 | 0 | 0 |
| West-Coast | 35,054 | 61,838 | 0 | 0 | 26,784 |
| Western | 14,256 | 49,497 | 0 | 0 | 35,241 |
| Wickett | 84,706 | 87,753 | 0 | 0 | 3,047 |
| Winston | 144,049 | 204,028 | 0 | 0 | 59,979 |
| Wireback | 296 | 978 | 0 | 0 | 682 |
| Witco | 141,227 | 226,001 | 0 | 0 | 84,774 |
| Yetter | 477 | 1,575 | 0 | 0 | 1,098 |
| Young | 77,034 | 77,034 | 0 | 0 | 0 |
| Total | 153,285,300 | 153,285,300 | 3,165,876 | 21,096,354 | 21,096,354 |

[FR Doc.76-18629 Filed 6-23-76;12:39 pm]

federal register

TUESDAY, JUNE 29, 1976




PART V:

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

■

# HUMAN DRUG AND COSMETIC PRODUCTS

## Chloroform as an Ingredient

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

SUBCHAPTER G—COSMETICS

[Docket No. 76N-0091]

## PART 310—NEW DRUGS

## PART 700—GENERAL

### Chloroform as an Ingredient of Human Drug and Cosmetic Products

The Food and Drug Administration (FDA) is issuing final regulations declaring that any human drug product containing chloroform as an ingredient (active or inactive) is a new drug and is misbranded, and any cosmetic product containing chloroform as an ingredient is adulterated. These final regulations are effective July 29, 1976. Therefore, after July 29, 1976, any human drug or cosmetic product containing chloroform that is introduced or delivered for introduction into interstate commerce will be subject to regulatory action.

These regulations are based on a notice published in the FEDERAL REGISTER of April 9, 1976 (41 FR 15026) in which the Commissioner of Food and Drugs proposed to prohibit the continued use of chloroform as an ingredient of human drug and cosmetic products. Interested persons were invited to submit comments on the proposal on or before May 10, 1976.

The final regulations are essentially the same as those proposed, and require any holder of an approved new drug application (NDA), or any sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND), for a drug product containing chloroform as an ingredient, to submit a supplemental application or amend his IND to provide for a revised formulation removing chloroform as an ingredient. If a drug product now contains more than 1 percent chloroform, the revised formulation containing no chloroform may not be marketed before the receipt of written notice of approval of the supplemental application by FDA. If a drug product now contains 1 percent or less chloroform, the revised formulation containing no chloroform may be marketed after submission of a supplemental application but prior to the receipt of written notice of its approval by FDA. Failure to submit a supplemental application or to amend an IND notice in accordance with this regulation would be grounds for withdrawal of approval of an application or termination of an IND notice.

As stated in the preamble to the proposal, reformulation to remove chloroform from a drug product that is not now subject to requirements for an approved NDA may occur without prior agency approval regardless of chloroform content. Reformulation of such products may in some cases, as where the percent of chloroform content is significant, affect the product's present legal status under the Federal Food, Drug, and Cosmetic Act. Inquiries concerning the new drug status of any reformulation may be directed in writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

The Commissioner advises that reformulation of a human drug product to remove chloroform as an active or inactive ingredient constitutes a "material change" as defined in § 207.3(g) (21 CFR 207.3(g)) requiring the assignment of a new National Drug Code (NDC) number in accordance with § 207.35(b)(4) (21 CFR 207.35(b)(4)). Section 207.35(b)(4) requires that a new NDC number shall be assigned whenever any material change occurs in product characteristics. The term "any material change" is defined in § 207.3(g) to include, among other things, any change in the quantity or identity of the active ingredients, any significant change in the labeling of a prescription drug, and any significant change in the label of an OTC drug. Therefore, since section 502(e)(1)(A)(ii) of the act (21 U.S.C. 352(e)(1)(A)(ii) requires that the label of all chloroform-containing drug products bear the quantity or proportion of chloroform, whether active or inactive, the removal of chloroform from the formulation of such a product would necessitate a change in the label. Further, removal of chloroform from a formulation as an active ingredient would affect a product's characteristics. It is therefore clear that reformulation of a chloroform-containing drug product to remove chloroform meets the definition of "any material change" in § 207.3(g) thereby requiring a new NDC number in accordance with § 207.35(b)(4).

In response to the proposal, comments were received from manufacturers, a physician, a State consumer affairs unit, a professional association, trade associations, and individuals. Several comments contained specific requests for revisions or clarification of the regulation. A summary of the significant comments and the Commissioner's conclusions are as follows:

1. One comment from the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), which also submitted safety data to FDA on studies involving the use of chloroform, questions the relevancy, design, execution, and interpretation of the National Cancer Institute (NCI) studies, and expressed the opinion that it is scientifically unjustified to disregard CTFA's studies in favor of the NCI studies. The specific points raised by the comment in opposing the Commissioner's determination that chloroform is a carcinogen or is otherwise a deleterious substance are as follows:

a. The comment contends that the NCI studies in no way consider the differences in metabolism between rodents and man. In support of this contention regarding differences in metabolism, the comment cities an article by Hill et al., "Genetic Control of Chloroform Toxicity in Mice," *Science*, 190:159, 1975; a recent review by Charlesworth in *BIBRA* (British Industrial Biological Research Association) *Information Bulletin*, 14:225, 1975, which cites Taylor et al. in *Xenobiotica*, 4:165, 1974; and a paper entitled "Covalent Binding of Haloalkanes to Liver Constituents, but Absence of Mutagenicity on Bacteria in a Metabolizing Test System" by Uehleke, Greim, Kramer and Werner, presented at the fifth meeting of the European Environmental Mutagen Society, Florence, October 19–22, 1975. The comment states that (1) Hill et al. demonstrated that there are genetic factors in mice that affect susceptibility to chloroform lethality and induction of organ pathology and that these are associated with a metabolite whose formation is regulated by genetic factors; (2) Charlesworth reported distinct species differences to show that the metabolic fate of chloroform in mice, and most likely in rats, is not the same as in man, that there are sex-linked differences in metabolism that are peculiar to the mouse, and that man appears to eliminate more of the chloroform unchanged in the exhaled air; (3) Taylor et al. concluded that the mouse is an unsuitable species for evaluating the toxic effects of chloroform; and (4) Uehleke found in the "Ames study" that chloroform is not mutagenic and unlikely to be carcinogenic.

The comment further states that a "recognized international expert in oncology" concluded that, in consideration of the findings in the NCI report and those obtained by himself, "there is obviously wide species, strain, and sex variation both in the incidence of spontaneous tumor of the liver and kidney and in the response of these organs to chloroform." The comment claims that such a conclusion is supported by an opinion expressed by Dr. Grasso in a talk entitled "Evaluation of the Hepatoma in the Rodent in Carcinogenesis Bioassay" summarized in *BIBRA*, 1975 ("The Value of the Mouse in Carcinogenicity Testing"), in which he stated that there is considerable disagreement on the diagnosis of hepatic nodular lesions.

The Commissioner views the conclusions expressed in the comment as relying on the finding that, in studies of three mouse strains, male and female mice showed a sex-linked difference in ability to metabolize choloroform. The Commissioner does not agree that this forms an adequate basis for rejecting the mouse as a useful experimental animal, especially since the work of Hill et al. indicates that this variability exists not only between sexes but also within the same sex among different strains of the same species. Since these authors cite findings in humans of large interindividual differences in the disposition of commonly used drugs—differences which they attribute to genetic variability—it is not surprising that chloroform toxicity would be variable in the same species as well.

The Commissioner points out that the NCI report observes the variation in species and sex in the incidence of spontaneous tumor of the liver and kidney, and the response of these organs to chloroform. The report notes that the Osborne-Mendel strain was selected by

NCI because it was reported to be sensitive to the carcinogenic effects of carbon tetrachloride ($CCl_4$). The question of genetic drift within a strain might also be a factor since the positive control ($CCl_4$) produced a relatively low response (<5 percent with hepatocellular carcinomas). Thus, if anything, the Osborne-Mendel rats used in the NCI studies appear to be less sensitive to the heptaocarcinogen than those reported in the literature.

The Commissioner recognizes that there is disagreement among pathologists on diagnosis of lesions, including hepatic nodular lesions. However, proliferative changes and neoplastic lesions are discussed in considerable detail on pages 32–37 and 40 of the NCI report. The critique submitted by the comment provides no new information that would negate the effects discussed in the pathology section of the NCI report.

Regarding the reported findings of Uehleke in the "Ames study," which used a bacterial system, the Commissioner recognizes that rapid progress is being made in the development of mutagenicity test systems. He is aware of a number of reports indicating a mutagenicity-carcinogenicity correlation using these test systems. However, a number of "false positives" as well as "false negatives" have been observed in these test systems. Such tests using nonmammalian systems have not been validated for establishing correlations and are not considered an appropriate basis for regulatory actions.

b. The comment also argues that the dosage in the NCI studies was excessive and thus does not support the contention of risk to humans. Noting that the NCI report states that the methodology used in their studies differs from that which is currently used by NCI, the comment states that the most serious defects in the methodology used are the inadequacy of the subchronic toxicity study to determine the maximal tolerated dose (MTD) and one-half MTD, and the failure to employ a meaningful definition of MTD. The comment further states that had a proper and reliable subchronic study been conducted, employing liver and renal function measurements as well as histological assessment of the effects of chloroform upon the liver and kidney, it would have been found that the dose levels used were too toxic. In support, the comment notes that in the NCI rat study, the dose levels had to be reduced after 22 weeks of treatment because the lethal consequences were too great. The comment also cites in support a short term study conducted at Bio/dynamics Inc. at dosage levels of 60, 120, 240, and 480 milligrams/kilogram and with the same strain of mice as that used in the NCI study. In the Bio/dynamics Inc. study both males and females had poor tolerance to the chloroform and at the 480 and 240 milligrams/kilogram levels most of the mice died.

It is the Commissioner's opinion that the growth and survival curves as plotted for the mice in the NCI report reveal no significant effect on growth from the dosages administered, and only in the high-dose-level female mice is there an effect seen on survival. However, this effect was observed late in the study, when the death rate showed a sudden increase after the 70th week. The Commissioner therefore concludes that the dosages in the NCI mouse study conform to the standards generally accepted for an MTD to be used in carcinogenicity studies.

In the NCI rat study, it is true that the survival rate for chloroform-treated rats was lower than that for control rats. However, in the Commissioner's view the high dosage level for male rats appears to conform to standards for MTD when the first 90 days of the growth curves are examined. The comment's objection regarding excessive dosage (> MTD) would apply only to female rats. In this regard the Commissioner notes that the statement in the comment that dosage levels employed had to be reduced after 22 weeks because of lethality applies only to the female rats. Despite the reduction in dosage, the survival curves show a consistently lower survival rate. However, the Commissioner emphasizes that there was no increase in tumors reported for these animals. Rather, it was only in the male rats that an increased incidence of renal tumors was reported.

The comment also points out that the ratio of tumor-bearing animals to animals involved in all chloroform treatment groups is less than that found in both male and female matched control groups. This observation, however, is noted and described by NCI in their report as not significant. Moreover, the Commissioner believes the distribution of other than kidney tumors to be normal. Aside from this, the comment disregards the dose-related time of tumor onset. The CTRA analysis further states that "* * * data for the female groups indicate that chloroform treatment may have actually exerted beneficial effects." Obviously, the lethal effects cannot be viewed as beneficial. Finally, the Commissioner notes that in the case of male rats, where dosage would appear to conform to the generally accepted standards for carcinogenicity studies, definite evidence of kidney carcinogenicity appeared.

It is the Commissioner's view that the study conducted by Bio/dynamics Inc. was one of expediency and that the report was hastily prepared. The report indicates that the animals used were not of comparable age and weight as those used in the NCI study, there are apparent inconsistencies in some of the data tables, and the supplier of the mice for the Bio/dynamics Inc. study was different from that for the NCI study. The health of the mice is also questionable. Through communications with NCI, the Commissioner has been advised that the colony of mice of the supplier of Bio/dynamics Inc. showed pinworm infestations and high hepatitis virus titers. The CTFA representative was advised of this problem before its study was performed. In addition, the period of adaptation and quarantine appears to be inadequate since the mice were shipped 5 days prior to the administration of chloroform.

In response to the reported intolerance and the high mortality rate reported by the Bio/dynamics Inc. study, the NCI investigators administered dosages of 100, 200, 300, and 400 milligrams/kilogram of chloroform to groups of mice for 14 days. No deaths were observed for any group during this period. To produce lethality, dosages of 3620 and 5000 milligrams/kilogram were administered to these animals. Thus, except as stated above, the Commissioner cannot explain the results of the Bio/dynamics Inc. study. However, he recognizes that disparities in results may be due to variations in environmental, technical, and other experimental factors.

c. The comment also questions the bases for selecting the colony controls in the NCI study. It expresses the opinion that the NCI conducted the study with insufficient controls, citing the chloroform-matched colony group as an example, and then stacked the numbers by culling controls from other studies. The comment states that the so-called controls were not housed in the same room nor were they put on the study simultaneously with the treated and matched colony groups. Further, it cites as objectionable that animals that received other volatile agents, among which was carbon tetrachloride, were housed in the same room with the animals receiving chloroform.

The NCI report recognizes that the number of matched controls was less than that used in its current bioassay program. Despite this limitation, the induction of hepatocellular carcinoma in mice was highly significant, and the report concludes that this bioassay was a valid test for carcinogenic effect. The Commissioner rejects the charge of "culling" or "stacking." The NCI study incorporated colony controls of the same strain and source, maintained in the same room and in the same manner as the chloroform "matched" controls in the mouse-study analysis. The influence of other chemicals being tested in the same room is discussed extensively in the NCI report, on pages 41–43. These limitations were recognized and considered; in the Commissioner's view, they do not call into question the results of the NCI study.

d. The comment argues that the extraordinarily high doses of chloroform used in the NCI study may show that hepatocellular carcinoma in mice was secondary to the liver-necrotizing effect of chloroform. The comment points to FDA action on selenium published in the FEDERAL REGISTER of April 27, 1973 (38 FR 10458) and January 8, 1974 (39 FR 1355) and states that selenium was determined not to be a carcinogen for this very reason.

The Commissioner advises that he is not aware of any data supporting the secondary carcinogenesis argument regarding chloroform forwarded by the comment, nor do any data submitted to FDA by CTFA support such an argument. Further, experts in the field of liver car-

cinogenesis today do not regard necrosis as sufficient cause for tumor induction.

e. The comment contends that FDA has never made a determination that a substance is carcinogenic on the basis of a single unreplicated study where there are contradictory data, and it refers to saccharin, where the studies produced conflicting test results, as an example.

The Commissioner advises that the reference to saccharin is neither analogous nor applicable to the chloroform toxicity and carcinogenicity bioassays relied upon in this action. Thus far, the results of studies using saccharin have been inconclusive; additional studies are ongoing. The results of the NCI studies are conclusive. In addition, the studies submitted by CTFA were conducted at lower dosages than those reported by NCI. The lack of sensitivity of the current carcinogenesis bioassays in rodents is well recognized. Thus the positive finding with chloroform should be given greater weight than studies at lower dosages using small numbers of animals.

f. The comment noted that the proposed action had not been referred to the Toxicology Advisory Committee. The comment cited § 2.322 (21 CFR 2.322) of the proposed regulations on FDA administrative practices and procedures published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682) that states that issues involving a determination of carcinogenicity under section 409(c)(3)(A), 512(d)(1)(H), or 706(b)(5)(B) of the act will ordinarily be referred to the Toxicology Advisory Committee. The comment expressed the belief that its scientific critique of the NCI studies demonstrates compelling reasons why the matter should now be referred to the Toxicology Advisory Committee before final action is taken.

The Commissioner rejects this comment. Technically, this action does not fall under the statutory sections cited in proposed § 2.322. More importantly, the NCI report was reviewed by a panel of consultants before its release to FDA, and then by FDA scientists after it was received. Despite a number of problems, many of which are discussed in the NCI report, concurrence was reached relative to the carcinogenic effect of chloroform in animals. The action proposed by FDA was based not only in consideration of the NCI report but also on other information available, including the CTFA submissions to the FDA Bureau of Foods and the summary of updated experiments presented to the OTC Oral Cavity Products Review Panel of FDA. The necessity for referring this problem to the Toxicology Advisory Committee was discussed at an FDA Bureau of Drugs conference with CTFA representatives prior to publication of the proposal. Based on the data reviewed, discussion with the FDA Bureau of Foods, and discussions with CTFA regarding their data, the Commissioner concludes that it is not necessary to seek the advice of the Toxicology Advisory Committee.

2. One comment expresses the opinion that there is not enough documented evidence to show that products containing chloroform are indeed hazardous to health.

The Commissioner considers the fact that a substance has been shown to be an animal carcinogen must be taken as evidence that it has a potential for carcinogenesis in humans unless there is strong evidence to the contrary. No strong evidence to the contrary has been shown regarding chloroform. Further, the risk to humans through frequent and long term exposure to such a substance in human drug and cosmetic products is contrary to the public health unless the benefit of such exposure clearly outweighs the risk. Any benefits attributed to the use of chloroform in human drug and cosmetic products do not outweigh the attendant risks, particularly in view of the availability of safe and suitable alternate ingredients. The Commissioner concludes that continued use of choloroform in human drug and cosmetic products may cause such products to be injurious to health and is therefore unwarranted. The Commissioner further considers the potential risk posed by chloroform to be a problem necessitating the action taken.

3. One comment expresses the opinion that chloroform does present an imminent health hazard and urged that all drug products containing chloroform be immediately banned and removed from all stores. The comment further requests an immediate public warning urging people to avoid the use of products containing chloroform that are in their possession.

As stated in the preamble of the proposal, because there are no data to show that chloroform is a human carcinogen, and in view of the small amount of chloroform to which an individual might be exposed in using currently marketed chloroform-containing human drug and cosmetic products, the Commissioner has determined that the present risk to the public is minimal and that chloroform-containing products cannot reasonably be considered to constitute an imminent health hazard. Therefore, he does not believe it necessary for consumer protection to order a recall of all currently marketed products containing chloroform or to issue a public warning against the use of such products.

4. One comment requests an exemption from the requirements of the regulation for in vitro diagnostic products containing chloroform. The comment expresses the opinion that such exemption is necessary until legislation is passed which clearly places such products in a category other than human drugs.

The Commissioner advises that the Medical Device Amendments of 1976 (Pub. L. 94-295) became law on May 28, 1976. The new definition of "device" places all in vitro diagnostic products in the device category; therefore, this regulation is not applicable to any such products. No change in the regulation is necessary.

5. Objection was raised that the proposed action invaded a citizen's right of free choice to determine whether to use a product knowing that it may be hazardous. The comment suggests that the label should indicate the facts, good or bad, about a product, but the consumer should then be given the freedom to decide whether to use the product.

The Commissioner disagrees with this comment. Although chloroform-containing human drug and cosmetic products have been on the market for many decades and may have been generally recognized as safe, recent evidence showing chloroform to be an animal carcinogen and its potential for carcinogenesis in humans no longer permit this conclusion. Where scientific evidence indicates that a particular product is no longer safe, the Federal Food, Drug, and Cosmetic Act prohibits its further marketing unless its safety can be demonstrated.

6. Several comments request that the final regulation both permit the continued use of chloroform in the manufacturing process of a human drug or cosmetic product and allow for unavoidable trace residues in the finished product. Some of the comments state that chloroform may occur as an unintended byproduct of the chemical reaction by which the active ingredient in a prescription drug product is synthesized and that total removal of such trace quantities would be technically unfeasible, if not impossible.

The Commissioner advises that the regulation is applicable only to human drug and cosmetic products containing chloroform as an active or inactive ingredient. He further advises that the regulation is not applicable to situations where chloroform is present in residual amounts due to its use as a processing solvent during manufacture of a drug or cosmetic product or to the presence of residual amounts of chloroform as a byproduct resulting from the synthesis of an ingredient in a drug or cosmetic product. The regulation has been revised to clarify this point. The problem raised by the comments is an industrywide problem that is of concern to several government agencies. The FDA is studying the problem intensively to determine the level and extent of chloroform in finished drug and cosmetic products as a result of the manufacturing process and is seeking a resolution of the issue. The Commissioner's decision will be the subject of a separate FEDERAL REGISTER notice if additional steps are necessary to protect the public health.

7. Comments request a change in the proposed effective date of July 8, 1976, to allow firms to dispose of inventories of products which were manufactured or in the process of being manufactured at the time of publication of the proposal on April 9, 1976. One comment states that, if July 8 is the cutoff date for distribution as proposed, manufacturers will be forced to discard existing stocks of these products and will be deluged with stocks returned from the wholesale and retail trade levels. Further, such action could result (1) in the Commissioner's Inflation Impact Analysis being invalid since these costs, which would ultimately be passed to consumers, were

not given adequate consideration and (2) shortage of cough-cold preparations could develop during the coming cold season.

The Commissioner has given extensive consideration to this issue and realizes that the regulation, when effective, will result in destruction of stocks of human drug and cosmetic products on hand at the manufacturer, repacker, relabeler, or own-label distributor levels or those that may be returned from a wholesaler or retailer. He points out, however, that, in the proposal, industry was encouraged to replace chloroform-containing products with reformulated products as soon as possible and in advance of the publication of the final regulation. The potential risk posed by chloroform does not justify continued shipment or use of chloroform-containing human drug and cosmetic products. Therefore, after the effective date of these regulations, any human drug product containing chloroform that is introduced or delivered for introduction into interstate commerce is a new drug and misbranded, and is subject to regulatory action under sections 301, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 352, and 355). Likewise, after this effective date, any cosmetic product containing chloroform as an ingredient that is introduced or delivered for introduction into interstate commerce is adulterated under section 601(a) of the act (21 U.S.C. 361(a)) and subject to regulatory action. The effective date of these regulations has been extended to July 29, 1976 in that time needed for review of the comments exceeded that originally anticipated. The Commissioner believes that this date should be adhered to in view of all the considerations extensively discussed in the preamble to the proposal. He also believes that this will allow for an orderly replacement of chloroform-containing drug and cosmetic products at the retail level and that there will be an ample supply of such products on the market until reformulated products reach the distribution channels.

The Commissioner advises that in the FEDERAL REGISTER of June 10, 1976 (41 FR 23449), the availability of the NCI report and additional background information was announced by the National Institutes of Health.

The Commissioner also advises that copies of the following references are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852:

1. Bio/dynamics Inc., "A Subacute Toxicity Study of Chloroform in Mice," April 9, 1976.

2. Hill et al., "Genetic Control of Chloroform Toxicity in Mice," *Science*, 190:159, 1975.

3. Charlesworth, F. A., "Patterns of Chloroform Metabolism," *BIBRA Information Bulletin*, 14:225, 1975.

4. Grasso, P. and R. F. Crampton, "The Value of the Mouse in Carcinogenicity Testing," *BIBRA Information Bulletin*, 1975.

5. Cueto, C., Jr. and W. D'Aguanno, memorandum of telephone conversation June 3, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 502, 505, 601(a), 701(a), 52 Stat. 1042–1043, 1050–1055, as amended (21 U.S.C. 331, 352, 355, 361(a), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 310, new § 310.513 is added to read as follows:

**§ 310.513 Chloroform, use as an ingredient (active or inactive) in drug products.**

(a) Chloroform has been used as an ingredient in drug products, such as cough preparations, liniments, and toothpastes. Although considered safe for many years, recent information has become available associating chloroform with carcinogenic effects in animals. Studies conducted by the National Cancer Institute have demonstrated that the oral administration of chloroform to mice and rats induced hepatocellular carcinomas (liver cancer) in mice and renal tumors in male rats.

(b) Any drug product containing chloroform as an ingredient is a new drug within the meaning of section 201 (p) of the act and misbranded and is subject to regulatory action under sections 301, 502, and 505 of the act. Any drug product containing chloroform in residual amounts from its use as a processing solvent during manufacture, or as a byproduct from the synthesis of an ingredient, is not, for the purpose of this section, considered to contain chloroform as an ingredient.

(c) Any holder of an approved new drug application for a drug product containing chloroform as an ingredient shall submit to the Food and Drug Administration on or before July 29, 1976 a supplemental application providing for a revised formulation removing chloroform as an ingredient.

(1) The supplemental application shall contain:

(i) A full list of articles used as components and a full statement of the composition of the drug product.

(ii) The date that the composition of the drug product will be changed.

(iii) Data showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug product, or that the assay and other control procedures are revised to make them adequate.

(iv) Data available to establish the stability of the revised formulation and, if the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment from the applicant:

(*a*) To test the stability of marketed batches at reasonable intervals;

(*b*) To submit the data as they become available; and

(*c*) To recall from the market any batch found to fall outside the approved specifications for the drug.

(v) Copies of the label and all other labeling to be used for the drug product (a total of 12 copies if in final printed form, 4 copies if in draft form).

(2) If such drug product now contains more than one percent chloroform, the revised formulation containing no chloroform shall not be marketed before the receipt of written notice of approval of the supplemental application by the Food and Drug Administration.

(3) If such drug product now contains one percent or less chloroform, the revised formulation containing no chloroform may be marketed, subject to the conditions of § 314.8(e) of this chapter, after submission of the supplemental application but prior to the receipt of written notice of its approval by the Food and Drug Administration.

(d) Any sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND notice) for a drug product containing chloroform as an ingredient shall amend the IND notice on or before July 29, 1976 to revise the formulation removing chloroform as an ingredient.

(e) The Commissioner will initiate action to withdraw approval of an application or terminate an IND notice in accordance with the applicable provisions of section 505 of the act and Parts 312 and 314 of this chapter upon failure of a holder of an approved new drug application or sponsor of an IND notice to comply with the provisions of paragraph (c) or (d) of this section.

2. In Part 700, new § 700.18 is added to read as follows:

**§ 700.18 Use of chloroform as an ingredient in cosmetic products.**

(a) Chloroform has been used as an ingredient in cosmetic products. Recent information has become available associating chloroform with carcinogenic effects in animals. Studies conducted by the National Cancer Institute have demonstrated that the oral administration of chloroform to mice and rats induced hepatocellular carcinomas (liver cancer) in mice and renal tumors in male rats. Scientific literature indicates that chloroform is absorbed from the gastrointestinal tract, through the respiratory system, and through the skin. The Commissioner concludes that, on the basis of these findings, chloroform is a deleterious substance which may render injurious to users any cosmetic product that contains chloroform as an ingredient.

(b) Any cosmetic product containing chloroform as an ingredient is adulterated and is subject to regulatory action under sections 301 and 601(a) of the Federal Food, Drug, and Cosmetic Act. Any cosmetic product containing chloroform in residual amounts from its use as a processing solvent during manufacture, or as a byproduct from the synthesis of

an ingredient, is not, for the purpose of this section, considered to contain chloroform as an ingredient.

Effective date: These regulations shall become effective July 29, 1976.

(Secs. 301, 502, 505, 601(a), 701(a), 52 Stat. 1042–1043, 1050–1055, as amended (21 U.S.C. 331, 352, 355, 361(a), 371(a)).)

Dated: June 24, 1976.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.76–18883 Filed 6–25–76;10:02 am]