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FRIDAY, JULY 9, 1976



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

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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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 Justice

Section 213.3310 is amended to show that one position of Associate Director, Community Relations Service, is excepted under Schedule C.

Effective July 9, 1976, § 213.3310(r)(8) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(r) *Community Relations Service.*

* * *

(8) One Associate Director.

(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.76-19895 Filed 7-8-76;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show that one additional position of Special Assistant to the Associate Administrator for Operations is excepted under Schedule C.

Effective July 9, 1976, § 213.3332(b) is amended as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(b) Two Special Assistants to the Associate Administrator for Operations.

(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.76-19896 Filed 7-8-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B and Z; Docket No. R-0044]

PART 202—EQUAL CREDIT OPPORTUNITY

PART 226—TRUTH IN LENDING

Designation of Officials "Duly Authorized" To Issue Interpretations

Pursuant to section 706(e) of the Equal Credit Opportunity Act as amended by Pub. L. 94-239 and section 130(f) of the Truth in Lending Act as amended by Pub. L. 94-222 relating to the issuance of official staff interpretations, the Board of Governors of the Federal Reserve System has amended Regulations B and Z to designate the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, interpretations of Regulations B and Z.

The purpose of this designation is to implement the recent legislation which would provide a defense against liability under sections 112 and 130 of the Truth in Lending Act and section 706 of the Equal Credit Opportunity Act to creditors who act in good faith in conformity with an interpretation or approval issued by a duly authorized official or employee of the Federal Reserve System. The Board expects that creditor compliance with the Acts will be enhanced, thereby reducing litigation over technical violations, as a result of the issuance of official staff interpretations.

Under the designation there will be three categories of regulatory interpretations: Official Board interpretations, official staff interpretations and unofficial staff interpretations. Board interpretations will be issued only on potentially controversial issues of general applicability which involve substantial ambiguities in the regulations and raise significant policy questions.

Official staff interpretations will be issued only in those cases which in the opinion of the Director and other officials of the Office of Saver and Consumer Affairs require clarification of technical ambiguities in the regulations or where the issues presented are less sweeping or have no significant policy implications.

Unofficial staff interpretations would be available where the protection of the Act is neither requested nor required, or where a speedy response is considered more important than such protection.

The Board will continue to exercise discretion to determine what is or is not a proper subject for an official Board interpretation. The Board will, upon formal request of interested parties, reconsider positions taken in staff interpretations. While the requirements of 5 U.S.C. 553 pertaining to notice and public participation do not apply to interpretations, the Board may request public comment on certain interpretations which are deemed to present controversial or significant policy questions. The Board believes that such procedures will result in a more informed decision-making process in certain significant cases.

The Board believes that staff review and approval of individual forms would be impracticable in light of the inordinate burden on Board resources and the complexity of relating numerous forms to varied methods of operation. Consequently, the Board has specifically excluded approval of particular creditors' forms from the authority of the designated officials, although this does not preclude approval of standardized examples of forms.

This authorization has no retroactive effect on previously issued staff opinion letters. However, the designated officials may in the future give official effect to specific previously stated staff opinions.

Official Board and staff interpretations will be published in the FEDERAL REGISTER. Identifying details will be deleted from official staff interpretations prior to publication, but such identifying details subsequently will be made available for public inspection.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with these amendments because they are rules of agency organization and are exempt from such procedures under 5 U.S.C. 553(b).

Effective July 30, 1976, 12 CFR Part 202 is amended by revising § 202.13(b), redesignating § 202.13(c) as § 202.13(d) and adding a new § 202.13(c). Section 202.13 reads as follows:

§ 202.13 Penalties and liabilities.

* * * * *

(b) Section 706(e) relieves a creditor from civil liability resulting from any act done or omitted in good faith in conformity with any rule, regulation or interpretation by the Board of Governors of the Federal Reserve System, or with any interpretation or approval issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason.

(c)(1) Any request for formal Board interpretation or official staff interpretation of Regulation B must be addressed to the Director of the Office of Saver and Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Each request for interpretation must contain a complete statement, signed by the person making the request or a duly authorized agent, of all relevant facts of the transaction or credit arrangement relating to the request. True copies of all pertinent documents must be submitted with the request. The relevance of such documents must, however, be set forth in the request and the documents must not merely be incorporated by reference. The request must contain an analysis of the bearing of the facts on the issues and specifying

the pertinent provisions of the statute and regulation. Within fifteen business days of receipt of the request, a substantive response will be sent to the person making the request or an acknowledgement will be sent which sets a reasonable time within which a substantive response will be given.

(2) Any request for reconsideration of an official staff interpretation of Regulation B must be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, within thirty days of the publication of such interpretation in the FEDERAL REGISTER. Each request for reconsideration must contain a statement setting forth in full the reasons why the person making the request believes reconsideration would be appropriate, and must specify and discuss the applicability of the relevant facts, statute and regulations. Within fifteen business days of receipt of such request for reconsideration, a response granting or denying the request will be sent to the person making the request, or an acknowledgment will be sent which sets a reasonable time within which such response will be given.

(3) Pursuant to section 706(e) of the Act, the Board has designated the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part. This designation shall not be interpreted to include authority to approve particular creditors' forms in any manner.

(4) The type of interpretation issued will be determined by the Board and the designated officials by the following criteria:

(i) Official Board interpretations will be issued upon those requests which involve potentially controversial issues of general applicability dealing with substantial ambiguities in this Part and which raise significant policy questions.

(ii) Official staff interpretations will be issued upon those requests which, in the opinion of the designated officials, require clarification of technical ambiguities in this Part or which have no significant policy implications.

(iii) Unofficial staff interpretations will be issued where the protection of section 706(e) of the Act is neither requested nor required, or where time strictures require a rapid response.

(d) [Redesignated]

Effective July 30, 1976, 12 CFR Part 226 is amended by revising § 226.1(c) and adding a new § 226.1(d). Section 226.1 reads as follows:

§ 226.1 Authority, scope, purpose, etc.

* * * * * *

(c) *Penalties and liabilities.* Section 112 of the Act provides criminal liability for willful and knowing failure to comply with any requirement imposed under the Act and this Part. Section 134 provides for criminal liability for certain fraudulent activities related to credit cards. Section 130 provides for civil liability in individual or class actions for any creditor who fails to comply with any requirement imposed under Chapter 2 or Chapter 4 of the Act and the corresponding provisions of this part. Section 130 also provides creditors a defense against civil and criminal liability for any act done or omitted in good faith in conformity with the provisions of this Part or any interpretation thereof by the Board, or with any interpretations or approvals issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason. Section 130 further provides that a multiple failure to disclose in connection with a single account shall permit but a single recovery. Section 115 provides for civil liability for an assignee of an original creditor where the original creditor has violated the disclosure requirements and such violation is apparent on the face of the instrument assigned, unless the assignment is involuntary. Pursuant to section 108 of the Act, violations of the Act or this Part constitute violations of other Federal laws which may provide further penalties.

(d)(1) Any request for formal Board interpretation or official staff interpretation of Regulation Z must be addressed to the Director of the Office of Saver and Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Each request for interpretation must contain a complete statement, signed by the person making the request or a duly authorized agent, of all relevant facts of the transaction or credit arrangement relating to the request. True copies of all pertinent documents must be submitted with the request. The relevance of such documents must, however, be set forth in the request and the documents must not merely be incorporated by reference. The request must contain an analysis of the bearing of the facts on the issues and it must specify the pertinent provisions of the statute and regulation. Within fifteen business days of receipt of the request, a substantive response will be sent to the person making the request or an acknowledgment will be sent which sets a reasonable time within which a substantive response will be given.

(2) Any request for reconsideration of an official staff interpretation of Regulation Z must be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, within thirty days of the publication of such interpretation in the FEDERAL REGISTER. Each request for reconsideration must contain a statement setting forth in full the reasons why the person making the request believes reconsideration would be appropriate, and must specify and discuss the applicability of the relevant facts, statute and regulations. Within fifteen business days of receipt of such request for reconsideration, a response granting or denying the request will be sent to the person making the request, or an acknowledgement will be sent which sets a reasonable time within which such response will be given.

(3) Designation of official to issue interpretations. Pursuant to section 130(f) of the Act, the Board has designated the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part. This designation shall not be interpreted to include authority to approve particular creditors' forms in any manner.

(4) The type of interpretation issued will be determined by the Board and the designated officials by the following criteria:

(i) Official Board interpretations will be issued upon those requests which involve potentially controversial issues of general applicability dealing with substantial ambiguities in this Part and which raise significant policy questions.

(ii) Official staff interpretations will be issued upon those requests which, in the opinion of the designated officials, require clarification of technical ambiguities in this Part or which have no significant policy implications.

(iii) Unofficial staff interpretations will be issued where the protection of Section 130(f) of the Act is neither requested nor required, or where time strictures require a rapid response.

By order of the Board of Governors, June 28, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19822 Filed 7-8-76;8:45 am]

[Regs. G, T and U; Docket No. R-0025]

SECURITIES CREDIT TRANSACTIONS

Requirements for Inclusion and Continued Inclusion on the List of OTC Margin Stocks

By notice of proposed rulemaking published in the FEDERAL REGISTER on March 18, 1976 (41 FR 11324), the Board of Governors of the Federal Reserve System proposed for comment amendments to Parts 207, 220, and 221 with respect to the requirements for a stock's inclusion and continued inclusion on the List of OTC Margin Stocks. These proposals were issued pursuant to section 7 and 23 of the Securities Exchange Act of 1934. The purpose of the amendments is to revise the criteria for inclusion and continued inclusion on the List of OTC Margin Stocks in view of significant changes which have occurred in the over-the-counter (OTC) market, particularly the increased competition among the securities markets and the impact of the National Association of Securities Dealers Automated Quotation System (NASDAQ).

All comments received on the proposal were favorable, and the amendments are adopted without change, as set forth below.

The effective date of this action is August 6, 1976.

By order of the Board of Governors, July 1, 1976.

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

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

1. Paragraphs (d) and (e) of § 207.5 (the Supplement to Regulation G) are amended as set forth below:

§ 207.5 Supplement.

* * * * *

(d) *Requirements for inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 207.2 (f), such stock shall meet the requirements that:

(1) The stock is subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), is issued by an insurance company subject to section 12(g)(2)(G) (15 U.S.C. 78l(g)(2)(G)) that has at least $1 million of capital and surplus, or is issued by a closed-end investment management company subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8),

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

(3) There are 1,200 or more holders of record, as defined in SEC rule 12g5–1 (17 CFR 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 500 shares,

(4) The issuer is organized under the laws of the United States or a state[9] and it, or a predecessor in interest, has been in existence for at least 3 years,

(5) The stock has been publicly traded for at least 6 months,

(6) Daily quotations from both bid and asked prices for the stock are continuously available to the general public, and

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock; and shall meet two of the three additional requirements that:

(8) The shares described in subparagraph (7) of this paragraph have a market value of at least $5 million,

(9) The minimum average bid price of such stock, as determined by the Board, is at least $5 per share, and

(10) The issuer has at least $5 million of capital, surplus, and undivided profits.

(e) *Requirements for continued inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 207.2(f), such stock shall meet the requirements that:

(1) The stock continues to be subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), or if issued by an insurance company such issuer continues to be subject to section 12(g)(2)(G) (15 U.S.C. 78l(g)(2)(G)) and to have at least $1 million of capital and surplus, or if issued by a closed-end investment management company such issuer continues to be subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8),

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

(3) There continue to be 800 or more holders of record, as defined in SEC Rule 12g5–1 (17 CFR 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 300 shares,

(4) The issuer continues to be a U.S. corporation,

(5) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and

(6) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock; and shall meet two of the three additional requirements that:

(7) The shares described in subparagraph (6) of this paragraph continue to have a market value of at least $2.5 million,

(8) The minimum average bid price of such stock, as determined by the Board, is at least $3 per share, and

(9) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

[9] As defined in 15 U.S.C. 78c(a)(16).

PART 220—CREDIT BY BROKERS AND DEALERS

(2) Paragraphs (h) and (i) of § 220.8 (the Supplement to Regulation T) are amended as set forth below:

§ 220.8 Supplement.

* * * * *

(h) *Requirements for inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 220.2(e), OTC margin stock shall meet the requirements that:

(1) The stock is subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), is issued by an insurance company subject to section 12(g)(2)(G) (15 U.S.C. 78l(g)(2)(G)) that has at least $1 million of capital and surplus, or is issued by a closed-end investment management company subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8),

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published *bona fide* bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

(3) There are 1,200 or more holders of record as defined in SEC Rule 12g5–1 (17 CFR 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 500 shares,

(4) The issuer is organized under the laws of the United States or a State[9] and it, or a predecessor in interest, has been in existence for at least 3 years,

(5) The stock has been publicly traded for at least 6 months,

(6) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock; and shall meet two of the three additional requirements that:

(8) The shares described in subparagraph (7) of this paragraph have a market value of at least $5 million,

(9) The minimum average bid price of such stock, as determined by the Board, is at least $5 per share, and

(10) The issuer has at least $5 million of capital, surplus, and undivided profits.

(i) *Requirements for continued inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 220.2(e), OTC margin stock shall meet the requirements that:

(1) The stock continues to be subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), or if issued by an insurance company such issuer continues to be subject to section 12(g)(2)(G) (15 U.S.C. 78l(g)(2)(G)) and to have at least $1 million of capital and surplus, or if issued by a closed-end investment management company such issuer continues to be subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. § 80a–8),

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published *bo a fide* bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

[9] As defined in 15 U.S.C. 78c(a)(16).

(3) There continue to be 800 or more holders of record, as defined in SEC Rule 12g5–1 (17 C.F.R. 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 300 shares,

(4) The issuer continues to be a U.S. corporation,

(5) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and

(6) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock; and shall meet two of the three additional requirements that:

(7) The shares described in subparagraph (6) of this paragraph continue to have a market value of at least $2.5 million,

(8) The minimum average bid price of such stock, as determined by the Board, is at least $3 per share, and

(9) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

3. Paragraphs (d) and (e) of § 221.4 (the Supplement to Regulation U) are amended as set forth below:

§ 221.4 Supplement.

* * * * *

(d) *Requirements for inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 221.3 (d), OTC margin stock shall meet the requirements that:

(1) The stock is subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), is issued by an insurance company subject to section 12(g)(2)(G) (15 U.S.C. 78l (g)(2)(G)) that has at least $1 million of capital and surplus, or is issued by a closed-end investment management company subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8),

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published *bona fide* bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

(3) There are 1,200 or more holders of record, as defined in SEC Rule 12g5–1 (17 CFR 240.12g5–1) of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 500 shares,

(4) The issuer is organized under the laws of the United States or a State [9] and it, or a predecessor in interest, has been in existence for at least 3 years,

(5) The stock has been publicly traded for at least 6 months,

(6) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock; and shall meet two of the three additional requirements that:

(8) The shares described in subparagraph (7) of this paragraph have a market value of at least $5 million,

(9) The minimum average bid price of such stock, as determined by the Board, is at least $5 per share, and

(10) The issuer has at least $5 million of capital, surplus, and undivided profits.

(e) *Requirements for continued inclusion on List of OTC Margin Stocks.* Except as provided in subparagraph (4) of § 221.3(d), OTC margin stock shall meet the requirements that:

(1) The stock continues to be subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)), or if issued by an insurance company such issuer continues to be subject to section 12(g)(2)(G) (15 U.S.C. 78l(g)(2)(G)) and to have at least $1 million of capital and surplus, or if issued by a closed-end investment management company such issuer continues to be subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. § 80a–8),

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published *bona fide* bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934 (15 U.S.C. 78e),

(3) There continue to be 800 or more holders of record, as defined in SEC Rule 12g5–1 (17 C.F.R. 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 300 shares,

(4) The issuer continues to be a U.S. corporation,

(5) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and

(6) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock; and shall meet two of the three additional requirements that:

(7) The shares described in subparagraph (6) of this paragraph continue to have a market value of at least $2.5 million,

(8) The minimum average bid price of such stock, as determined by the Board, is at least $3 per share, and

(9) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

* * * * *

[FR Doc.76–19821 Filed 7–8–76;8:45 am]

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[9] As defined in 15 U.S.C. 78c(a)(16).

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Export Controls on Petroleum and Petroleum Products

Subject: Continuation of export controls on petroleum and petroleum products for the third quarter 1976, announcement of third quarter export quotas, and notice relating to the Naval Petroleum Reserves Production Act of 1976.

The Department of Commerce has reviewed the domestic petroleum supply and demand situation and, having consulted with the Federal Energy Administration, has determined that export controls on petroleum and petroleum products must be continued. Accordingly, the present controls over the export of petroleum and petroleum products are hereby continued for the Third Quarter 1976. The Third Quarter export quotas for such products are announced herein.

The current export controls on petroleum and petroleum products have heretofore been promulgated under the authority of the Export Administration Act of 1969, as amended.

Section 103 of the Energy Policy and Conservation Act (Pub. L. 94–163), enacted December 12, 1975, grants discretionary authority to the President to control exports of a broad range of energy and energy-related commodities and mandates a prohibition on exports of crude oil and natural gas, except such exports that are determined to be in the national interest and consistent with the purposes of that Act. The President's authority has been delegated to the Department of Commerce by Executive Order 11912 of April 13, 1976. The Department is currently developing regulations to implement the provisions of that Act and will promulgate such Regulations in the near future. In the interim, the decision announced herein to continue the current controls on petroleum and petroleum products constitutes a finding by the Department that such controls are appropriate and consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

Furthermore, as required by that Act, such controls will continue to be implemented under the procedures, including the enforcement and penalty provisions, of the Export Administrtaion Act of 1969, as amended.

Exporters are advised that the Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94–258) prohibits exports of "petroleum" produced from the naval petroleum reserves, except such "petroleum" which is either exchanged in similar quantities for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States. Other exports may be authorized by the President pursuant to an express published finding. The Act defines "petroleum" as incluuding "crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any such resources". The Department is currently drafting regulations to administer this statutory requirement, and such regulations will be issued in a subsequent bulletin.

The requirements for notice of proposed rulemaking and opportunity for comment have been waived by the Department since it has found that compliance with such procedure would seriously impair the Department's ability to maintain effective and timely controls over exports of petroleum and petroleum products. Also, it has been determined that in order to maintain such effective and timely controls this extension shall be effective as of the date stated below. Written comments regarding the regulations extended herein are solicited on a continuing basis.

Accordingly, Supplement No. 2 to Part 377 of the Export Administration Regulations (15 CFR Part 377) is revised to read as follows:

Supplement 2—Petroleum and Petroleum Products Subject to Short Supply Licensing Controls

SCHEDULE B NO. AND COMMODITY DESCRIPTION

Petroleum Licensed Only In Accordance With § 377.6(d)(1)

GROUP A

331.0100 Crude petroleum.
331.0200 Petroleum partly refined for further refining.

Petroleum Products Subject To Historical Quotas

GROUP B

332.1015 Aviation gasoline.

GROUP C

332.1030 Gasoline, n.e.c.
332.1050 Gasoline blending agents, hydrocarbon compounds only, n.e.c.

GROUP D

332.2010 Kerosene, except kerosene-type jet fuel.

GROUP E

332.2020 Jet fuel.

GROUP F

332.3000 Distillate fuel oils.

GROUP G

332.4000 Residual fuel oils.

GROUP K

341.1025 Butane.

GROUP L

341.1030 Propane.

GROUP M

341.1040 Natural gas liquids, including L.P.G., n.e.c.

Pertoleum Products Not Subject To Quotas

GROUP H

332.9160 Carbon black feedstock oil.

GROUP J

341.1010 Synthetic natural gas.[1]
341.2000 Gas, manufactured.

Quantities: Report the above commodities, except Group J, in barrels of 42 gallons. Report Group J in MCF.

Shipping tolerance: 10%

Submission dates: Applications against historical quotas—Not prior to the beginning of the applicable quarter and received in the Office of Export Administration not later than the close of business on the tenth calendar day prior to the end of the applicable quarter.

Applications for hardships, crude oil, carbon black feedstock oil, synthetic natural gas, and manufactured gas—at any time.

COUNTRY QUOTAS: THIRD QUARTER 1976

COUNTRY QUOTAS FOR GROUP B

(Schedule B No. 332.1015, Aviation gasoline)

Country:	Quota (barrel)
Bahamas	2,051
Belgium	78
Bolivia	2,761
Cameroon	65
Canada	3,313
Dahomey	58
French Pacific Islands	3,853
Gabon	115
Holland	18,940
Honduras	307
India	12,743
Ivory Coast	98
Mexico	13,899
Singapore	14,783
All other countries	165

COUNTRY QUOTAS FOR GROUP C

(Schedule B No. 332.1080, Gasoline, n.e.c.)

(Schedule B No. 332.1050, Gasoline blending agents, hydrocarbon compounds only, n.e.c.)

Country:	Quota (barrel)
Australia	554
Austria	139
Bahamas	872
Belgium	3,929
Brazil	29,061
Canada	76,078
Denmark	76
Finland	162
France	635
French Pacific Islands	20,141
Holland	48,039
India	143
Iran	106
Italy	314
Japan	299
Leeward & Windward Islands	1,109
Mexico	149,791
Mozambique	66
Nigeria	143
Philippines	137
South Africa	556
Sweden	56
United Kingdom	3,111
Venezuela	165
West Germany	3,966
All Other Countries	513

COUNTRY QUOTAS FOR GROUP D

(Schedule B No. 332.2010, Kerosene, except kerosene-type jet fuel)

Country:	Quota (barrel)
Australia	1,118
Brazil	150
Canada	1,667
Chile	122
Congo	124
Egypt	88
France	59
French Pacific Islands	3,348
Gabon	266
Holland	349
Israel	586
Italy	467
Japan	2,354
Mexico	72
Nigeria	740
Peru	71
Philippines	89
Singapore	442
South Africa	371
United Kingdom	9,391
Venezuela	454
West Germany	7,047
All Other Countries	252

COUNTRY QUOTAS FOR GROUP E

(Schedule B No. 332.2020, Jet fuel)

Country:	Quota (barrel)
Bahamas	31
Canada	42,797
Mexico	58,193

COUNTRY QUOTAS FOR GROUP F

(Schedule B No. 332.3000, Distillate fuel oils)

Country:	Quota (barrel)
Bahamas	3,125
Canada	113,393
Colombia	36,385
Denmark	22,413
French Pacific Islands	11,616
Holland	58,895
Japan	138,626
Mexico	278,079
Netherlands Antilles	34,072
Peru	13,577
Surinam	327
United Kingdom	49,195
All Other Countries	1,359

COUNTRY QUOTAS FOR GROUP G

(Schedule B No. 332.4000, Residual fuel oils)

Country:	Quota (barrel)
Bahamas	110,780
Barbados	11,275
Belgium	12,865
Brazil	63,662
Canada	833,224
Canary Islands	14,182
Denmark	43,384
France	2,493
French Pacific Islands	16,967
Greece	19,798
Holland	50,108
Ireland	11,626
Italy	181,979
Jamaica	152,086

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[1] Natural gas and liquified natural gas (L.N.G.), and synthetic natural gas commingled with natural gas (Schedule B No. 341.1010), require export authorization from the U.S. Federal Power Commission. See § 370.10(g).

Country:	Quota (barrel)
Japan	266,105
Leeward & Windward Islands	12,745
Mexico	643,500
Netherlands Antilles	99,078
Panama	74,793
Peru	30,821
Poland	2,070
Portugal	19,240
Singapore	19,118
South Africa	21,432
Spain	36,283
Sweden	75,413
United Kingdom	227,631
All Other Countries	814

COUNTRY QUOTAS FOR GROUP K

(Schedule B No. 341.1025, Butane)

Country:	Quota (barrel)
Canada	1,176
Mexico	174,919
Netherlands	10,927
All other countries	245

COUNTRY QUOTAS FOR GROUP L

(Schedule B No. 341.1030, Propane)

Country:	Quota (barrel)
Canada	1,521
Japan	221,346
Mexico	586,509
New Zealand	1,041
All other countries	1,203

COUNTRY QUOTAS FOR GROUP M

(Schedule B No. 341.1040, Natural gas liquids, including liquefied petroleum gas (L.P.G.), n.e.c.)

Country:	Quota (barrel)
Canada	15,954
Guatemala	2,335
Mexico	2,059,081
All other countries	3,168

Base period: Commodity Groups K, L, and M: The base period for determining historical quota shares for Petroleum Commodity Groups K, L, and M in the third quarter 1976 is July 1, 1972 through September 30, 1972.

Effective date of action: July 1, 1976.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.76-19784 Filed 7-2-76;5:00 pm]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

COMMISSION HEADQUARTERS AND WESTERN REGION SUB-OFFICE

Change of Address

On April 6, 1976, in 41 FR 14586, the Commodity Futures Trading Commission announced that effective April 5, 1976, the Commission would move to its new headquarters at 1007 21st Street NW., Washington, D.C., and that its new mailing address would be 2033 K Street NW., Washington, D.C. 20581. In addition, the address of the Commission's Western Region Sub-office in San Francisco, California, has also been changed. Prior to these changes of address the Commission had adopted rules and regulations, certain provisions of which contained references to the old addresses of the Commission's headquarters and the San Francisco Sub-office. To reflect the new addresses in each of these provisions the Commission hereby adopts the following amendments to its rules and regulations:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.41(e) of Part 1 of Charter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 1.41 Contract market rules; filing of copies; emergency circumstances.

* * * * *

(e) Two copies of all material required to be filed by this Section shall be furnished to the Commodity Futures Trading Commission, 1007 21st Street NW., Washington, D.C., and mailed to its mailing address at 2033 K Street NW., Washington, D.C. 20581, and two copies shall be furnished to the Administrator of the Regional Office of the Commission having local jurisdiction with respect to such contract market.

PART 10—RULES OF PRACTICE

2. The first sentence of § 10.4 of Part 10 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 10.4 Business address; hours.

The principal office of the Commission, including the Office of Hearings and Appeals, is located at 1007 21st Street NW., Washington, D.C. and its mailing address is 2033 K Street NW., Washington, D.C. 20581. * * *

3. The second sentence of § 10.12(d) of Part 10 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 10.12 Service and filing of documents; form and execution.

* * * * *

(d) * * * A document shall be filed by delivering it in person or by certified or registered mail with return receipt requested to:

Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. * * *

PART 12—RULES RELATING TO REPARATIONS PROCEEDINGS

4. The first sentence of § 12.4 of Part 12 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 12.4 Business address; hours.

The principal office of the Commission is located at 1007 21st Street NW., Washington, D.C., and its mailing address is 2033 K Street NW., Washington, D.C. 20681. * * *

5. The second sentence of § 12.51 of Part 12 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended as follows:

§ 12.51 Filing of documents with the hearing clerk.

* * * A document shall be filed by delivering it in person or by certified or registered mail with return receipt requested to:

Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. * * *

* * * * *

PART 140—ORGANIZATION, FUNCTION AND PROCEDURES OF THE COMMISSION

6. Section 140.1 of Part 140 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 140.1 Headquarters office.

(a) *General.* The Headquarters Office of the Commission is located at 1007 21st Street, NW., Washington, D.C., and its mailing address is 2033 K Street NW., Washington, D.C. 20581.

* * * * *

7. The first part of the first sentence of § 140.2(b) of Part 140 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 140.2 Region Offices—Regional Directors.

* * * * *

(b) The Western Region Office is located at Room 356, Board of Trade Building, 4800 Main Street, Kansas City, Missouri 64112, with a Sub-office at Suite 975, 2 Embarcadero Center, San Francisco, California 94111, and is responsible for enforcement of the Act * * *

PART 146—RECORDS MAINTAINED ON INDIVIDUALS [1]

8. The second sentence of § 146.3(a) of Part 146 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.3 Requests by an individual for information or access.

(a) * * * All requests shall be directed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

* * * * *

9. The second sentence of § 146.4(b) of Part 146 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.4 Procedures for identifying the individual making the report.

* * * * *

(b) * * * Copies of these statutory provisions and forms for such notarized statements may be attained upon request from the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

[1] At 41 FR 3212 in the issue of January 21, 1976, the rules implementing the Privacy Act of 1974 previously published at 40 Federal Register 41056, September 4, 1975, were republished for the convenience of readers.

10. The second sentence of § 146.5(f) of Part 146 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.5 Disclosure of requested information to individuals; fees for copies of records.

* * * * *

(f) * * * Copies of the schedule may be obtained upon request from the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.* * *

11. The beginning of § 146.6(d) of Part 146 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.6 Disclosure to third parties.

* * * * *

(d) The accounting described in paragraph (c) of this section will be made available to the individual named in the record upon his written request, directed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. * * *

12. The second sentence of § 146.8(a) of Part 146 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.8 Amendment of a record.

(a) * * * A request for amendment shall be directed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

* * * * *

13. Section 146.8(d) of Part 146 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.8 Amendment of a record.

* * * * *

(d) Assistance in preparing a request to amend a record may be obtained from the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

14. Section 146.9(c) of Part 146 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.9 Appeal to the Commission.

* * * * *

(c) The petition should be directed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

15. The second sentence of § 146.11(b) of Part 146 of Chapter I of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 146.11 Public notice of records system.

* * * * *

(b) * * * Mail requests should be directed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. * * *

16. Paragraph (b) of Appendix A to Part 146 of Chapter I of Title 17 of the Code of Federal Regulations is amended as follows:

APPENDIX A—FEES FOR COPIES OF RECORDS REQUESTED UNDER THE PRIVACY ACT OF 1974

* * * * *

(b) Requests for copies of documents shall be addressed to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

The foregoing amendments are effective immediately. The Commission finds that these amendments are not substantive in nature, and relate solely to agency organization, procedure or practice and, for these reasons the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 663, are unnecessary.

Issued in Washington, D.C. on July 6, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-19795 Filed 7-8-76;8:45 am]

Title 21—Food and Drugs

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

[Docket No. 76N-0223]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart C—Organization, Bureau of Veterinary Medicine

The Food and Drug Administration is amending the regulation setting forth its headquarters organization to provide a revised listing of the organizational elements of the Bureau of Veterinary Medicine; effective July 9, 1976.

The reorganization of the Bureau, approved on May 17, 1976, was effective May 26, 1976, the date of publication in the FEDERAL REGISTER (41 FR 21507). The overall functions of the Bureau were not changed but the internal structure reflects considerable realignment of functions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 5 is amended in § 5.100 by revising the listing for the Bureau of Veterinary Medicine to read as follows:

§ 5.100 Headquarters.

* * * * *

BUREAU OF VETERINARY MEDICINE[1]

Office of the Director.
Division of Veterinary Medical Research.
Division of Drugs for Avian Species.
Division of Drugs for Ruminant Species.
Division of Drugs for Swine and Minor Species.
Division of Drugs for Non-Food Animals.
Division of Compliance.
Division of Surveillance.
Division of Animal Feeds.

* * * * *

Effective date: This amendment shall be effective July 9, 1976.

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

Dated: July 1, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-19843 Filed 7-8-76;8:45 am]

[Docket No. 76N-0289]

PART 310—NEW DRUGS

Records and Reports; Requirements for Specific New Drugs and Devices

RESTRICTIONS ON DISTRIBUTION OF METHADONE

The Food and Drug Administration is lifting restrictions on shipment to, or receipt or dispensing by, licensed pharmacies of methadone for analgesic use, effective July 9, 1976.

In the FEDERAL REGISTER of December 15, 1972 (37 FR 26790), the Commissioner of Food and Drugs issued final regulations establishing conditions for use of methadone under § 310.505 (21 CFR 310.505, formerly 21 CFR 130.44) and requiring special studies, records, and reports with respect to the use of methadone under § 310.304(b) (21 CFR 310.304(b), formerly 21 CFR 130.48(b)). The regulations set forth detailed standards for the safe and effective use of methadone in the detoxification and maintenance treatment of narcotic addiction in methadone treatment programs and, on a temporary basis, in hospitals.

In addition, the 1972 regulations impose certain restrictions on the distribution of methadone for analgesic use. Under the regulations, methadone for analgesic use may be shipped only to, and received and dispensed only by, a hospital pharmacy or an approved community pharmacy in a remote area that requests and receives necessary authorization from the Food and Drug Administration (§ 310.505(f) (2) and (3), and (k)(5)).

[1] Mailing address:
5600 Fishers Lane,
Rockville, MD 20852.

In the same issue of the FEDERAL REGISTER, the Commissioner issued a notice proposing to withdraw the new drug applications of eight methadone products (December 15, 1972 (37 FR 26807)). The notice stated the Commissioner's conclusion that there was a lack of substantial evidence that methadone is safe and effective under the conditions of use then prevailing, and gave notice of an opportunity for hearing on the proposed withdrawal of new drug applications. The notice stated that upon submission and approval of a supplemental new drug application meeting the new regulations, the Commissioner would rescind the notice with respect to that applicant.

On July 24, 1973, the American Pharmaceutical Association filed suit in the United States District Court for the District of Columbia. *American Pharmaceutical Association* v. *Weinberger*, Civ. No. 1485–73. The suit sought declaratory and injunctive relief against the regulations in their entirety. Principally at issue, however, was the prohibition on shipment of methadone for analgesic use to community pharmacies except where specially authorized. On June 6, 1974, the District Court declared invalid, and enjoined the enforcement of, the following provisions of the regulations: §§ 310.304(b), 310.505(b)(4), 310.505(f), 310.505(i)(2), and 310.505(j). 377 F. Supp. 824. The provisions were invalidated "to the extent the Regulations prohibit or restrict shipment to, or receipt or dispensing by, any duly licensed pharmacy of methadone for analgesic use." The District Court's judgment is set forth at the end of this preamble.

The District Court's judgment also invalidated the notice of proposed withdrawal of approval and opportunity for hearing on methadone NDA's to the extent that it (a) alleged lack of substantial evidence of safety and effectiveness for failure of the NDA's to comply with the provisions of the regulations that were declared invalid, and (b) invited submission of supplemental NDA's that complied with those provisions; and all orders of the Commissioner approving any such supplemental NDA.

The judgment of the District Court was stayed pending appeal, taken by the Government on July 24, 1974. On February 11, 1976, the District Court's judgment was affirmed. *American Pharmaceutical Association* v. *Mathews*, 530 F.2d 1054 (D.C. Cir.). Issuance of the Court of Appeals' mandate to the District Court was subsequently stayed to allow the Federal defendants time to consider whether they should seek certiorari from the Supreme Court to review the Court of Appeals' decision.

It has been determined not to seek such review. Accordingly, the Commissioner is amending the regulations at §§ 310.304(b) and 310.505 to comply with the District Court's order. Elsewhere in this issue of the FEDERAL REGISTER, he is publishing a notice of opportunity for hearing on a proposed withdrawal of NDA's for methadone.

The District Court's order applies only to those regulations that "prohibit or restrict shipment to, or receipt or dispensing by, any duly licensed pharmacy of methadone for analgesic use." The amendments are similarly limited. Therefore, although methadone for analgesic use may, under the amended regulations, be shipped to, and received and dispensed by, any pharmacy duly licensed under the law of the jurisdiction in which it operates, methadone for the detoxification or maintenance treatment of narcotic addiction may be shipped only to, and received and dispensed only by, approved methadone treatment programs and hospital pharmacies, and may be used for narcotic addict treatment only in accordance with the standards set forth in the amended regulations.

The Commissioner finds that notice and public procedure on these amendments are impracticable and unnecessary (5 U.S.C. 553(b)(B)). The judgment of the District Court orders the changes effected by these amendments; the Commissioner is without discretion whether to comply. However, the Commissioner will receive and carefully consider any comments with respect to, and only with respect to, the manner in which these amendments execute the Court's judgment, and whether other changes are required or would be appropriate.

The Commissioner also finds, for the reasons stated immediately above, that there is good cause to make these amendments effective immediately (5 U.S.C. 553(d)(3)), and that, since the effect of the amendments is to relieve a restriction on the manner in which methadone for analgesic use is distributed, it is unnecessary to delay their effective date (5 U.S.C. 553(d)(1)).

The Commissioner notes that some documents and forms necessary to the operation of methadone treatment programs and to obtaining methadone for narcotic addict treatment make reference to restrictions on the use or distribution of methadone for analgesic use. The Commissioner is amending one form ("Hospital Application" under § 310.505(k)(5)) to delete such references. However, such references need not be deleted in existing supplies of any such documents or forms.

The District Court's judgment in *American Pharmaceutical Association* v. *Weinberger*, Civ. No. 1485–73, is as follows:

JUDGMENT

This cause having come on for a hearing on Complaint and Motions of the respective parties, and the matter having been briefed and argued by counsel for the parties and fully considered by the Court, it is, for the reasons set forth in its Opinion dated June 5, 1974,

Declared, adjudged and ordered: 1. That §§ 310.304(b), 310.505(b)(4), 310.505(f), 310.505(i)(2) and 310.505(j) of Title 21 of the Code of Federal Regulations, published at 37 FR 26795 (December 15, 1972) and republished as recodified at 39 FR 11680 (March 29, 1974) (hereafter called "the Regulations"), and issued by the defendant Commissioner of Food and Drugs, purporting to act under provisions of the Federal Food, Drug, and Cosmetic Act, as amended, the Public Health Service Act, as amended, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and authority delegated to him by the defendant Secretary of Health, Education, and Welfare, are null and void and of no effect to the extent the Regulations prohibit or restrict shipment to, or receipt or dispensing by, any duly licensed pharmacy of methadone for analgesic use, for the reason that neither the foregoing nor any other statutory provisions impose or authorize the imposition of any such prohibition or restriction.

2. That the notice of proposed withdrawal of approval and opportunity for hearing (hereafter "the Notice") published at 37 FR 26807 (December 15, 1972) and issued by the defendant Commissioner of Food and Drugs with respect to New Drug Applications for methadone, is null and void and of no effect to the extent the Notice (a) alleged a lack of substantial evidence of safety or effectiveness for the then-existing conditions of use by reason of the failure of the conditions of use prescribed, recommended and suggested in the labeling of the drugs covered by such New Drug Applications to conform to the provisions of the Regulations declared, adjudged and ordered in Paragraph 1 above to be null and void and of no effect, and (b) invited submission of supplemental New Drug Applications conforming to such provisions of the Regulations; and that all Orders of the defendant Commissioner of Food and Drugs approving supplemental New Drug Applications for such drugs (hereafter "the Orders") are null and void and of no effect to the extent such supplemental Applications conform to such provisions of the Regulations, all for the reason that the Notice and the Orders were issued for the purpose of implementing, and as corollaries to, the invalid Regulations and are inextricably united thereto.

3. That defendants and all persons acting under their direction and authority or in active concert or participation with them are permanently enjoined from enforcing, attempting to enforce, or taking or attempting to take any action in reliance upon the Regulations, the Notice or the Orders to the extent they are null and void and of no effect as set forth in this Judgment.

4. That the provisions of this Judgment are hereby stayed until the expiration of the time for filing a notice of appeal, if no such notice is duly filed within such time; or, if such a notice is duly filed, until the expiration of the time for docketing the appeal, and if an appeal is timely docketed, until receipt by this Court of the mandate of the Court of Appeals.

Dated: 23 July, 1974.

J. H. PRATT,
U.S. District Judge.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505 and 701(a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a))), the Public Health Service Act (sec. 303(a), 70 Stat. 929 as amended (42 U.S.C. 242a(a))), and the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241 (42 U.S.C. 257a)), and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Subchapter D of Title 21, Code of Federal Regulations, is amended in Part 310 as follows:

1. In § 310.304, paragraph (b) is revised to read as follows:

§ 310.304 Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports.

* * * * *

(b) *Methadone.* Methadone may be used as an analgesic in severe pain, for the detoxification of narcotic addicts, and as an oral substitute for heroin or other morphine-like drugs, in the maintenance treatment of narcotic addicts, pursuant to the conditions established in § 310.505. Further data and information are required to establish the safety and effectiveness of methadone under a variety of conditions during widespread and long-term use. In view of the tremendous public health and social problems associated with the use of heroin, the demonstrated usefulness of methadone in treatment, the lack of a safe and effective alternative drug or treatment modality, the need for additional safety and effectiveness data on methadone for narcotic addict treatment and the danger to health that could be created by uncontrolled distribution and use of methadone for narcotic addict treatment, the Commissioner of Food and Drugs finds that it is not in the public interest either to withhold the drug from the market until it has been proved safe and effective under all conditions of use for narcotic addict treatment or to grant full approval for unrestricted distribution, prescription, dispensing, or administration of methadone for this use. The Commissioner therefore concludes that it is essential to the public interest to prescribe detailed conditions for safe and effective use of methadone for narcotic addict treatment, utilizing the IND and NDA control mechanisms and the authority granted under the Comprehensive Drug Abuse Prevention and Control Act of 1970, to assure that the required additional information for assessing the safety and effectiveness of methadone is obtained, to maintain close control over the safe distribution, administration, and dispensing of the drug, and to detail responsibilities for such control. The conditions established in § 310.505 constitute a determination of the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts with respect to the use of methadone, pursuant to section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

2. In § 310.505, paragraphs (b)(4), (f), (h)(1), (i)(2), (j) (1) and (2), and (k)(5) are revised to read as follows:

§ 310.505 Conditions for use of methadone.

* * * * *

(b) * * *

(4) *Prohibition against unapproved use of methadone.* No individual, practitioner, organization, or legal entity, may prescribe, administer, or dispense methadone for narcotic addict treatment without prior approval by the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section, unless specifically exempted by this section.

* * * * * *

(f) *Conditions for use of methadone in hospitals for detoxification and for temporary maintenance treatment*—(1) *Form.* The drug may be administered or dispensed in either oral or parenteral form.

(2) *Use of methadone in hospitals*—(i) *Approved uses.* Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay or whose enrollment in a program which has approval for maintenance treatment using methadone has been verified. Any hospital which already has received approval under this paragraph (f) may be permitted to serve as a temporary methadone treatment program when an approved methadone treatment program has been terminated and there is no other facility immediately available in the area to provide methadone treatment for the patients. The Food and Drug Administration may give this approval upon the request of the State authority or the hospital, when no State authority has been established.

(ii) *Individual responsible for supplies.* The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone for narcotic addict treatment shall be submitted to the Food and Drug Administration and the State authority. Individuals not authorized by Federal or State law shall not receive supplies of methadone.

(iii) *General description.* A general description of the hospital including the number of beds, specialized treatment facilities for drug dependence, and nature of patient care undertaken shall be submitted.

(iv) *Anticipated quantity of drug needed.* The anticipated quantity of methadone for narcotic addict treatment needed per year shall be submitted.

(v) *Records.* The hospital shall maintain accurate records showing dates, quantity, and batch or code marks of the drug used for inpatient treatment. The records shall be retained for a period of 3 years.

(vi) *Inspections.* The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential except (*a*) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (*b*) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (*c*) when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of Part 1401 of this title shall be followed. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(vii) *Approval of hospital pharmacy.* Application for a hospital pharmacy to provide methadone for detoxification and temporary treatment will be submitted to the Food and Drug Administration and the State authority and shall receive approval from both, except as provided for in paragraph (h)(5) of this section. Within 60 days after receipt of the application by the Food and Drug Administration, the applicant will receive notification of approval or denial or a request for additional information, when necessary.

(viii) *Approval of shipments to hospital pharmacies.* Before a hospital pharmacy may lawfully receive shipments of methadone for detoxification or temporary maintenance treatment, a responsible hospital official shall complete, sign, and file in triplicate with the Food and Drug Administration and the State authority Form FD–2636, "Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment" set forth in paragraph (k)(5) of this section and shall receive a notice of approval thereof from the Food and Drug Administration.

(ix) *Sanctions.* Failure to abide by the requirements described in this section may result in revocation of approval to receive shipments of methadone for narcotic addict treatment, seizure of the drug supply on hand, injunction, and criminal prosecution.

(h) * * *

(1) Complete or partial denial or revocation of approval of an application to receive shipments of methadone (Forms FD–2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD–2636 "Hospital Request for Methadone for Detoxification and Maintenance Treatment") may be proposed to the Commissioner of Food and Drugs by the Director of the Food and Drug Administration's Bureau of Drugs, on his own initiative or at the request of representatives of the Drug Enforcement Administration, Department of Justice, National Institute of Mental Health, the State authority, or any other interested person.

* * * * *

(i) * * *

(2) *Persons responsible for administering or dispensing methadone.* If a person responsible for administering or

dispensing methadone for narcotic addict treatment fails to abide by all the requirements set forth in these regulations, criminal prosecution may be instituted against him, his drug supply may be seized, the approval of the program may be revoked, and an injunction may be granted precluding operation of the program.

(j) *Requirements for distribution by manufacturers of methadone for narcotic addict treatment*—(1) *Distribution requirements.* Shipments of methadone for narcotic addict treatment are restricted to direct shipments by manufacturers of methadone to approved treatment programs using methadone and to approved hospital pharmacies. If requested by a manufacturer or State authority, wholesale pharmacy outlets in some regions or States may be authorized to stock methadone for narcotic addict treatment for that area and then trans-ship the drug to approved methadone treatment programs and approved hospital pharmacies. Alternative methods of distribution will be permitted if they are approved by the Food and Drug Administration and the State authority. Prior to any approval of an alternative method of distribution there will be consultation with the Drug Enforcement Administration, Department of Justice, to assure compliance with its regulations regarding controlled substance distribution.

(2) *Information regarding approved programs and hospitals.* The Food and Drug Administration will provide methadone manufacturers and the public with names and locations of programs and hospitials that have been approved to receive shipments of methadone for narcotic addict treatment. All information contained in the forms set out in paragraph (k) of this section is available for public disclosure except for names or other identifying information with respect to patients.

* * * * *

(k) * * *

(5) *Hospital application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD-2636 Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment

Name of hospital _____
Address _____

Commissioner,
Food and Drug Administration,
Bureau of Drugs (HFD-106),
Rockville, MD 20852.

DEAR SIR: As hospital administrator, I submit this request for approval to receive supplies of methadone to be used for detoxification and maintenance treatment in accord with § 310.505 of the new drug regulations. I understand that the failure to abide by the requirements described below may result in revocation of approval to receive shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

I. The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone is _____.

II. There are a total of _____ beds in the hospital.

III. A general description of the hospital and nature of patient care undertaken is attached.

IV. The anticipated quantity of methadone needed for narcotic addict treatment per year is _____ (Gms.).

V. Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay whose enrollment in a program which has approval for maintenance treatment using methadone has been verified.

VI. Accurate records shall be maintained showing dates, quantity, and batch or code marks of the drug for inpatient treatment. The records shall be retained for a period of 3 years.

VII. The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential (except when it is necessary to make follow-up investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of 21 CFR Part 1401 shall be followed.

Signature _____
(Hospital official)

Effective date: These regulations shall be effective July 9, 1976.

(Secs. 505, 701(a), Pub. L. 717, 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371 (a)); sec. 303(a), Pub. L. 410, 70 Stat. 929 as amended (42 U.S.C. 242a(a)); sec. 4, Pub. L. 91–513, 84 Stat. 1241 (42 U.S.C. 257a).)

Dated: July 6, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76–19957 Filed 7–8–76;8:45 am]

PART 510—NEW ANIMAL DRUGS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Dichlorophene and Toluene Capsules

The Food and Drug Administration has evaluated the new animal drug applications (101–497, 101–498V) filed by Lambert Kay, Division of Carter-Wallace, Inc., Half Acre Rd., P.O. Box 418, Cranberry, NJ 08512, proposing the safe and effective use of dichlorophene and toluene capsules in dogs and cats for treating certain helminth infections. The applications are approved, effective July 9, 1976.

The Commissioner is amending Parts 510 and 520 to reflect these approvals.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1) recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Parts 510 and 520 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
Lambert Kay, A Division of Carter-Wallace, Inc., P.O. Box 418, ½ Acre Rd., Cranberry, N.J. 08512	011614
* * * * *	

(2) * * *

Drug listing No.	*Firm name and address*
* * * * *	
011614	Lambert Kay, a Division of Carter-Wallace, Inc., P.O. Box 418, ½ Acre Rd., Cranberry, N.J. 08512.
* * * * *	

2. In Part 520, § 520.580 is amended by adding, in sequence, an additional sponsor number "011614" to paragraph (c)(1); paragraph (c)(1) is thus revised to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

* * * * *

(c)(1) *Sponsor.* Nos. 000010, 000856, 010290, 011519, 011536, and 011614 in § 510.600(c) of this chapter.

* * * * *

Effective date: This amendment shall be effective July 9, 1976.

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

Dated: July 1, 1976.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.76–19838 Filed 7–8–76;8:45 am]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Diethylcarbamazine Citrate Syrup

The Food and Drug Administration approves supplemental new animal drug

application 92-837V filed by Hart-Delta, Inc., 5055 Choctaw Drive, Baton Rouge, LA 70805, proposing safe and effective use of diethylcarbamazine citrate syrup in dogs for the prevention of heartworm disease caused by *Dirofilaria immitis*. The approval is effective July 9, 1976.

The Commissioner of Food and Drugs is amending Part 520 (21 CFR Part 520) to reflect this approval.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.28) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 520 is amended in § 520.622b by revising paragraph (c)(3) (i) and (ii) to read as follows:

§ 520.622b Diethylcarbamazine citrate syrup.

* * * * *

(c) * * *

(3) *Conditions of use.* (i) The drug is used in dogs between 4 weeks and 8 months of age for the removal of ascarids (*Toxacara canis*) and in animals over 4 weeks of age for the prevention of heartworm disease (*Dirofilaria immitis*).

(ii) The drug is administered (*a*) for removal of ascarids at a dosage of 50 milligrams per pound of body weight divided into two equal doses and administered 8 to 12 hours apart (morning and night), orally or mixed with either dry or wet food, and (*b*) for prevention of heartworm disease at a dosage of 3 milligrams per pound of body weight daily, orally or in food, in heartworm endemic areas, from the beginning of mosquito activity, during the mosquito season, and for 2 months following the end thereof.

* * * * *

Effective date: This regulation shall become effective July 9, 1976.

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

Dated: June 30, 1976.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.76-19837 Filed 7-8-76;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Dexamethasone Injection

The Food and Drug Administration approves two new animal drug applications (99-605V, 99-606V) filed by Anthony Veterinary Products Co., 11634 McBean Dr., El Monte, CA 91732, proposing safe and effective use of dexamethasone injection in the treatment of dogs for inflammatory conditions, supportive therapy in canine posterior paresis, supportive therapy before or after surgery, and supportive therapy in nonspecific dermatosis. The approvals are effective July 9, 1976.

The Commissioner of Food and Drugs is amending Part 522 (21 CFR Part 522) to reflect these approvals.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 522.540 is amended by revising the section heading, by redesignating the existing text as paragraph (a), and by adding a new paragraph (b). As revised, § 522.540 reads as follows:

§ 522.540 Dexamethasone injection.

(a)(1) *Specifications.* The drug is a sterile aqueous solution. Each milliliter contains 2 mg of dexamethasone.

(2) *Sponsor.* See Nos. 000085 and 010271 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) The drug is indicated for the treatment of primary bovine ketosis and as an anti-inflammatory agent in dogs, cats, cattle, and horses.

(ii) The drug is administered intravenously or intramuscularly and dosage may be repeated if necessary, as follows:

(*a*) Canine—0.25 to 1 mg.
(*b*) Feline—0.125 to 0.5 mg.
(*c*) Equine—2.5 to 5 mg.
(*d*) Bovine—5 to 20 mg depending on the severity of the condition.

(iii) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* The drug is a sterile aqueous solution. Each milliliter contains either 2.0 milligrams of dexamethasone or 4.0 milligrams of dexamethasone sodium phosphate (equivalent to 3.0 milligrams dexamethasone).

(2) *Sponsor.* See No. 000864 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) The drug is used in dogs for the treatment of inflammatory conditions, as supportive therapy in canine posterior paresis, as supportive therapy before or after surgery to enhance recovery of poor surgical risks, and as supportive therapy in nonspecific dermatosis.

(ii) The drug is administered intravenously at 0.25 to 1 milligram initially. The dose may be repeated for 3 to 5 days or until a response is noted. If continued treatment is required, oral therapy may be substituted. When therapy is withdrawn after prolonged use, the daily dose should be reduced gradually over several days.

(iii) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: This regulation shall become effective July 9, 1976.

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

Dated: July 1, 1976.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.76-19839 Filed 7-8-76;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Xylazine Hydrochloride Injection; Correction

In FR Doc. 73-4665 appearing at page 6669 in the FEDERAL REGISTER of March 12, 1973 and in FR Doc. 75-7951 appearing at page 13873 in the FEDERAL REGISTER of March 27, 1975, the dosage of xylazine hydrochloride injection and the concentration of xylazine solution were improperly stated. This correction reestablishes the proper dosage and concentration. In Part 522, § 522.2662(c)(2)(i) and the first sentence of paragraph (c)(2)(ii) are corrected to read as follows:

§ 522.2662 Xylazine hydrochloride injection.

* * * * *

(c) * * *

(2) * * *

(i) To horses from a solution containing 100 milligrams of xylazine per milliliter, intravenously at 0.5 milligram per pound of body weight, or intramuscularly at 1.0 milligrams per pound of body weight.

(ii) To dogs and cats from a solution containing 20 milligrams of xylazine per milliliter; intravenously at 0.5 milligram per pound of body weight or intramus-

cularly or subcutaneously at 1.0 milligram per pound of body weight. * * *

* * * * *

Dated: July 1, 1976.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.76-19840 Filed 7-8-76;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Flathead Irrigation Project

JUNE 29, 1976.

These final regulations are issued under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by sections 463 and 465 of the Revised Statutes (25 U.S.C. 301; 25 U.S.C. 2 and 9).

On page 18676 of the FEDERAL REGISTER of May 6, 1976, there was published a notice of intention to amend §§ 221.24, 221.26, and 221.28 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Montana, that are subject to the jurisdiction of the several irrigation districts. The purpose of the amendments is to establish the lump sum assessment against the Flathead, Mission and Jocko Valley Irrigation Districts within the Flathead Indian Irrigation Project for the 1977 season.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendments. No comments, suggestions or objections have been received, and the proposed amendments are hereby adopted without change as set forth below.

Effective date: These regulations shall become effective August 9, 1976.

Sections 221.24, 221.26, and 221.28 are revised to read as follows:

§ 221.24 Charges.

Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1977 an assessment of $424,210.24 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 87,466.03 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 Charges.

Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, and June 6, 1936, and May 16, 1951, there is hereby fixed, for the season of 1977 an assessment of $93,889.16 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 16,243.80 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 Charges.

Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1931, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, April 18, 1950, and August 24, 1967, there is hereby fixed for the season of 1977 an assessment of $41,540.37 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 7,471.29 acres, which does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

GEORGE L. MOON,
Project Engineer.

[FR Doc.76-19905 Filed 7-8-76;8:45 am]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

Miscellaneous Amendments

Correction

In FR Doc. 76-16799 appearing on page 23612 in the issue for Thursday, June 10, 1976 make the following changes:

1. On page 23613 in § 55.9, the 1st entry of the 19th line from the bottom of column 1 should read "Outside * * *"

2. On the same page and also in § 55.9, column 2, the figure in the last line of the paragraph numbered 19 should read "55.9-86 * * *"

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL, CRUSHED STONE OPERATIONS

Miscellaneous Amendments

Correction

In FR Doc. 76-16800 appearing on page 23613 in the issue of Thursday, June 10, 1976 make the following change:

On page 23614 in column 2, the 6th line under § 56.4 should read:

"(a) Of the appropriate type for the particu- * * *"

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

Miscellaneous Amendments

Correction

In FR Doc. 76-16801 appearing on page 23615 in the issue of Thursday, June 10, 1976 make the following changes:

1. On page 23616 in § 57.5, the number designation in the 8th line from the bottom of column 3 should read "57.5-32".

2. On page 23617 in § 57.5, the 9th line of column 1 should read: "to air containing concentrations of radon * * *"

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-593; Docket No. 20580]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCASTING, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Power Limitations on Television Translator Stations

1. On August 20, 1975, the Commission released a notice of proposed rule making in Docket No. 20580 (FCC 75-969), proposing to amend § 74.735 of the rules, relating to the power limitations applicable to television translator stations. The present rules allow the use of multiple output amplifiers with VHF translators of less than 100 watts transmitter output power, but not with UHF translators. A multiple output amplifier may be used, for example, with a 10-watt VHF translator station, using up to four separate antennas to transmit the signals of the translator in four different directions in such manner that the power being fed into each antenna will not exceed 10 watts. This enables a single VHF translator, using one frequency, to serve up to four different communities or areas instead of using four different translators, each using a different frequency. The advantages of this technique are obvious in terms of cost savings, frequency conservation, mechanical and electronic simplicity, and public convenience. As we observed in the Notice, supra, the use of multiple output amplifiers has been limited to VHF translators, but for no apparent reason. Since the reasons which support the use of multiple

output amplifiers with VHF translators apply with greater urgency to the more expensive and more complex UHF translators, we proposed to amend the rules to allow this use.

2. The rule changes would not affect translators operating on channels listed in the Television Table of Assignments (§ 73.606(b) of the rules). This is because translators operating on listed channels are expected to serve the community to which the channel is assigned; the "15-mile rule" (§ 73.607(b) of the rules) does not apply to translators operating on listed channels, except 1,000-watt UHF translators. If coverage is desired beyond the city to which the channel is assigned, an omnidirectional antenna may be used. The changes, therefore, apply only to UHF translators of 100 watts or less, transmitter output power, operating on channels not listed in the Table of Assignments.

3. Five comments were received in response to our Notice, all in support.[1] No reply comments were received. One comment, filed by Television Technology Corporation, suggested cosmetic changes in the wording or arrangement of the proposed new rule. Departures from proposed wording, unless based on substantive reasons, often cause parties to attribute unwarranted significance to the changes. We will, therefore, adopt the new rules as proposed.

4. In view of the foregoing, we find that adoption of the changes as proposed would serve the public interest, convenience and necessity. Accordingly, *it is ordered*, That, effective August 9, 1976, the rule amendments contained below, are adopted and this proceeding is terminated.

5. Authority for this action may be found in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

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

Adopted: June 24, 1976.

Released: July 2, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 74.735, paragraphs (a) and (b) are amended to read as follows:

§ 74.735 Power limitation.

(a) The power output of the final radiofrequency amplifier of a VHF translator (except as provided for in paragraph (d) of this section) shall not exceed 1 watt peak visual power if serving areas or communities east of the Mississippi River or 10 watts if serving areas or communities west of the Mississippi River or in Alaska or Hawaii. A UHF translator shall be limited (except as provided for in paragraph (e) of this section) to a maximum of 100 watts peak visual power. In no event shall the transmitting apparatus be operated with power output in excess of the manufacturer's rating. The power output of the final radio amplifier of a VHF or UHF translator may be fed into a single transmitting antenna or may be divided between two or more transmitting antennas or antenna arrays in any manner found useful or desirable by the licensee.

(b) In individual cases, the Commission may authorize the use of more than one final radio frequency amplifier at a single VHF or UHF translator station (except those stations operating on channels listed in the Television Table of Assignments), under the following conditions:

(1) Each such amplifier shall be used to serve a different community or area. More than one final radiofrequency amplifier will not be authorized to provide service to all or a part of the same community or area.

(2) Each final radiofrequency amplifier shall feed a separate transmitting antenna or antenna array. The transmitting antennas or antenna arrays shall be so designed and installed that the outputs of the separate radiofrequency amplifiers will not combine to reinforce the signals radiated by the separate antennas or otherwise achieve the effect of radiated power in any direction in excess of that which could be obtained with a single antenna of the same design fed by a radiofrequency amplifier with power output no greater than that authorized pursuant to paragraph (a) of this section.

(3) A translator employing multiple final radiofrequency amplifiers will be licensed as a single station. The separate final radiofrequency amplifiers will not be licensed to different licensees.

* * * * *

[FR Doc.76-20016 Filed 7-8-76;8:45 am]

[1] Comments were filed by Boise Valley Broadcasters, Inc. (KBCI-TV, Boise, Idaho); the National Translator Association; Cornhusker Television Corporation (KOLN-TV, Lincoln, Nebraska, and KGIN-TV, Grand Island, Nebraska); Television Technology Corporation; and The Post Corporation.

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. MC-62; Notice No. 76-16]

PART 325—COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

Final Regulations on Compliance With Standards; Correction

• *Purpose:* This document corrects 49 CFR 325.35 and the previous amendments to 49 CFR 325.55 by correcting a section reference, adding a paragraph that was inadvertently omitted, and correcting the authority citation for the amendment. •

The FR Doc. 75-24086 appearing at page 42439 in the FEDERAL REGISTER of Friday, September 12, 1975, 49 CFR 325.35(a)(2), incorrectly refers to Table 1 as being in § 325.9 instead of the correct reference to § 325.7. This change corrects the error.

In FR Doc. 76-6775 appearing at page 10227 in the FEDERAL REGISTER of Wednesday, March 10, 1976, the publication of § 325.55(a)(2) was inadvertently omitted. In the same document, the authority was incorrectly stated as 47 U.S.C. 4917 instead of the correct citation of 42 U.S.C. 4917. This change corrects these errors.

Since these changes relate only to corrections and do not affect substantive rights or liabilities, notice and public comment are unnecessary. As such, the amendment is effective on the date of issuance.

In consideration of the foregoing, FR Doc. 75-24086, appearing at page 42439 in the FEDERAL REGISTER of Friday, September 12, 1975, 49 CFR 325.35(a)(2), and FR Doc. 76-6775 appearing at page 10227 in the FEDERAL REGISTER of Wednesday, March 10, 1976, paragraph (a) of § 325.55 are corrected as follows:

§ 325.35 [Amended]

1. FR Doc. 75-24086 appearing at page 42439 in the FEDERAL REGISTER of Friday, September 12, 1975, 49 CFR 325.35(a)(2), is corrected to reference Table 1 in § 325.7.

2. In FR Doc. 76-6775, appearing at page 10227 of the FEDERAL REGISTER of Wednesday, March 10, 1976, paragraph (a), is corrected to read as follows:

§ 325.55 Ambient conditions; stationary test.

(a)(1) *Sound.* The ambient A-weighed sound level at the microphone location point shall be measured, in the absence of motor vehicle noise eminating from within the clear zone, with fast meter response using a sound level measurement system that conforms to the rules of § 325.23 of this part.

(2) The measured ambient level must be 10 dB(A) or more below that level specified in § 325.7, Table 1, which corresponds to the maximum permissible sound level reading which is applicable at the test site at the time of testing.

* * * * *

3. In FR Doc. *76-6775*, appearing at page 10227 in the FEDERAL REGISTER of Wednesday, March 10, 1976, the citation of authority is amended to read as follows:

(Sec. 18, Pub. L. 92-574, 86 Stat. 1234, 1249-50, (42 U.S.C. 4917) and the delegations of authority at 49 CFR 1.48(p) and 301.60).

Dated: June 30, 1976.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-19856 Filed 7-8-76;8:45 am]

[Docket No. MC-22; Notice No. 76-13]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Vehicle Interior Noise Levels

• *Purpose:* The purpose of this amendment is to permit those vehicles equipped with fan clutches a "cool down" period prior to being tested for interior noise levels. •

Background. On April 17, 1975, Horton Industries, Inc., (Horton) requested that an interpretation of § 393.94 (49 CFR 393.94) be issued on the question of whether or not thermostatically controlled radiator fan clutches (hereinafter referred to as fan clutches) would be allowed the same exemption from interior noise inspections that had been proposed for exterior noise emission inspections. At that time, the exterior noise emission compliance regulations had not been finalized. The February 28, 1975, notice of proposed rulemaking (NPRM) on the subject had merely proposed that fan clutch equipped vehicles be allowed a "cool down" period prior to testing.

Horton was informed at that time, that it would not be possible to address their request satisfactorily until final action was taken on the exterior noise emission compliance regulations. Those regulations were published on September 12, 1975 (40 FR 42432) and did include a "cool down" provision for fan clutch equipped vehicles. Accordingly, action can now be taken to include that provision in the interior noise level test procedure.

As stated in the preamble to both the NPRM (40 FR 8658, February 28, 1976), and the final rule on the Interstate Motor Carrier Noise Emission Compliance Regulations, fan clutches have been identified as a device that represents "available technology" that can be applied to a truck to reduce its noise emissions. Interior noise level reductions are likewise, possible through the use of fan clutches. Further, the "cool down" provision was included only for the stationary test procedure since that test was likely to create conditions that would cause the fan clutch to engage, thus potentially causing the vehicle to fail a test that it could otherwise successfully pass. The interior noise level test procedures are very similar to the stationary exterior noise emission test procedures.

It appears logical that the same potential inequity could result during interior noise level inspections if a fan clutch "cool down" provision is not included for that test procedure. Accordingly, § 393.94 of the Federal Motor Carrier Safety Regulations is being amended to allow the same "cool down" provision that currently is contained in § 325.59 of the Interstate Motor Carrier Noise Emission Compliance Regulations.

The change detailed herein does not constitute a major change to the regulations contained in § 393.94. Rather it serves to broaden and make consistent the compliance policy relative to fan clutch equipped vehicles. As such, the change does not increase or decrease the stringency of the regulation as it is presently published.

Accordingly, since this amendment does not impose additional burden on any person, notice and public procedures thereon are unnecessary and the change noted herein is effective on the date of issuance as set forth below.

In consideration of the foregoing, Subchapter B of Chapter III of Title 49, CFR is amended b yadding a new paragraph § 393.94(c)(10) as set forth below:

§ 393.94 Vehicle interior noise levels.

* * * * *

(c) * * *

(10) If the motor vehicle's engine radiator fan drive is equipped with a clutch or similar device that automatically either reduces the rotational speed of the fan or completely disengages the fan from its power source in response to reduced engine cooling loads the vehicle may be parked before testing with its engine running at high idle or any other speed the operator may choose, for sufficient time but not more than 10 minutes, to permit the engine radiator fan to automatically disengage.

* * * * *

This regulation is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 49 CFR 301.60, respectively.

Issued on June 25, 1976.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-19857 Filed 7-8-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-956, Amdt. 22]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of Reporting Requirements for Form 41 New Schedule P-13 "Passenger Revenue and Traffic Data by Type of Fare—48-States"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. May 10, 1976.

In a notice of proposed rulemaking, dated October 24, 1975 (EDR-289, 40 FR 50727, October 31, 1975), the Board proposed to establish a new Schedule P-13, "Passenger Revenue and Traffic Data by Type of Fare—48-States," as part of the CAB Form 41 report. The schedule was designed to provide the Board with the necessary data for monitoring the 48-State fare level, in light of the fare level policy adopted in Phase 5 of the Domestic Passenger-Fare Investigation (DPFI) and for monitoring the results of particular discount fares.

Pursuant to the subject notice, timely comments were received from the following air carriers: Northwest Airlines, Inc., Air New England, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Trans World Airlines, Inc. and Western Air Lines, Inc.

A majority of the responses received supported the proposed rule, either completely or partially. Some comments maintained that certain information is either of no concern to the Board or too difficult to obtain and that the proposed reporting requirements are too strict.

Upon full consideration of the relevant matter contained in the comments, we have decided to adopt the rule substantially as proposed.[1] Therefore, except as modified herein, the tentative findings set forth in the Explanatory Statement to the proposed rule are incorporated by reference and made final.

The following are the most significant modifications to the rule as it was proposed: (1) Changing the title heading of column 6 of the new proposed Schedule P-13 from Average Trip Length (Miles) to Average On-Flight Trip Length (Miles); and (2) modifying the instructions to Schedule P-13 to indicate that statistical sampling techniques may be used, when appropriate, to generate the required data for Schedule P-13. These and other matters will be discussed below.

Some of the respondents expressed concern as to whether or not the statistical sampling techniques used in generating data presently submitted under Phase 5 of the Domestic Passenger-Fare Investigation would be acceptable under the proposed rule. The Board realizes that the volume of source documentation to be analyzed does not lend itself to complete review by all carriers and that statistical sampling therefore has been used as an acceptable alternative. However, care must be exercised in developing a truly representative sample in which the degree of risk as to sample inaccuracy is realistically balanced with the size of the sample. To date, the use of sampling for gathering the information submitted under Phase 5 has not been a source of difficulty for the Board, and we will thus continue to permit the use of such techniques so long as the reporting carriers utilize methods which limit the risk of inaccuracy to an acceptably low level.

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[1] We have also considered the motion to consolidate, filed by Trans International Airlines, Inc. and World Airways, Inc., which sought to consolidate the rulemaking petition in Docket 28563 with this proceeding. The petition in Docket 28563 seeks the imposition of reporting requirements like those established here, but for operations in foreign air transportation. Since that petition thus raises a number of issues not present in this proceeding as originally defined, we will deny the motion to consolidate, and will rather deal with the petition in Docket 28563 separately. We believe that this course of action is preferable in that it will avoid undue delay in the conclusion of this proceeding.

Three of the comments received expressed doubt as to whether the required P–13 data could be submitted in a timely manner. Due to the volume of data needed to be analyzed, the proposed submission date of 30 days after the end of the month was felt by these carriers to be unrealistic. The information provided under Phase 5 of the DPFI (which is essentially the same as the data covered in the proposed rule), is, however, being currently filed 30 days after the end of each month. To date, the Board has not experienced significant delays in the receipt of such reports, and on the whole the reports have been filed in a timely manner.

It may be that these carriers' contentions were based on the theory that sampling techniques would not be permitted to obtain data for the new Schedule P–13. But, in any event, since we have not experienced significant delays in the past, and since the information is needed by the Board as soon as possible after the end of the month in performing its ratemaking function on a timely basis, we have determined not to amend our proposal in this respect, and to require reports 30 days after the end of each month as originally proposed.

Trans World Airlines, Inc., has requested that column 6, "Average Trip Length (Miles)," be deleted from the proposed Schedule P–13 because the information is superfluous and could be misleading. The carrier points out that column 6 will not produce the true average trip length since a passenger might be carried on connecting on-line or interline flights. The data contained in column 6 is needed by the Board for use in various analyses and it will not, therefore, be deleted. We concur, however, in the carrier's suggestion that the proposed title of column 6 could be misleading. Therefore, the title of column 6 will be changed to "Average On-Flight Trip Length (Miles)."

Air New England, Inc., has expressed concern that the adoption of the proposed rule may lead to its later application to other certificated carriers. Since the data to be collected is needed to make determinations which are not relevant to the carrier's present operations, however, it appears that Air New England's concerns are unwarranted.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective August 1, 1976,[2] as follows:

1. Amend Section 22—General Reporting Instructions, as follows:

A. By adding to the "List of Schedules in CAB Form 41 Report" in paragraph (a), new Schedule P–13, "Passenger Revenue and Traffic Data by Type of Fare—48 States," the revised list in pertinent part to read as follows:

* * * * *

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency
*	*	*
P–12(a)	Fuel Consumption by Type of Service and Specific Operational Markets.	Do.
P–13	Passenger Revenue and Traffic Data by Type of Fare—48 States.	Do.
T–1	Traffic and Capacity Statistics by Class of Service	Do.
*	*	*

B. By adding to the list of "Due Dates of Schedules in CAB Form 41 Report" in paragraph (a) new Schedule P–13 as follows:

* * * * *

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date[1]	Schedule No.
Jan. 20	P–12, P–12(a)
Jan. 30	B–1, P–1(a), P–13, T–1, T–2, T–3, T–6, T–7, T–41
Feb. 10[2]	A, B–2, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3 (a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–10, P–11 (a), P–11(b)
Feb. 20	P–12, P–12(a)
Mar. 1	B–1, P–1(a), P–13, T–1, T–7
Mar. 20	P–12, P–12(a)
Mar. 30	A–2, B–1, B–41, B–43, B–44, B–46, P–1(a), P–13, G–41, G–42, G–43, G–44, T–1, T–7
Apr. 20	P–12, P–12(a)
Apr. 30	B–1, P–1(a), P–13, T–1, T–2, T–3, T–6, T–7
May 10	A, B–2, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3 (a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–10, P–11 (a), P–11(b)
May 20	P–12, P–12(a)
May 30	B–1, P–1(a), P–13, T–1, T–7
June 20	P–12, P–12(a)
June 30	B–1, P–1(a), P–13, T–1, T–7
July 20	P–12, P–12(a)
July 30	B–1, P–1(a), P–13, T–1, T–2, T–3, T–6, T–7
Aug. 10	A, A–1, B–2, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3(a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–10, P–11 (a), P–11(b)
Aug. 20	P–12, P–12(a)
Aug. 30	B–1, P–1(a), P–13, T–1, T–7
Sept. 20	P–12, P–12(a)
Sept. 30	B–1, P–1(a), P–13, T–1, T–7
Oct. 20	P–12, P–12(a)
Oct. 30	B–1, P–1(a), P–13, T–1, T–2, T–3, T–6, T–7, T–41
Nov. 10	A, B–2, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3 (a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–10, P–11(a), P–11(b)
Nov. 20	P–12, P–12(a)
Nov. 30	B–1, P–1(a), P–13, T–1, T–7
Dec. 20	P–12, P–12(a)
Dec. 30	B–1, P–1(a), P–13, T–1, T–7

[1] Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

[2] B and P reporting dates are extended to Mar. 30, if preliminary schedules are filed at the Board by Feb. 10.

* * * * *

2. Amend Section 24—Profit and Loss Elements by inserting, following the reporting instructions for Schedule P–12 (a), reporting instructions for new Schedule P–13, to read as follows:

* * * * *

SCHEDULE P–13—PASSENGER REVENUE AND TRAFFIC DATA BY TYPE OF FARE—48 STATES

(a) This schedule shall be filed monthly by all domestic trunk air carriers. The applicable trunk air carriers are the certificated route air carriers identified in section 04 of this part.

(b) A single copy (original only) of this schedule shall be filed to report revenue and traffic data by type of fare on a 48-State basis as a supplement to the domestic entity report.

(c) The appropriate data required in columns 2 through 6 shall be reported for each type of fare listed in column 1. Data shall also be separately identified and reported on this schedule for (1) any other type of fare reported on line 10 amounting to five percent or more of total revenue passenger-miles; and (2) any fare for which monthly reports are specifically required by Board order. Statistical sampling may be used, where appropriate, as a method for generating the data required for this schedule.

(d) Column 2 shall report the total revenue passenger-miles for each fare category on a 48-State basis.

(e) Column 3 shall report the total passenger revenue for each fare category on a 48-State basis.

(f) Column 4 shall report the revenue passenger yield for each fare category determined by dividing the amounts reported in column 3 by the related amounts reported in column 2.

(g) Column 5 shall report the number of revenue passenger enplanements for each fare category on a 48-State basis.

(h) Column 6 shall report the average on-flight passenger trip length for each fare category determined by dividing the amounts reported in column 2 by the related amounts reported in column 5.

* * * * *

3. Amend CAB Form 41 by adding new Schedule P–13, as shown in Exhibit A, attached hereto and made a part hereof.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, as amended, 49 U.S.C. 1324(a) and 1377.)

By the Civil Aeronautics Board.

Effective: August 1, 1976.

Adopted: May 10, 1976.

PHYLLIS T. KAYLOR,
Acting Secretary.

[2] This rule is being made effective August 1, 1976, so that it will be applicable to reports due September 30, 1976, for the month of August 1976. Since the reporting carriers are already collecting this data for the reports ordered in the Domestic Passenger-Fare Investigation, a longer time period for achieving compliance need not be allowed.

PASSENGER REVENUE AND TRAFFIC DATA
BY TYPE OF FARE--48 STATES

Type of Fare	Revenue Passenger-Miles (000)	Passenger Revenue ($000)	Passenger Yield (¢)	Revenue Passenger Enplanements (No.)	Average On-Flight Trip Length (Miles)
(1)	(2)	(3)	(4)	(5)	(6)
Coach					
1. Full					
2. Economy/Commuter					
3. Night Coach					
4. Military Reservation					
5. Children's Fares					
Group Fares:					
6. Tour Based					
7. Other					
Excursion Fares:					
8. Tour Based					
9. Other					
10. Other Discount 1/					
Total					
First Class					
12. Full					
13. Deluxe Night Coach					
14. Children's Fares					
15. Other					
Total					
Grand Total					

EXHIBIT A
Approved by GAO
B-180226 (R0383)
Expires 9-30-76

1/ Report separately for (1) any other type of fare amounting to five percent or more of total revenue passenger-miles; and (2) any fare for which monthly reports are specifically required by Board order.

Schedule P-13

CAB Form 41

[FR Doc.76-19890 Filed 7-8-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C—CIVIL RIGHTS

PART 230—EXTERNAL PROGRAMS

Equal Employment Opportunity Programs; State Highway Agency Responsibilities

● *Purpose.* The purpose of this document is to set forth State highway agency responsibilities relative to its internal and external equal employment opportunity programs. ●

The Federal-Aid Highway Program Manual is being amended to include a directive (Volume 2, Chapter 2, Section 2) setting forth responsibilities with regard to a State highway agency's internal equal opportunity program and the State highway agency's program for assuring compliance with the equal employment opportunity requirements of Federal-aid highway construction contracts. Those portions of the Manual addition which impose requirements on recipients in order to qualify for Federal aid are hereby published.

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

Effective date: July 26, 1976.

Issued on June 29, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

23 CFR, Chapter I is amended by adding a new Subpart C to Part 230, reading at follows:

Subpart C—State Highway Agency Equal Employment Opportunity Programs

Sec.
230.301 Purpose.
230.303 Applicability.
230.305 Definitions.
230.307 Policy.
230.309 Program format.
230.311 State responsibilities.
230.313 Approval procedure.

APPENDIX A—STATE HIGHWAY AGENCY EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

AUTHORITY: 23 U.S.C. 140(a), 315; E.O. 11246; 41 CFR 60-1; 49 CFR 1.48.

Subpart C—State Highway Agency Equal Employment Opportunity Programs

§ 230.301 Purpose.

The purpose of the regulations in this subpart is to set forth Federal Highway Administration (FHWA) Federal-aid policy and FHWA and State responsibilities relative to a State highway agency's internal equal employment opportunity program and for assuring compliance with the equal employment opportunity requirements of federally-assisted highway construction contracts.

§ 230.303 Applicability.

The provisions of this subpart are applicable to all States that receive Federal financial assistance in connection with the Federal-aid highway program.

§ 230.305 Definitions.

As used in this subpart, the following definitions apply:

(a) "Affirmative Action Plan" means:

(1) With regard to State highway agency work forces, a written document detailing the positive action steps the State highway agency will take to assure internal equal employment opportunity (internal plan).

(2) With regard to Federal-aid construction contract work forces, the Federal equal employment opportunity bid conditions, to be enforced by a State highway agency in the plan areas established by the Secretary of Labor and FHWA special provisions in nonplan areas (external plan).

(b) "Equal employment opportunity program" means the total State highway agency program, including the affirmative action plans, for ensuring compliance with Federal requirements both in State highway agency internal employment and in employment on Federal-aid construction projects.

(c) Minority Groups—An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging. As defined by U.S. Federal agencies for employment purposes, minority group persons in the U.S. are identified as Black Americans, Spanish-surnamed Americans, American Indians, Asian Americans, Aleuts and Eskimos.

(d) Racial/Ethnic Identification—For the purpose of this regulation and any accompanying report requirements, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one racial/ethnic category. The following group categories will be used:

(1) The category "White": persons of Indo-European descent, including Pakistani and East Indian.

(2) The category "Black": persons of African descent as well as those identified as Jamaican, Trinidadian, and West Indian.

(3) The category "Spanish Surnamed": all persons of Mexican, Puerto Rican, Cuban, Latin American or Spanish descent.

(4) The category "American Indian": persons who identify themselves or are known as such by virtue of tribal association.

(5) The category "Asian American": persons of Japanese, Chinese, Korean, or Filipino descent.

(6) The category "Other": Aleuts, Eskimos, Malayans, Thais and others not covered by the specific categories listed above.

(e) "State" means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(f) "State highway agency" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" should be considered equivalent to "State highway agency" if the context so implies.

§ 230.307 Policy.

Every employee and representative of State highway agencies shall perform all official equal employment opportunity actions in an affirmative manner, and in full accord with applicable statutes, executive orders, regulations, and policies enunciated thereunder, to assure the equality of employment opportunity, without regard to race, color, religion, sex, or national origin both in its own work force and in the work forces of contractors, subcontractors, and material suppliers engaged in the performance of Federal-aid highway construction contracts.

§ 230.309 Program format.

It is essential that a standardized Federal approach be taken in assisting the States in development and implementation of EEO programs. The format set forth in Appendix A provides that standardized approach. State equal employment opportunity programs that meet or exceed the prescribed standards will comply with basic FHWA requirements.

§ 230.311 State responsibilities.

(a) Each State highway agency shall prepare and submit an updated equal employment opportunity program, one year from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. The program shall consist of the following elements:

(1) The collection and analysis of internal employment data for its entire work force in the manner prescribed in Part II, Paragraph III of Appendix A; and

(2) The equal employment opportunity program, including the internal affirmative action plan, in the format and manner set forth in Appendix A.

(b) In preparation of the program required by § 230.311(a), the State highway agency shall consider and respond to written comments from FHWA regarding the preceding program.

§ 230.313 Approval procedure.

After reviewing the State highway agency equal employment opportunity program and the summary analysis and recommendations from the FHWA regional office, the Washington Headquarters Office of Civil Rights staff will recommend approval or disapproval of the program to the Federal Highway Administrator. The State highway agency will be advised of the Administrator's decision. Each program approval is effective for a period of one year from date of approval.

APPENDIX A

STATE HIGHWAY AGENCY EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Each State highway agency's (SHA) equal employment opportunity (EEO) program shall be in the format set forth herein and shall address Contractor Compliance (Part I) and SHA Internal Employment (Part II), including the organizational structure of the SHA total EEO Program (internal and external).

PART I—CONTRACTOR COMPLIANCE

I. *Organization and structure.* A. *State highway agency EEO Coordinator (External) and staff support.* 1. Describe the organizational location and responsibilities of the State highway agency EEO Coordinator. (Provided organization charts of the State highway agency and of the EEO staff.)

2. Indicate whether full or part-time; if part-time, indicate percentage of time devoted to EEO.

3. Indicate length of time in position, civil rights experience and training, and supervision.

4. Indicate whether compliance program is centralized or decentralized.

5. Identify EEO Coordinator's staff support (full- and part-time) by job title and indicate areas of their responsibilities.

6. Identify any other individuals in the central office having a responsibility for the implementation of this program and describe their respective roles and training received in program area.

B. *District or division personnel.* 1. Describe the responsibilities and duties of any district EEO personnel. Identify to whom they report.

2. Explain whether district EEO personnel are full-time or have other responsibilities such as labor compliance or engineering.

3. Describe training provided for personnel having EEO compliance responsibility.

C. *Project personnel.* Describe the EEO role of project personnel.

II. *Compliance procedures.* A. *Applicable directives.* 1. FHWA Contract Compliance Procedures

2. EEO Special Provisions (FHWA Federal-Aid Highway Program Manual, Vol. 6, Chap. 4, Sec. 1, Subsec. 2, Attachment 1)[1]

3. Training Special Provisions (FHWA Federal-Aid Highway Program Manual, Vol. 6, Chap. 4, Sec. 1, Subsec. 2, Attachment 2)[1]

4. FHWA Federal-Aid Highway Program Manual, Vol. 6, Chap. 4, Sec. 1, Subsec. 6 (Contract Procedures), and Subsec. 8 (Minority Business Enterprise).[1]

B. *Implementation.* 1. Describe process (methods) of incorporating the above FHWA directives into the SHA compliance program.

2. Describe the methods used by the State to familiarize State compliance personnel with all FHWA contract compliance directives. Indicate frequency of work shops, training sessions, etc.

3. Describe the procedure for advising the contractor of the EEO contract requirements at any preconstruction conference held in connection with a Federal-aid contract.

III. *Accomplishments.* Describe accomplishments in the construction EEO compliance program during the past fiscal year.

A. *Regular project compliance review program.* This number should include at least all of the following items:

1. Number of compliance reviews conducted.

2. Number of contractors reviewed.

3. Number of contractors found in compliance.

4. Number of contractors found in noncompliance.

5. Number of show cause notices issued.

6. Number of show cause notices rescinded.

7. Number of show cause actions still under conciliation and unresolved.

8. Number of followup reviews conducted.

(NOTE.—In addition to information requested in items 4–8 above, include a brief summary of total show cause and followup activities—findings and achievements.)

B. *Consolidated compliance reviews.* 1. Identify the target areas that have been reviewed since the inception of the consolidated compliance program. Briefly summarize total findings.

2. Identify any significant impact or effect of this program on contractor compliance.

C. *Home office reviews.* If the State conducts home office reviews, describe briefly the procedures followed by State.

D. *Major problems encountered.* Describe major problems encountered in connection with any review activities during the past fiscal year.

E. *Major breakthroughs.* Comment briefly on any major breakthrough or other accomplishment significant to the compliance review program.

IV. *Areawide plans/Hometown and Imposed (if applicable).* A. Provide overall analysis of the effectiveness of each areawide plan in the State.

B. Indicate by job titles the number of State personnel involved in the collection, consolidation, preparation, copying, reviewing, analysis, and transmittal of area plan reports (Contracting Activity and Post Contract Implementation). Estimate the amount of time (number of hours) spent collectively on this activity each month. How does the State use the plan report data?

C. Indentify Office of Federal Contract Compliance Programs (OFCCP) area plan audits or compliance checks in which State personnel participated during the last fiscal year. On the average, how many hours have been spent on these audits and/or checks during the past fiscal year?

D. Describe the working relationship of State EEO compliance personnel with representatives of plan administrative committee(s).

E. Provide recommendations for improving the areawide plan program and the reporting system.

V. *Contract sanctions.* A. Describe the procedures used by the State to impose contract sanctions or institute legal proceedings.

B. Indicate the State or Federal laws which are applicable.

[1] The Federal-Aid Highway Program Manual is available for inspection and copying at the Federal Highway Administraton (FHWA), 400 7th St., SW., Washington, D.C. 20590, or at FHWA offices listed in 49 CFR Part 7, Appendix D.

C. Does the State withhold a contractor's progress payments for failure to comply with EEO requirements? If so, identify contractors involved in such actions during the past fiscal year. If not, identify other actions taken.

VI. *Complaints.* A. Describe the State's procedures for handling discrimination complaints against contractors.

B. If complaints are referred to a State fair employment agency or similar agency, describe the referral procedure.

C. Identify the Federal-aid highway contractors that have had discrimination complaints filed against them during the past fiscal year and provide current status.

VII. *External training programs, including supportive services.* A. Describe the State's process for reviewing the work classifications of trainees to determine that there is a proper and reasonable distribution among appropriate craft.

B. Describe the State's procedures for identifying the number of minorities and women who have completed training programs.

C. Describe the extent of participation by women in construction training programs.

D. Describe the efforts made by the State to locate and use the services of qualified minority and female supportive service consultants. Indicate if the State's supportive service contractor is a minority or female owned enterprise.

E. Describe the extent to which reports from the supportive service contractors provide sufficient data to evaluate the status of training programs, with particular reference to minorities and women.

VIII. *Minority business enterprise program.* FHPM 6-4-1-8 sets forth the FHWA policy regarding the minority business enterprise program. The implementation of this program should be explained by responding to the following:

A. Describe the method used for listing of minority contractors capable of, or interested in, highway construction contracting or subcontracting. Describe the process used to circulate names of appropriate minority firms and associations to contractors obtaining contract proposals.

B. Describe the State's procedure for insuring that contractors take action to affirmatively solicit the interest, capability, and prices of potential minority subcontractors.

C. Describe the State's procedure for insuring that contractors have designated liaison officers to administer the minority business enterprise program in an effective manner. Specify resource material, including contracts, which the State provides to liaison officers.

D. Describe the action the State has taken to meet its goals for prequalification or licensing of minority business. Include dollar goals established for the year, and describe what criteria or formula the State has adopted for setting such goals. If it is different from the previous year, describe in detail.

E. Outline the State's procedure for evaluating its prequalification/licensing requirements.

F. Identify instances where the State has waived prequalification for subcontractors on Federal-aid construction work or for prime contractors on Federal-aid contracts with an estimated dollar value lower than $100,000.

G. Describe the State's methods of monitoring the progress and results of its minority business enterprise efforts.

IX. *Liaison.* Describe the liaison established by the State between public (State, county, and municipal) agencies and private organizations involved in EEO programs. How is the liaison maintained on a continuing basis?

X. *Innovative programs.* Identify any innovative EEO programs or management procedures initiated by the State and not previously covered.

PART II—STATE HIGHWAY AGENCY EMPLOYMENT

I. *General.* The State highway agency's (SHA) internal program is an integral part of the agency's total activities. It should include the involvement, commitment and support of executives, managers, supervisors and all other employees. For effective administration and implementation of the EEO Program, an affirmative action plan (AAP) is required. The scope of an EEO program and an AAP must be comprehensive, covering all elements of the agency's personnel management policies and practices. The major part of an AAP must be recognition and removal of any barriers to equal employment opportunity, identification of problem areas and of persons unfairly excluded or held back and action enabling them to compete for jobs on an equal basis. An effective AAP not only benefits those who have been denied equal employment opportunity but will also greatly benefit the organization which often has overlooked, screened out or underutilized the great reservoir of untapped human resources and skills, especially among women and minority groups.

Set forth are general guidelines designed to assist the State highway agencies in implementing internal programs, including the development and implementation of AAP's to ensure fair and equal treatment for all persons, regardless of race, color, religion, sex or national origin in all employment practices.

II. *Administration and implementation.* The head of each State highway agency is responsible for the overall administration of the internal EEO program, including the total integration of equal opportunity into all facets of personnel management. However, specific program responsibilities should be assigned for carrying out the program at all management levels.

To ensure effectiveness in the implementation of the internal EEO program, a specific and realistic AAP should be developed. It should include both short and long-range objectives, with priorities and target dates for achieving goals and measuring progress, according to the agency's individual need to overcome existing problems.

A. *State Highway Agency Affirmative Action Officer (internal).* 1. *Appointment of Affirmative Action Officer.* The head of the SHA should appoint a qualified Affirmative Action (AA) Officer (Internal EEO Officer) with responsibility and authority to implement the internal EEO program. In making the selection, the following factors should be considered:

a. The person appointed should have proven ability to accomplish major program goals.

b. Managing the internal EEO program requires a major time commitment; it cannot be added on to an existing full-time job.

c. Appointing qualified minority and/or female employees to head or staff the program may offer good role models for present and potential employees and add credibility to the programs involved. However, the most essential requirements for such position(s) are sensitivity to varied ways in which discrimination limits job opportunities, commitment to program goals and sufficient status and ability to work with others in the agency to achieve them.

2. *Responsibilities of the Affirmative Action Officer.* The responsibilities of the AA Officer should include, but not necessarily be limited to:

a. Developing the written AAP.

b. Publicizing its content internally and externally.

c. Assisting managers and supervisors in collecting and analyzing employment data, identifying problem areas, setting goals and timetables and developing programs to achieve goals. Programs should include specific remedies to eliminate any discriminatory practices discovered in the employment system.

d. Handling and processing formal discrimination complaints.

e. Designing, implementing and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed.

f. Reporting, at least quarterly, to the head of the SHA on progress and deficiencies of each unit in relation to agency goals.

g. In addition, consider the creation of:

(1) an EEO Advisory Committee, whose membership would include top management officials,

(2) an EEO Employee Committee, whose membership would include rank and file employees, with minority and female representatives from various job levels and departments to meet regularly with the AA officer, and

(3) an EEO Counseling Program to attempt informal resolution of discrimination complaints.

B. *Contents of an affirmative action plan.* The Affirmative Action Plan (AAP) is an integral part of the SHA's EEO program. Although the style and format of AAP's may vary from one SHA to another, the basic substance will generally be the same. The essence of the AAP should include, but not necessarily be limited to:

1. Inclusion of a strong agency policy statement of commitment to EEO.

2. Assignment of responsibility and authority for program to a qualified individual.

3. A survey of the labor market area in terms of population makeup, skills, and availability for employment.

4. Analyzing the present work force to identify jobs, departments and units where minorities and females are underutilized.

5. Setting specific, measurable, attainable hiring and promotion goals, with target dates, in each area of underutilization.

6. Making every manager and supervisor responsible and accountable for meeting these goals.

7. Reevaluating job descriptions and hiring criteria to assure that they reflect actual job needs.

8. Finding minorities and females who are qualified or qualifiable to fill jobs.

9. Getting minorities and females into upward mobility and relevant training programs where they have not had previous access.

10. Developing systems to monitor and measure progress regularly. If results are not satisfactory to meet goals, determine the reasons and make necessary changes.

11. Developing a procedure whereby employees and applicants may process allegations of discrimination to an impartial body without fear of reprisal.

C. *Implementation of an affirmative action plan.* The written AAP is the framework and management tool to be used at all organizational levels to actively implement, measure and evaluate program progress on the specific action items which represent EEO program problems or deficiencies. The presence of a written plan alone does not constitute an EEO program, nor is it, in itself, evidence of an ongoing program. As a minimum, the following specific actions should be taken.

1. *Issue written equal employment opportunity policy statement and affirmative action commitment.* To be effective, EEO policy provisions must be enforced by top

management, and all employees must be made aware that EEO is basic agency policy. The head of the SHA (1) should issue a firm statement of personal commitment, legal obligation and the importance of EEO as an agency goal, and (2) assign specific responsibility and accountability to each executive, manager and supervisor.

The statement should include, but not necessarily be limited to, the following elements:

a. EEO for all persons, regardless of race, color, religion, sex or national origin as a fundamental agency policy.

b. Personal commitment to and support of EEO by the head of the SHA.

c. The requirement that special affirmative action be taken throughout the agency to overcome the effects of past discrimination.

d. The requirement that the EEO program be a goal setting program with measurement and evaluation factors similar to other major agency programs.

e. Equal opportunity in all employment practices, including (but not limited to) recruiting, hiring, transfers, promotions, training, compensation, benefits, recognition (awards), layoffs and other terminations.

f. Responsibility for positive affirmative action in the discharge of EEO programs, including performance evaluations of managers and supervisors in such functions, will be expected of and shared by all management personnel.

g. Accountability for action or inaction in the area of EEO by management personnel.

2. *Publicize the affirmative action plan.* a. *Internally:* (1) Distribute written communications from the head of the SHA.

(2) Include the AAP and the EEO policy statement in agency operations manual.

(3) Hold individual meetings with managers and supervisors to discuss the program, their individual responsibilities and to review progress.

(4) Place Federal and State EEO posters on bulletin boards, near time clocks and in personnel offices.

(5) Publicize the AAP in the agency newsletters and other publications.

(6) Present and discuss the AAP as a part of employee orientation and all training programs.

(7) Invite employee organization representatives to cooperate and assist in developing and implementing the AAP.

b. *Externally:* Distribute the AAP to minority groups and women's organizations, community action groups, appropriate State agencies, professional organizations, etc.

3. *Develop and implement specific programs to eliminate discriminatory barriers and achieve goals.* a. *Job structuring and upward mobility:* The AAP should include specific provisions for:

(1) Periodic classification plan reviews to correct inaccurate position descriptions and to ensure that positions are allocated to the appropriate classification.

(2) Plans to ensure that all qualification requirements are closely job related.

(3) Efforts to restructure jobs and establish entry level and trainee positions to facilitate progression within occupational areas.

(4) Career counseling and guidance to employees.

(5) Creating career development plans for lower grade employees who are underutilized or who demonstrate potential for advancement.

(6) Widely publicizing upward mobility programs and opportunities within each work unit and within the total organizational structure.

b. *Recruitment and placement.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Active recruitment efforts to support and supplement those of the central personnel agency or department, reaching all appropriate sources to obtain qualified employees on a nondiscriminatory basis.

(2) Maintaining contacts with organizations representing minority groups, women, professional societies, and other sources of candidates for technical, professional and management level positions.

(3) Ensuring that recruitment literature is relevant to all employees, including minority groups and women.

(4) Reviewing and monitoring recruitment and placement procedures so as to assure that no discriminatory practices exist.

(5) Cooperating with management and the central personnel agency on the review and validation of written tests and other selection devices.

(6) Analyzing the flow of applicants through the selection and appointment process, including an analytical review of reasons for rejections.

(7) Monitoring the placement of employees to ensure the assignment of work and workplace on a nondiscriminatory basis.

c. *Promotions.* The AAP should include specific provisions for, but not necessarily limited to:

1. Establishing an agency-wide merit promotion program, including a merit promotion plan, to provide equal opportunity for all persons based on merit and without regard to race, color, religion, sex or national origin.

2. Monitoring the operation of the merit promotion program, including a review of promotion actions, to assure that requirements, procedures and practices support EEO program objectives and do not have a discriminatory impact in actual operation.

3. Establishing skills banks to match employee skills with available job advancement opportunities.

4. Evaluating promotion criteria (supervisory evaluations, oral interviews, written tests, qualification standards, etc.) and their use by selecting officials to identify and eliminate factors which may lead to improper "selection out" of employees or applicants, particularly minorities and women, who traditionally have not had access to better jobs. It may be appropriate to require selecting officials to submit a written justification when well qualified persons are passed over for upgrading or promotion.

5. Assuring that all job vacancies are posted conspicuously and that all employees are encouraged to bid on all jobs for which they feel they are qualified.

6. Publicizing the agency merit promotion program by highlighting breakthrough promotions, i.e. advancement of minorities and women to key jobs, new career heights, etc.

d. *Training.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Requiring managers and supervisors to participate in EEO seminars covering the AAP, the overall EEO program and the administration of the policies and procedures incorporated therein, and on Federal, State and local laws relating to EEO.

(2) Training in proper interviewing techniques of employees who conduct employment selection interviews.

(3) Training and education programs designed to provide opportunities for employees to advance in relation to the present and projected manpower needs of the agency and the employees' career goals.

(4) The review of profiles of training course participants to ensure that training opportunities are being offered to all eligible employees on an equal basis and to correct any inequities discovered.

e. *Layoffs, recalls, discharges, demotions, and disciplinary actions.* The standards for deciding when a person shall be terminated, demoted, disciplined, laid off or recalled should be the same for all employees, including minorities and females. Seemingly neutral practices should be reexamined to see if they have a disparate effect on such groups. For example, if more minorities and females are being laid off because they were the last hired, then, adjustments should be made to assure that the minority and female ratios do not decrease because of these actions.

(1) When employees, particularly minorities and females, are disciplined, laid off, discharged or downgraded, it is advisable that the actions be reviewed by the AA Officer before they become final.

(2) Any punitive action (i.e. harassment, terminations, demotions), taken as a result of employees filing discrimination complaints, is illegal.

(3) The following records should be kept to monitor this area of the internal EEO program:

On all terminations, including layoffs and discharges: indicate total number, name, (home address and phone number), employment date, termination date, recall rights, sex, racial/ethnic identification (by job category), type of termination and reason for termination.

On all demotions: indicate total number, name, (home address and phone number), demotion date, sex, racial/ethnic identification (by job category), and reason for demotion.

On all recalls: indicate total number, name, (home address and phone number) recall date, sex, and racial/ethnic identification (by job category).

Exit interviews should be conducted with employees who leave the employment of the SHA.

f. *Other personnel actions.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Assuring that information on EEO counseling and grievance procedures is easily available to all employees.

(2) A system for processing complaints alleging discrimination because of race, color, religion, sex or national origin to an impartial body.

(3) A system for processing grievances and appeals (i.e. disciplinary actions, adverse actions, adverse action appeals, etc.).

(4) Including in the performance appraisal system a factor to rate manager's and supervisors' performance in discharging the EEO program responsibilities assigned to them.

(5) Reviewing and monitoring the performance appraisal program periodically to determine its objectivity and effectiveness.

(6) Ensuring the equal availability of employee benefits to all employees.

4. *Program evaluation.* An internal reporting system to continually audit, monitor and evaluate programs is essential for a successful AAP. Therefore, a system providing for EEO goals, timetables, and periodic evaluations needs to be established and implemented. Consideration should be given to the following actions:

a. Defining the major objectives of EEO program evaluation.

b. The evaluation should be directed toward results accomplished, not only at efforts made.

c. The evaluation should focus attention on assessing the adequacy of problem identification in the AAP and the extent to which the specific action steps in the plan provide solutions.

d. The AAP should be reviewed and evaluated at least annually. The review and evaluation procedures should include, but not be limited to, the following:

(1) Each bureau, division or other major component of the agency should make annual and such other periodic reports as are needed to provide an accurate review of the operations of the AAP in that component.

(2) The AA Officer should make an annual report to the head of the SHA, containing the overall status of the program, results achieved toward established objectives, identity of any particular problems encountered and recommendations for corrective actions needed.

e. Specific, numerical goals and objectives should be established for the ensuing year. Goals should be developed for the SHA as a whole, as well as for each unit and each job category.

III. *Employment statistical data.* A. As a minimum, furnish the most recent data on the following:

1. the total population in the State,

2. the total labor market in State, with a breakdown by racial/ethnic identification and sex, and

3. an analysis of (1) and (2) above, in connection with the availability of personnel and jobs within SHA's.

B. State highway agencies shall use the EEO–4 Form in providing current work force data. This data shall reflect only State department of transportation/State highway department employment.

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In Thousands) (000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN. SURNAME AMER. C	ASIAN AMER. D	AMER. IND. E	OTHER F	WHITE G	BLACK H	SPAN. SURNAME AMER. I	ASIAN AMER. J	AMER. IND. K	OTHER L
OFFICIALS/ ADMINISTRATORS	1. 0.1-3.9												
	2. 4.0-5.9												
	3. 6.0-7.9												
	4. 8.0-9.9												
	5. 10.0-12.9												
	6. 13.0-15.9												
	7. 16.0-24.9												
	8. 25.0 PLUS												
PROFESSIONALS	9. 0.1-3.9												
	10. 4.0-5.9												
	11. 6.0-7.9												
	12. 8.0-9.9												
	13. 10.0-12.9												
	14. 13.0-15.9												
	15. 16.0-24.9												
	16. 25.0 PLUS												
TECHNICIANS*	17. 0.1-3.9												
	18. 4.0-5.9												
	19. 6.0-7.9												
	20. 8.0-9.9												
	21. 10.0-12.9												
	22. 13.0-15.9												
	23. 16.0-24.9												
	24. 25.0 PLUS												
PROTECTIVE SERVICE	25. 0.1-3.9												
	26. 4.0-5.9												
	27. 6.0-7.9												
	28. 8.0-9.9												
	29. 10.0-12.9												
	30. 13.0-15.9												
	31. 16.0-24.9												
	32. 25.0 PLUS												
PARA-PROFESSIONALS	33. 0.1-3.9												
	34. 4.0-5.9												
	35. 6.0-7.9												
	36. 8.0-9.9												
	37. 10.0-12.9												
	38. 13.0-15.9												
	39. 16.0-24.9												
	40. 25.0 PLUS												
OFFICE/ CLERICAL	41. 0.1-3.9												
	42. 4.0-5.9												
	43. 6.0-7.9												
	44. 8.0-9.9												
	45. 10.0-12.9												
	46. 13.0-15.9												
	47. 16.0-24.9												
	48. 25.0 PLUS												

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D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In thousands 000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN. SURNAME AMER. C	ASIAN AMER. D	AMER. IND. E	OTHER F	WHITE G	BLACK H	SPAN. SURNAME AMER. I	ASIAN AMER. J	AMER. IND. K	OTHER L
SKILLED CRAFT	49. 0.1-3.9												
	50. 4.0-5.9												
	51. 6.0-7.9												
	52. 8.0-9.9												
	53. 10.0-12.9												
	54. 13.0-15.9												
	55. 16.0-24.9												
	56. 25.0 PLUS												
SERVICE/ MAINTENANCE	57. 0.1-3.9												
	58. 4.0-5.9												
	59. 6.0-7.9												
	60. 8.0-9.9												
	61. 10.0-12.9												
	62. 13.0-15.9												
	63. 16.0-24.9												
	64. 25.0 PLUS												
TOT. FULL TIME	COL. TOTALS →												

2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)

1. OFFICIALS / ADMIN.												
2. PROFESSIONALS												
3. TECHNICIANS												
4. PROTECTIVE SERV.												
5. PARA-PROFESSIONAL												
6. OFFICE / CLERICAL												
7. SKILLED CRAFT												
8. SERV. / MAINT.												
TOTAL OTHER	COL. TOTALS →											

3. NEW HIRES DURING FISCAL YEAR - Permanent full time only

(Omit this section in 1973)

1. OFFICIALS / ADMIN.												
2. PROFESSIONALS												
3. TECHNICIANS												
4. PROTECTIVE SERV.												
5. PARA-PROFESSIONAL												
6. OFFICE / CLERICAL												
7. SKILLED CRAFT												
8. SERV. / MAINT.												
TOT. NEW HIRES	COL. TOTALS →											

[FR Doc.76-19882 Filed 7-8-76;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6710-3a]

PART 1067—FUNDING OF COMMUNITY ACTION PROGRAMS

CSA Procedures for the Federal Project Notification and Review System (PNRS)

NOTE.—This document is identic·· to FR Doc. 76-19302 (41 FR 27359, July 2, 1976) except for the Appendix, which was omitted in the original publication.

The purposes of this subpart are to implement checkpoint coordination procedures required to achieve the intergovernmental and inter-agency coordination required by OMB Circular A-95, Part I; to inform grantees of the recent changes to A-95 and provide them with copies of the revised Circular; and to require submission of and provide details on the use of the new form SF 424, Federal Assistance.

Interim regulations were filed in the FEDERAL REGISTER on February 27, 1976. Comments were invited and CSA received comments from four CSA grantees, one clearinghouse, and the Office of Management and Budget. As a result the following substantive changes have been made to the interim regulations: (1) Applicability (Exceptions): T&TA grants for purposes of staff development and management improvement will be excepted from the A-95 process but T&TA grants for programmatic support will be covered; (2) research grants funded under currently covered programs will be covered by A-95 and therefore reference to "research" has been deleted from the list of exceptions; (3) use of OEO Form 394 has been extended to the administering offices when the office determines that applicant's comments are not being circulated to all appropriate public and private agencies; (4) a section has been inserted clarifying who must notify clearinghouses; (5) all grantees are being requested on a one-time basis only—regardless of whether or not they are applying for program year fundings or are covered by A-95—to submit a completed SF 424; and additional instructions for completing the SF 424 when applying for a CSA grant have been developed and are hereby being published. It should be noted that these regulations implement Part I only of OMB Circular A-95. CSA in the near future will review Part IV to determine applicability to its grantees and will publish a policy statement on Part IV if warranted.

Effective date: July 2, 1976.

SAMUEL R. MARTINEZ,
Director.

45 CFR Part 1067, Chapter X is amended by adding a new subpart as follows:

Subpart—CSA Procedures for the Federal Project Notification and Review System (PNRS)

Sec.

1067.10-1 Applicability.
1067.10-2 Policy.
1067.10-3 Responsibilities.
1067.10-4 Procedures.
1067.10-5 CSA grantee participation in A-95 coordination process.
1067.10-6 Section 712—On-going and post-grant coordination.
1067.10-7 SF 424—Availability.
APPENDIX

AUTHORITY: Sec. 602, 78 stat. 530; (42 U.S.C. 2942).

Subpart—CSA Procedures for the Federal Project Notification and Review System (PNRS)

§ 1067.10-1 Applicability.

(a) Title II:

(1) This subpart is applicable to applications* for grants under sections 221, 222(a)(5), (7), (12) and 231 of the Community Services Act of 1974 (CFDA Nos. 49.002, 49.005, 49.010, 49.014, and 49.013 respectively) when the funds are administered by the Community Services Administration.

(i) *EXCEPTIONS: applications from Federally-recognized Indian Tribes; and applications or portions of applications for funds under the above-mentioned Sections when such funds are for general administration; training and technical assistance for staff development and/or management improvement; and evaluation.

(b) Title VII:

(1) This subpart in its entirety is applicable to applications** or portions of applications** requesting funds under the following sections of Title VII (CFDA No. 49.011) for the purposes specified:

(i) *Section 747.* Planning Grants.

(ii) *Section 712.* Investment capital (budget category 2.5) for specific "community development programs" (as defined in CSA Instruction 6158-3), and "training, public service employment, and social service programs" (as defined in CSA Instruction 6158-3).

(2) Only §§ 1067.10-6 and 1067.10-4(d) are applicable to applications** or portions of applications** requesting funds under the following section of Title VII for the purpose specified:

(i) *Section 712.* Administrative costs (all budget categories other than 2.5), investment capital for specific "business development programs" (as defined in CSA Instruction 6158-3), or investment capital unearmarked at time of application to specific ventures.

(3) **EXCEPTION: Applications from Federally recognized Indian Tribes.

§ 1067.10-2 Policy.

(a) CSA will not approve any requests for initial funding, refunding, or major changes in work program or level of assistance from any applicant unless the applicant follows the Project Notification and Review System (PNRS) procedures (See § 1067.10-4) for all programs identified in § 1067.10-1.

(b) In the past OEO Form 394 has been used by Title II grantees to checkpoint with local agencies and officials and with SEOOs. Since an active A-95 review process is a direct duplication of the Form 394 checkpoint procedure, the Form will no longer be required where there is an areawide clearinghouse unless the CSA administering office determines that the applicant's comments are not being circulated to all appropriate public and private agencies in which case the administering office may require additional check-pointing through continued use of Form 394. Also, Title II grantees who wish to continue additional coordination activities with local agencies and local units of government may continue to use the Form 394 on an optional basis.

(c) Effective with the issuance of this Instruction, all applications submitted to CSA will be required to have a SF 424 as a coversheet. (See § 1067.10-4). In addition the SF 424 may be used as the initial notification to clearinghouses where clearinghouses do not require their own forms. (See § 1067.10-4(a).)

§ 1067.10-3 Responsibilities.

(a) *State Governments and Governors.* State governments and Governors may designate State and/or areawide clearinghouses which, among other things, perform functions relating to the coordination of Federal grant program plans. (The Office of Management and Budget (OMB) has issued, and will periodically update, a directory listing of these designated clearinghouses.)

(b) *Clearinghouses.* The areawide and metropolitan clearinghouse(s) inform specific local governments and agencies, including CSA grantees if they have so requested (see § 1067.10-5) and public agencies charged with enforcing or furthering the objectives of State and local civil rights laws, of any proposed projects from other agencies which would have an impact on their programs. Also, State clearinghouses notify state agencies, such as SEOOs, of any proposed projects which would affect their statewide plans and programs.

(c) *Applicants/grantees.* Applicants are required to notify the clearinghouse(s) of the State(s) and either the areawide or the metropolitan area clearinghouse(s) in which the project is to be located of their intent to apply for CSA funds.

(d) *Community Services Administration*—(1) *CSA Headquarters* is responsible for informing grantees and prospective grantees of the current requirements to notify clearinghouses.

(2) *CSA Regional and Headquarters Administering Offices* are responsible for assuring that:

(i) Grantees are advised of new or redesignated State and/or areawide clearinghouses;

(ii) Grantees seeking initial funding are informed of A-95 requirements and provided copies of SF 424 at the time CSA indicates its willingness to consider their applications;

(iii) Each application has received clearinghouse review where such review is required;

(iv) Each application is accompanied by a completed (Sections I and II) SF 424;

(v) Clearinghouses are notified within seven work days of any major action

taken on an application that has been reviewed by the clearinghouses; and

(vi) The appropriate State and areawide clearinghouses have been notified of any application from federally-recognized Indian tribes upon its receipt.

§ 1067.10–4 Procedures.

(a) *Applicant Notification to Clearinghouses of Intent to Apply.*—(1) *Who Must Notify Clearinghouses.* Applicants for CSA funds who are seeking initial funding or program year refunding for programs covered by A–95 must provide notification of intent to apply to the appropriate clearinghouses. In addition any grant action made subsequent to a program year refunding which is a major change to the work program and/or a substantial infusion of additional Federal funds in the initial application or is a new project not previously submitted to the clearinghouse also must comply with the notification procedures.

(2) *Timeframe.* (i) Applicants must simultaneously notify both State and area-wide clearinghouses of their intent to apply for CSA funds at least sixty days before the anticipated date of the submission of the final funding application to CSA. This 60-day lead time is necessary to allow each clearinghouse 30 days to consult with State and local agencies and regional/local governments that may be affected by the proposed project, and to submit written comments on the proposal to the applicant; and an additional 30 days, if a clearinghouse chooses, to review the final completed funding application.

(ii) For applicants seeking initial funding, notification to the clearinghouse will only begin after CSA indicates its willingness to consider applications (development of an application may be requested simultaneously or at some future date). For grantees requesting refunding, initial notification should follow immediately upon receipt of the program and funding guidance or other notice from CSA that it is willing to consider refunding.

(iii) OMB Circular A–95 contains a provision allowing Federal agencies to request procedural variations from normal review processes under certain circumstances. CSA wil make use of this provision on a case-by-case basis.

(3) *How.* (i) Many clearinghouses have developed notification forms and instructions. Where such forms exist applicants shall use them to notify clearinghouses.[1]

(ii) Where clearinghouses do not require use of their own forms or formats, applicants have the option of submitting one of the following to the clearinghouses. However, as the SF 424 must accompany every application submitted to CSA it is assumed that most applicants will use the SF 424 as Notice of Intent to Apply.

(A) SF 424, Federal Assistance, with Section I completed PLUS a statement as to whether environmental impact information will be required; OR

(B) A summary of the following:

(*1*) Identity of the applicant agency;

(*2*) Geographic coverage of the program proposed;

(*3*) A brief description of the proposed program including type;

(*4*) Purpose;

(*5*) General size or scale;

(*6*) Estimated cost;

(*7*) Beneficiaries; or

(*8*) Other characteristics which will enable the clearinghouse to identify agencies of a State or local government having plans, programs, or projects that might be affected by the proposed programs;

(*9*) A statement as to whether environmental impact information will be required;

(*10*) The Federal program title and number and agency under which assistance will be sought as indicated in the latest "Catalog of Federal Domestic Assistance"; and

(*11*) The estimated date the applicant expects to formally file its funding request.

(b) *Review by Clearinghouses of Notification.* (1) The clearinghouse may notify the applicant, within 30 days of receipt of notice, of its own or other State or local interests. During this period differences may arise between clearinghouses or particular State agencies or local governments as to the merit and/or designation of the planned project. The clearinghouse may work with the applicant in the resolution of any problems. If differences are not resolved, the clearinghouse may inform the applicant of its desire to review, and its intention to prepare comments to accompany, the completed funding application.

(2) Applications for refunding not submitted to or acted on by CSA within one year after completion of clearinghouse review will be subject to rereview upon request of the clearinghouse.

(c) *Submission of the Completed Application to the Clearinghouse.* (1) When within the initial 30 day period the clearinghouse signs off or indicates that it has no comments regarding the proposed project, the applicant may proceed to submit the final funding application to CSA without further delay. In such cases the applicant is not required to submit a copy of its funding application to the clearinghouse. However, the clearinghouse may request an information copy.

(2) However, if within the initial 30 day period the clearinghouse asks to review the final application, the applicant will submit a copy of the funding application to the clearinghouse. In such cases, the clearinghouse(s) shall have an additional 30 days to submit their formal comments on the subject application. If the applicant failed to submit to the clearinghouse an initial notification of its intent to apply for CSA funds and submitted only a completed application, the clearinghouse shall have a full 60 days to review and submit comments on the application.

(3) It should be noted that areawide clearinghouses must submit to applicants any written comments received from other jurisdictions or agencies or parties when the comments are at variance with the clearinghouse comments. They also must list others who were solicited and from whom they received comments.

(d) *Submission of SF 424's and Clearinghouse Comments to CSA.* Beginning with the effective date of this Instruction, the applicant will submit to the appropriate CSA Regional or Headquarters administering office a SF 424 with each application for initial funding, program year refunding, major change to work program and/or level of Federal assistance, and new projects regardless of whether or not the program is covered by the A–95 process. Grant applications will be unacceptable if not accompanied by the completed SF 424. (See Appendix for a copy of SF 424 with instructions for completion including instructions specifically designed for applicants for CSA funds).

(1) For programs not covered by the A–95 process or for which CSA has received an exemption, the applicant will complete information required in Section I of the SF 424 and indicate "not applicable" in Section II, Item 22.b.

(2) For programs covered by the A–95 process, the applicant will complete all information required in Sections I and II of SF 424 and attach any comments or recommendations received from the clearinghouse(s) along with a statement that such comments have been considered prior to submission of the application. In addition, the applicant will include in Section IV of SF 424 a position statement on any conflicts that have not been resolved between the clearinghouses and the applicant.

NOTE.—It would be in the applicant's best interest to notify CSA immediately if any comments have been received or are anticipated which recommend not funding the application.

(i) Applications that do not carry evidence that both areawide and State clearinghouses have been given an opportunity to review the application will be returned to the applicant to comply with A–95 procedures.

(ii) If a clearinghouse has recommended against approval of a project because it conflicts with or duplicates another Federal or federally assisted project, the administering office will consult with the agency assisting the referenced project prior to acting if the administering office plans to recommend approval of the project.

(iii) CSA will not accept the grant for processing until the clearinghouse comments have been received or until the final 30 day period has elapsed.

(e) *Notification to Clearinghouses by CSA of Major Grant Actions.* (1) Within

[1] In accordance with OMB Circular A–95 (Revised) private non-profit applicants are not required to include confidential information concerning the financial status or structure or the personnel of their agency even though this information might be required to be sent to CSA as part of the funding process.

seven working days of any major action taken on an application, i.e. award, rejection, deferral, return for amendment, or withdrawal, the appropriate CSA Regional Office or Headquarters office will notify the clearinghouse(s) which reviewed the application. In addition if a clearinghouse recommended against the funding of the application and CSA has decided to award the grant, CSA will include in Section IV of SF 424 a statement of explanation to the clearinghouse.

(2) CSA will notify the clearinghouse(s) by completing Section III of the SF 424 and returning the form, along with any explanatory attachments, to the clearinghouse(s).

§ 1067.10–5 CSA grantee participation in A–95 coordination process.

Since OEO Form 394 is no longer required, CSA reminds those SEOOs who currently are not receiving applications for CSA-funded programs for review through the clearinghouse, that they inform the clearinghouse of their interest in receiving these applications for review. CSA grantees, particularly CAAs and SEOOs, should actively seek to review, in addition, applications for Federal assistance from other agencies in their clearinghouse area for programs included in the A–95 process. (See attachments C and D to Circular A–95). Review of notifications and applications for Federal funds should be directed to those programs which could have an impact on the poor.

§ 1067.10–6 Section 712—On-going and post-grant coordination.

(a) Because of the nature of the Section 712 Special Impact Program and the funding process followed by CSA's Office of Economic Development for community development corporations (CDCs) under Section 712, there is limited opportunity for, or value to, clearinghouse review of CDC grant applications prior to funding by CSA and, therefore, the A–95 process is applicable only to certain Title VII grants. (See § 1067.10–1). For example:

(1) Once a CDC has received its initial funding from CSA through a planning grant (which is subject to clearinghouse review), the basic issue of the community's need for the CDC has been resolved. Therefore, subsequent refundings of the CDC's central administrative budget are exempted from clearinghouse review.

(2) Since CDCs are refunded for two-year periods, much of the investment capital funding requested in refunding applications is not earmarked to specific ventures; only in the subsequent two years, following grant approval, are specific plans for most ventures developed and submitted to CSA for approval. Accordingly, there is little in the CDC's investment capital budget for clearinghouses to review prior to grant approval.

(3) The bulk of the CDC's proposed ventures, whether specified in the refunding application to CSA or identified and developed after grant approval, fall into the "business development program" category, and are accordingly exempt from clearinghouse review because of their proprietary nature. Most of the feasibility data for such ventures, whether submitted to CSA as part of a refunding application or subsequently, could not be released to the clearinghouses.

(b) Accordingly, only that small portion of a CDC's refunding application which is earmarked for specific ventures in the "community development" and "training, public service employment, and social services" categories is appropriate for review by the clearinghouse prior to funding.

(c) Even some data related to community development ventures, such as land acquisition plans and costs are exempted from clearinghouse review due to the proprietary nature of the data.

(d) Despite such limitations, it is the policy of CSA that CDCs coordinate their programs with local governments and related private agencies and organizations, and that CDCs develop meaningful mechanisms with their local clearinghouses for insuring such coordination on an ongoing basis. Such coordination should include, at a minimum, (1) periodic discussions of the CDC's overall program and objectives, and (2) appropriate reviews, prior to CSA release of funds (though generally not prior to grant approval), of non-proprietary venture plans.

(e) Each CDC, including planning grantees, must include in its next funding application submitted to CSA after 60 days from the effective date of this subpart, a copy of an agreement signed by the CDC and the appropriate areawide or metropolitan clearinghouse(s) which specifies how this required ongoing and post-grant coordination shall be implemented. All future grant applications and post-grant venture feasibility proposals must include evidence that the required coordination, as provided in the signed agreement, has in fact taken place.

§ 1067.10–7 SF 424—Availability.

An initial supply of SF 424, Federal Assistance, will be distributed to all grantees. It should be noted that CSA has overprinted the SF 424 to provide additional information for use of its grantees and administering offices. Therefore supplies of SF 424 should be acquired from CSA only. When the initial supply has been exhausted additional forms may be obtained by writing to: CSA Publications and Distribution Center, 5458 3rd Street NE, Washington, DC 20001.

APPENDIX.—SF 424, Federal Assistance (including general instructions for completion and additional instructions for applying for CSA funds).

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for preapplications and applications submitted in accordance with Federal Management Circular 74–7. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item No. and general instructions	*Additional instructions when applying for funds from Community Services Administration*
1. Mark appropriate box. Preapplication and application guidance is in FMC 74–7 and Federal agency program instructions. Notification of intent guidance is in Circular A–95 and procedures from clearinghouse. Applicant will not use "Report of Federal action" box.	*Preapplication.*—To be checked only: (1) Whe nsubmitting proposals to CSA under competitive process; or (2) when applicant is not currently funded by CSA and is submitting a prospectus. *Application.*—To be checked: (1) When submitting application for refunding; or (2) submitting an initial application, upon official notice from CSA that it is interested in considering applications or upon direct invitation from CSA. *Notification of intent.*—To be checked by applicant when form is used as clearinghouse notification. *Report of Federal action.*—To be checked by appropriate CSA office when form is used as notification to SCIRA's and/or to reviewing clearinghouses of major actions taken.
2a. Applicant's own control number, if desired.	Insert grantee number if current CSA grantee. If new, leave blank.

2b. Date sec. I is prepared	Self-explanatory.
3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A-95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.	Do.
3b. Date applicant notified of clearinghouse identifier.	Do.
4a.-4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.	Do.
5. Employer identification number of applicant as assigned by Internal Revenue Service.	Do.
6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than 1 program (e.g., joint funding) write multiple and explain in remarks. If unknown, cite public law or U.S. Code.	See attachment B to this instruction (CSA Instruction 6710-3a) for appropriate catalog number. If more than 1 program insert multiple and enter in blocks under "For use with multiple programs only" the catalog number for each program for which funds are being requested.
6b. Program title from Federal Catalog. Abbreviate if necessary.	See attachment B to this instruction (CSA Instruction 6710-3a) for program title. If more than one program, insert multiple and in sec. IV, "For use with multiple programs only" enter title of each program as used in the catalog (attachments B) for which funds have been requested.
7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.	Enter title for each program for which funds are being requested and describe each.
8. Mostly self-explanatory. City includes town, township, or other municipality.	If applicant is currently designated a Community Action Agency, regardless of whether it is private, public, or statewide public, the program indicator will be H. In addition, public applicants should enter appropriate political subdivision under K. If CDC enter K in box and insert Community Development Corporation under K.
9. Check the type(s) of assistance requested. The definitions of the terms are:	
A. Basic grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.	Enter A for all financial assistance requested from CSA except if it is in the form of loans under title VII.
B. Supplemental grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).	Self-explanatory.
C. Loan. Self-explanatory.	Enter C when requesting financial assistance for loans under title VII.
D. Insurance. Self-explanatory.	Self-explanatory.
E. Other. Explain on remarks page.	Do.
10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.	Do.
11. Estimated number of persons directly benefiting from project.	Do.

12. Use appropriate code letter. Definitions are:	Do.
A. New. A submittal for the first time for a new project.	
B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.	Enter B for refundings of grants which have no termination date on 314.
C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).	Enter C when there is a change in work program resulting in a budget change requiring a form 314.
D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.	Enter D for projects with termination dates which will be extended and for which additional funds will be provided.
E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.	Self-explanatory.
13. Amount requested or to be contributed during the 1st funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases inclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, Amount requested from Federal Government; 13b, amount applicant will contribute, 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.	a. Enter total Federal funds being requested from CSA for duration of project as indicated in items 16 and 17, e.g. full program year. If Federal funds requested include more than 1 program, complete item 13, sec. IV, "For use with multiple programs only." b. Enter non-Federal share required regardless of contributor. Do not adjust for anticipated waiver of the non-Federal share. c. Enter funds from State only if project is jointly funded. d. Enter funds from local unit of government only if project is jointly funded. e. Enter funds from private organizations in or outside of the community, e.g. chambers of commerce, foundations, only if project is jointly funded.
14a. Self-explanatory	Self-explanatory.
14b. The district(s) where most of actual work will be accomplished. If citywide or Statewide, covering several districts, write citywide or Statewide.	Enter only those Congressional Districts where the project will operate regardless of the overall coverage of the applicant.
15. Complete only for revisions (item 12c), or augmentations (item 12e).	Self-explanatory.
16. Approximate date project expected to begin (usually associated with estimated date of availability of funding).	CAA's: PY fundings—Enter beginning date of program year. Other than PY fundings—Enter beginning date shown on OEO Form 419, item 10. CDC's and other applicants—Enter beginning date of proposed funding period as shown in item 3.B., form 325.
17. Estimated number of months to complete project after Federal funds are available.	CAA's: PY fundings—Enter the number of months covered by the beginning and ending dates on OEO Form 419, item 4. Other than PY fundings—Enter the number of months covered by the beginning and ending dates on OEO Form 419, item 10. CDC's and other applicants—Enter number of months covered by the beginning and ending dates in item 3.B., form 325.

18. Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.	Self-explanatory.
19. Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write NA.	If current CSA grantee, insert grantee number. Otherwise, insert 'NA'.
20. Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.	Enter name and address of appropriate Community Services Administration administering office.
21. Check appropriate box as to whether sec. IV of form contains remarks and/or additional remarks are attached.	Self-explanatory.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item No. and general instructions	*Additional instructions when applying for funds from Community Services Administration*
22b. List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than 3 clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.	If project not covered by A–95 insert A–95 not applicable.
23a. Name and title of authorized representative of legal applicant.	If current CAA or CDC, name of board, chairperson. For other applicants name and title of official authorized to acept grant.
23b. Self-explanatory	Do.
23c. Self-explanatory	Self-explanatory.
NOTE.—Applicant completes only Secs. I and II. Sec. III is completed by Federal agencies.	NOTE.—See Sec. IV if multiple program.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item No. and general instructions	*Additional instructions when applying for funds from community services administration*
24. Executive department or independent agency having program administration responsibility.	Insert Community Services Administration.
25. Self-explanatory	Self-explanatory.
26. Primary organizational unit below department level having direct program management responsibility.	*Headquarters:* Insert Office of Economic Development, Office of Operations, etc., as appropriate. *Regional offices:* Insert the appropriate regional designation, e.g. Region I, Boston.
27. Office directly monitoring the program	*Headquarters:* Enter unit within the office noted in item 26 which has primary management responsibility. *Regional offices:* Enter the appropriate unit to which field staff is assigned, e.g. Field Operations Division.
28. Use to identify nonaward actions where Federal grant identifier in item 30 is not applicable or will not suffice.	Self-explanatory.
29. Complete address of administering office shown in item 26.	Address of appropriate regional or headquarters office.
30. Use to identify award actions where different from Federal application identifier in item 28.	Insert grantee number, fund source code, fiscal year, and grant action number, e.g. 12085–F–76–03 except for rejects, deferrals, and withdrawals in which case it should be left blank.
31. Self-explanatory. Use remarks section to amplify where appropriate.	Self-explanatory.

32. Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.	Complete only if funds are obligated by this grant action. If funds obligated are other than total approved for project duration, e.g. funds obligated on quarterly rather than annual basis, insert asterisk and indicate in footnote the number of months of the project the obligated funds will cover.
33. Date action was taken on this request___	Enter obligation date as indicated on CSA Form 314, item 4.
34. Date funds will become available_____	Effective date of the grant as indicated on CSA Form 314, item 3.
35. Name and telephone number of agency person who can provide more information regarding this assistance.	E.g., field representative or project manager.
36. Date after which funds will no longer be available.	Enter date shown in col. 12, CSA Form 314. If no entry in col. 12, compute date by using the effective date (item 3, CSA Form 314) and the planned minimum, number months funding provided (item 13, CSA Form 314).
37. Check appropriate box as to whether sec. IV of form contains Federal remarks and/or attachment of additional remarks.	Self-explanatory.
38. For use with A-95 action notices only. Name and telephone of person who can assure that appropriate A-95 action has been taken. If same as person shown in item 35, write same; if not applicable, write NA.	Enter same information as entered in col. 35 or NA if application not covered by A-95 process.

SECTION IV—REMARKS

To be used by grantee to explain to CSA any conflicts with clearinghouses which have not been resolved.

To be used by CSA administering offices in issuing statement of explanation to clearinghouses on action taken which is in opposition to that recommended by clearnghouse(s).

FOR USE WITH MULTIPLE PROGRAMS ONLY

If application covers more than one program applicant will fill in information under "Proposed Funding" in the same manner as that provided in item 13 except it will be broken down into programs. Likewise the CSA administering office will fill in information under "Funding" in the same manner as that provided in item 32 but also broken down into programs.

OMB Approval No. 29-R0218

FEDERAL ASSISTANCE

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE (Year month day) 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED (Year month day) 19

1. TYPE OF ACTION (Mark appropriate box)
- ☐ PREAPPLICATION
- ☐ APPLICATION
- ☐ NOTIFICATION OF INTENT (Opt.)
- ☐ REPORT OF FEDERAL ACTION

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name :
- b. Organization Unit :
- c. Street/P.O. Box :
- d. City : e. County :
- f. State : g. ZIP Code:
- h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify): _____
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

15. TYPE OF CHANGE (For 12c or 12e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify): _____
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE (Year month day) 19

17. PROJECT DURATION (Months)

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ (Year month day) 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED (Year month day) 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED (Year month day) 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. DEFERRED
- ☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ (Year month day) 19

34. STARTING DATE (Year month day) 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE (Year month day) 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.

b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

424-101

STANDARD FORM 424 PAGE 1 (10-75)
Prescribed by GSA, Federal Management Circular 74-7

SECTION IV—REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

FOR USE WITH MULTIPLE PROGRAMS ONLY *(As a breakout of Items 6, 13 and 32)*

6.	PROGRAM	PROGRAM	PROGRAM	PROGRAM	TOTAL
a. Cat. No.					
b. Prog. Title *(Abbreviate)*					
Prog. Acct. No.					
13.	PROPOSED FUNDING				
a. Federal	$ .00	$ .00	$ .00	$ .00	$ .00
b. Applicant	.00	.00	.00	.00	.00
c. State	.00	.00	.00	.00	.00
d. Local	.00	.00	.00	.00	.00
e. Other	.00	.00	.00	.00	.00
f. TOTAL	$ .00	$ .00	$ .00	$ .00	$ .00
32.	FUNDING				
a. Federal	$ .00	$ .00	$ .00	$ .00	$ .00
b. Applicant	.00	.00	.00	.00	.00
c. State	.00	.00	.00	.00	.00
d. Local	.00	.00	.00	.00	.00
e. Other	.00	.00	.00	.00	.00
f. TOTAL	$ .00	$ .00	$ .00	$ .00	$ .00

NOTE: Place an asterisk (*) next to Program Account No. if project is not subject to A-95.

STANDARD FORM 424 PAGE 2 (10-75)

[FR Doc.76-19945 Filed 7-8-76;8:45 am]

Title 7—Agriculture

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

[Lemon Reg. 47]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 11–17, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.347 Lemon Regulation 47.

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

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

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is good early this week. Average f.o.b. price was $6.19 per carton the week ended July 3, 1976, compared to $6.20 per carton the previous week. Track and rolling supplies at 180 cars were down 50 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 6, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period July 11, 1976, through July 17, 1976, is hereby fixed at 280,000 cartons.

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

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

Dated: July 8, 1976.

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

[FR Doc.76-20317 Filed 7-8-76;11:46 am]

[Lime Reg. 6]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida limes that may be shipped to fresh market during the weekly regulation period July 11–17, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 911. The quantity of limes so fixed was arrived at after consideration of the total available supply of Florida limes, the quantity currently available for market, lime prices, and the relationship of season average returns to the parity price for Florida limes.

§ 911.306 Lime Regulation 6.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 F.R. 10497), regulating the handling of limes grown in Florida, 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 Florida Lime Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantity of limes which it deems advisable to be handled during the succeeding week. Such recommendation results from consideration of the factors enumerated in the order. The committee further reports the fresh market demand for limes continues good, with f.o.b. prices steady. Fresh shipments for the weeks ended July 3, 1976, and June 26, 1976, were 21,539 bushels and 36,593 bushels, respectively.

(ii) Having considered the recommendation and information submitted by the committee, and other available information the Secretary finds that the quantity of limes which may be handled should be fixed 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 regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Florida limes, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee,

and information concerning such provisions and effective time has been disseminated among handlers of such limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 6, 1976.

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period July 11, 1976, through July 17, 1976, is hereby fixed at 35,000 bushels.

(2) As used in this section, "handled" and "limes" have the same meaning as when used in said amended marketing agreement and order, and "bushel" means 55 pounds of limes.

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

Dated: July 6, 1976.

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

[FR Doc.76-19969 Filed 7-8-76;8:45 am]

[Pear Reg. 6]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Limitation of Shipments

This regulation requires that, during the period July 12, 1976, through August 20, 1976, California Bartlett, Max-Red Bartlett, and Red Bartlett variety pears shipped in interstate or intrastate commerce grade at least U.S. Combination, with not less than 80 percent grading at least U.S. No. 1 grade. It also requires that such pears be not smaller than size 165 as verified by 12-pound random samples which must contain not more than 43 pears. Containers of all pears, as defined in the marketing order, must be marked with the name of the variety or, if the variety is not known, the words "unknown variety." The regulation contains the same grade and container marking requirements as were in effect for the 1975 crop. This regulation supersedes Pear Regulation 5 which would have been effective through July 31, 1976. This regulatory action is necessary to assure the shipment of only those pears which will be of suitable quality and size in the interest of consumers and producers.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17529), regulating the handling of fresh pears, plums, and peaches grown in California, 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 of the Pear Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for regulation, and of the crop and current and prospective market conditions. Shipments of pears from the production area are expected to begin on or about July 12, 1976. The grade and size requirements provided herein are designed to prevent the handling, on and after July 12, 1976, of any pears which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to producers pursuant to the declared policy of the act. The container marking requirements, included herein, are necessary to assure that containers are properly marked as to variety for inspection identification.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 12, 1976. A reasonable determination as to the supply of, and the demand for, such pears must await the development of the crop thereof, and adequate information thereon was not available to the Pear Commodity Committee until June 30, 1976, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such pears. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information and regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such pears are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such pears; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.440 Pear Regulation 6.

Order. (a) Pear Regulation 5 (40 F.R. 32110) is hereby terminated as of the effective date hereof.

(b) During the period July 12, 1976, through August 20, 1976, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination, with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165; or

(3) Any box or container of pears of any variety unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety, if known, or when the variety is not known, the words "unknown variety."

(c) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 165 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 43 pears.

(3) "Standard pear box" means the container so designed in Section 1387.11 of the Regulations of the California Department of Food and Agriculture.

(4) "U.S. No. 1," "U.S. Combination," and "standard pack" shall have the same meaning as when used in the United States standards for Pears (Summer and Fall), 7 CFR 51.1260–51.1280.

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

Dated: July 7, 1976.

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

[FR Doc.76-19970 Filed 7-8-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1438—NAVAL STORES

Subpart—1976 Gum Naval Stores Loan and Purchase Program

The regulations appearing in this subpart, which were published at 40 FR 29813, are revised to read as follows, effective as to 1976-crop gum naval stores. The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

A new § 1438.1645 has been added to the regulations to cover CCC purchases of eligible rosin. Section 1438.1646 now covers the personal liability of a producer.

As the market price for crude pine gum has substantially declined and the 1976 program is being instituted after April 1, the beginning of the harvest season, it is essential that detailed operating provisions of the program be put into effect on the earliest possible date. Accordingly, it is found and determined that compliance with the procedure for notice of proposed rulemaking and public participation would be impracticable and contrary to the public interest. Therefore, these regulations are issued without compliance with such procedure.

Subpart—1976 Gum Naval Stores Loan and Purchase Program

Sec.
1438.1636 General statement and administration.
1438.1637 Definitions.
1438.1638 Loan to ATFA.
1438.1639 Advances to producers.
1438.1640 Rate of advance to producers.
1438.1641 Maturity of loan.
1438.1642 Redemption by ATFA.
1438.1643 Net gains.
1438.1644 Right of CCC upon maturity.
1438.1645 Purchases by the CCC.
1438.1646 Personal liability.

AUTHORITY: Sec. 4(d), 62 Stat. 1070 (15 U.S.C. 714b); sec. 5(a), 62 Stat. 1072 (15 U.S.C. 714c); and secs. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

Subpart—1976 Gum Naval Stores Loan and Purchase Program

§ 1438.1636 General statement and administration.

Commodity Credit Corporation (hereinafter referred to as CCC) will make loans on and purchase of eligible naval stores available to producers during the calendar year 1976 through the American Turpentine Farmers Association Cooperative (hereinafter referred to as ATFA), under the terms and conditions described in these regulations. The Grains, Oilseeds and Cotton Division (GOC Division), ASCS, will supervise the administration of the program and the ASCS Data Systems Field Office (DSFO) will perform the accounting functions.

§ 1438.1637 Definitions.

(a) "Eligible producer" means a producer who (1) is a member of ATFA in good standing under membership requirements approved by CCC (no producer who is otherwise eligible may be excluded from membership in ATFA), (2) is a participant in the Naval Stores Conservation Program for 1976 or otherwise follows one or more forestry conservation practices established by State and Federal Forestry services, as determined by ATFA, (3) has made satisfactory arrangements to pay any indebtedness to the U.S. Department of Agriculture or any of its agencies, as evidenced by the debt records maintained by the Agricultural Stabilization and Conservation County Committees of the U.S. Department of Agriculture, and (4) has executed, and has not breached his obligations under, the Producer's Marketing Agreement (ATFA Form 1—1976), or any other similar agreement.

(b) "Eligible naval stores" means eligible rosin and the rosin content of eligible oleoresin.

(c) "Eligible oleoresin" means crude pine gum (oleoresin) (1) which was produced in 1976 in the United States by an eligible producer, (2) which is free and clear from all liens and encumbrances, (3) the rosin content of which has not been theretofore delivered for an advance under this or any similar program, (4) in which the beneficial interest is and always has been in the producer, and (5) which will yield rosin of the grades and quality prescribed in paragraph (d) of this section.

(d) "Eligible rosin" means gum rosin which (1) was processed by the Olustee or a similar method from eligible oleoresin, (2) grades "K" or better, (3) is free and clear from all liens and encumbrances, (4) has not previously been pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer; *Provided*, That when a producer's eligible oleoresin in commingled in the processing operation with oleoresin produced in the United States by other producers, the rosin tendered for advance by the producer, as representing the processed equivalent of his eligible oleoresin, will be deemed to be, if otherwise eligible, eligible rosin produced by such producer, (5) is packed to a net weight of 517 pounds, in eligible metal drums, (6) is transparent, (7) is free from visible foreign materials and contains no extraneous matter resulting from chemical or other treatment of the rosin, or of the oleoresin or the trees from which it came, and (8) conforms as to softening point to not less than Federal Specifications LLL–R–626b, to wit: 158° Fahrenheit (American Society for Testing and Materials Method No. E–28–67N). Rosin must be federally graded, inspected and weighted or the weights checked by Federal Inspectors employed or licensed by CCC.

(e) "Eligible metal drums" means drums conforming to the specifications for metal drums approved by CCC, obtainable from and on file in the office of ATFA.

§ 1438.1638 Loan to ATFA.

Under a Loan Agreement, CCC will make a loan to ATFA which will enable ATFA to make loan advances to eligible producers on eligible naval stores. As security for such loan, ATFA will pledge such naval stores to CCC. CCC has the right to establish a maximum aggregate disbursement at any time upon written notice to ATFA, but no such limitation shall apply with respect to naval stores tendered to ATFA by producers prior to such notice. The loan will be in an amount equal to (a) the amount of the loan advances made by ATFA to producers, except that the loan will be made only on full drums of eligible naval stores, (b) the administrative and operating expenses, approved by CCC, incurred by ATFA in making advances available to producers, and in the handling, preservation, and redemption of pledged naval stores, and (c) storage charges or other charges on pledged naval stores up to the time of acquisition of title thereto by CCC. The loan by CCC to ATFA shall bear interest at the rate of seven and one-half (7½) percent per annum or such other rate as may be determined applicable by CCC to 1976 loans.

§ 1438.1639 Advances to producers.

ATFA will make advances to eligible producers on eligible naval stores only when such naval stores have been (a) processed (except where CCC and ATFA determine that unprocessed rosin content in oleoresin may be offered for advance), (b) placed in storage in the custody of an approved warehouseman who has entered into and is fully complying with a Warehouse Agreement (ATFA Form 2—1976) with ATFA, or in the custody of ATFA acting under a Storage Agreement with CCC, and (c) offered for an advance on a Producer's Offer (ATFA Form 4) by the producer of the oleoresin placed in storage or the oleoresin, the resin content of which has been placed in storage. The date of such offer, unless a first offer and dated not later than August 1, 1976, shall be not later than thirty days from the date of delivery of the oleoresin to a processor, but in no event later than December 31, 1976. No warehouseman will be authorized to store pledged unprocessed rosin except upon approval by CCC of ATFA's written recommendation therefor and written demonstration by ATFA that there exists an immediate and substantial need for such storage. If there are any liens or encumbrances on the naval stores offered for advance by a producer, proper waivers are required on a Lienholders' Waiver and Agreement (ATFA Form 3). All processing charges, including the cost of the eligible metal drums for rosin, and all storage and other warehouse charges to the date of tender for advance, will be borne by the producer.

§ 1438.1640 Rate of advance to producers.

ATFA will make advances to eligible producers on eligible rosin or the rosin content of eligible oleoresin, based on the support level of $63.10 per standard barrel (435 lbs. net weight each) of oleoresin, processed basis. Although no advance is made on turpentine, an allowance is made for the estimated 1976 market value of the turpentine content in a barrel of oleoresin in determining the advance rate for rosin or rosin content. The loan rates on rosin are $16.00 for grade WG, $16.75 for grades X and WW, $15.60 for grade N, $15.20 for grade M, and $14.75 for grade K, per hundred pounds net, packed in eligible metal drums. ATFA will make advances to any eligible producer on the basis of the applicable advance rates in effect on the date of the applicable Producers' Offer.

§ 1438.1641 Maturity of loan.

The loan made by CCC to ATFA will be due and payable upon demand.

§ 1438.1642 Redemption by ATFA.

ATFA's right to redeem naval stores pledged by ATFA to CCC shall be subject to the terms and conditions of the Loan Agreement and any amendments thereto. Redemption shall be made upon application to CCC therefor, prior to maturity of the loan, and upon payment of the redemption cost. The redemption cost will be determined by CCC and will be the amount outstanding under the Loan Agreement, including any unpaid accrued expenses and charges, plus interest applied ratably to the naval stores to be redeemed. Any naval stores redeemed will not be thereafter eligible for loan.

§ 1438.1643 Net gains.

ATFA will disburse in cash on a fair and equitable basis to participating producers all net gains, less cost of disbursements, resulting from ATFA's sale of redeemed naval stores, unless a disposition other than cash disbursement has been approved by CCC. For example, when net gains are insufficient to justify disbursement expense, ATFA may upon request to and approval of CCC, utilize such net gains for and in behalf of all of its producer-members.

§ 1438.1644 Right of CCC upon maturity.

Upon maturity and nonpayment of the loan, CCC will take title to any unredeemed naval stores, without a sale thereof, and CCC will have no obligation to pay or account to ATFA for any market value which such naval stores may have in excess of the amount of the loan, plus interest and charges.

§ 1438.1645 Purchases by the CCC.

(a) Sales. ATFA may sell to CCC any or all eligible rosin which is produced from 1976 crop crude pine gum, on which it has made advances to the producers, and which is not security for a CCC support loan: *Provided*, That ATFA must have executed and delivered to the GOC Division, prior to December 31, 1976, a Purchase Agreement (Form CCC-614), indicating the approximate amount ATFA will sell to CCC. Delivery points for purchases from other than approved warehouse storage shall be limited to those approved by the GOC Division. The rates at which CCC will purchase eligible rosin from ATFA will be the same as the rates at which ATFA could have obtained a loan from CCC on such rosin.

(b) Delivery Period. ATFA must make delivery of the rosin it desires to sell to CCC not later than December 31, 1977.

§ 1438.1646 Personal liability.

Any fraudulent representation by ATFA or the producer in the program documents will render it or him subject to criminal prosecution under applicable law and personally liable for the amount by which the proceeds received upon the disposition of the naval stores involved are less than the amount of indebtedness incurred by ATFA with respect to such naval stores.

Effective date: July 9, 1976.

Signed at Washington, D.C., on July 8, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-20135 Filed 7-8-76;10:50 am]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

PART 1701—PUBLIC INFORMATION

REA Bulletins; Revision of REA Specification D-10 for Distribution Transformers

Appendix A to Part 1701, Title 7, is hereby amended to provide for the revision of Specification D-10, "Specifications for Rural Distribution Transformers (Overhead Type)," included in REA Bulletin 44-1, "Specifications and Standards for Materials and Equipment."

In accordance with proposed rulemaking procedures, the proposed revision of Specification D-10 was published in the FEDERAL REGISTER on March 5, 1976, (41 FR 9556). 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:* A commenter mentioned that transformers larger than 50 kVA are used and that the size range of the specification should be increased to 167 kVA.

Response: No change was made in the specification. These specifications are intended to cover frequently used transformers for rural residential use. Certain uses will call for transformers beyond the scope of this specification.

2. *Comment:* Several commenters objected to the provision for taps in dual voltage.

Response: The provision for taps in dual voltage transformers was intended to be permissive and not mandatory. The provision for taps in dual voltage transformers has been dropped.

3. *Comment:* A commenter suggested that nominal secondary voltages other than 120/240 volts be included.

Response: No change was made in the specifications. See Comment 1 above.

4. *Comment:* Several commenters felt that a BIL of 125 kV in the multiple position for dual voltage transformers was unnecessary due to a lack of problems caused by 95 kV BIL and that 125 kV BIL was not in accordance with national standards.

Response: No change was made in the specification. We have experienced excessive failure rates on dual voltage transformers. Many of these failures have been attributed to the inability of the standard 18 kV arrester to protect the winding when it was connected in multiple with a 95 kV BIL. The national standards are silent on the construction of dual voltage transformers; however, 125 kV BIL is standard for 25 kV class distribution transformers for application to grounded wye systems.

5. *Comment:* Several comments were made that decals are widely used instead of stenciling to mark transformer tanks. This is permitted under current ANSI standards.

Response: Paragraph IV 1, has been revised to permit decals. The word "stenciled" has been replaced by the word "marked."

6. *Comment:* A comment was made that only one kVA marking is presently being supplied and suggesting that the requirement for a second marking be dropped.

Response: REA Specification D-10 has included this requirement for at least 20 years. All transformers presently being supplied are certified by the manufacturer to meet this requirement. We feel that there is no need to change the requirement at this time. No change was made in the specification.

7. *Comment:* A comment was received that single bushing transformers are supplied with only one grounding terminal and that this was in accordance with ANSI C57.12.20. It was suggested that we drop the requirement for a second grounding terminal.

Response: No change was made in the specification. See Comment 6 above. Also see ANSI C57.12.20-1974, Fig. S3

8. *Comment:* Several comments were received concerning the method of pressure relief, the flow rate, the location of the pressure relief valve and the need for automatic pressure relief.

Response: The need for automatic pressure relief is widely recognized in the electric power industry. The requirements were generalized to permit cover venting as well as the use of pressure relief valves. The flow rate was set at a nominal 40 SCFM @ 15 psig. The present ANSI proposal gives a minimum flow rate of 35 SCFM. We see no inconsistency. The location of the valve has been generalized. The new location is as originally intended but more clearly specified.

9. *Comment:* A comment was received that the ANSI standards presently call for the nameplate to be located on a special nameplate bracket and that either that bracket or the lower hanger bracket should be an acceptable location.

Response: No change was made in the specification. There has been a trend toward moving the nameplate to the hangar bracket for several years. With the elimination of the hole in the hanger bracket, we no longer see a need to keep the hanger bracket clear.

The revised REA Specification D-10, the effective date of which will be January 1, 1977, is as follows:

REA Specifications for Rural Distribution Transformers (Overhead Type)

[REA Specification D–10]

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

I. *Scope.*

A. *General:* These performance specifications cover pole type distribution transformers for use on rural electric distribution systems. The transformers covered by these specifications shall be 60 hertz, 65° C rise, single-phase and of the outdoor, direct pole mounting, oil-immersed, self-cooled type with cover mounted high voltage bushings, tank-wall mounted low voltage stud type bushings and all standard ANSI accessories.

II. *Rating.*

A. *Capacity:* These specifications are intended to apply to single-phase, pole type, distribution transformers of the following kVA ratings.

5	15	37½
10	25	50

B. *High Voltage:* The nominal high voltage rating shall be one of the following:

High voltage rating, with or without taps. Single Bushing (Conventional or Self Protected).—12470 GRD Y/7200; 13200 GRD Y/7620; 24940 GRD Y/14400. 12470 GRD Y/7200 x 24940 GRD Y/14400 [1]; 13200 GRD Y/7620 x 24940 GRD Y/14400 [1].

Two Bushing (Conventional Only).—7200/12470 Y; 7620/13200 Y; 14400/24940 Y. 7200/12470 Y x 14400/24940 GRD Y [1]; 7620/13200 Y x 14400/24940 GRD Y.[1]

C. *Low Voltage:* The nominal low voltage rating shall be 120/240 volts.

D. *Insulation Levels:* BIL's shall be: Secondary line terminals, 30 kV; Primary line terminals: Single voltage transformers: For use on 7.2/12.5 kV systems, 95 kV; for use on 7.62/13.2 kV systems, 95 kV; for use on 14.4/24.9 kV systems, 125 kV. Dual voltage transformers—BIL: Applies to both voltage ranges, 125 kV.

[1] No taps.

III. *Applicable Standards:* Transformers shall comply with American National Standard Requirements for Overhead-Type Distribution Transformers 67,000 Volts and Below, 500 kVA and smaller, ANSI No. C57.12.20–1974 except where it conflicts with the specific requirements of these specifications.

IV. *Special Provisions and Exceptions to Applicable Standards:*

1. The kVA rating shall be legibly and durably marked on the tank in numerals not less than 2½ inches high. Single bushing transformers shall be marked on two sides, one marking being located beneath the secondary bushing and the other located diametrically opposite. Two bushing transformers shall have a single marking located beneath the secondary bushings. The words "REA CO–OP" or other identifying letters or symbols may be added if specified by the purchaser.

2. Single bushing transformers shall have two sets of mounting brackets located on opposite sides of the tank and 90° from the secondary bushings. Details of single bushing transformers are shown in ANSI C57.12.20–1974, Fig. S3.

3. Single bushing transformers shall have two complete grounding terminals of the solderless connector type mounted on the lower portion of the tank below the secondary terminals and adjacent to the support bracket.

4. On the single bushing transformers, the high voltage bushing shall be located 180° from the secondary neutral bushing.

5. On single bushing transformers, the nameplate shall be visible when facing the secondary terminals and mounted on the lower support lug in segment two.

6. Transformers shall have suitable provision for automatic pressure relief. The minimum nominal flow rate is 40 SCFM @ 15 psig. with a maximum minus tolerance of 5 SCFM. When a valve is used, it shall be located above the 140° C top oil line in segment three or four. On single bushing transformers, the valve shall be located between the hanger bracket in segment four and the primary bushing.

7. Connectors and terminals shall be so designed as to accommodate either aluminum or copper conductors.

8. Dual voltage switches for deenergized operation shall be externally operable and shall have each position clearly indicated. The switch shall position positively and shall latch in each position. Two operations (minimum) shall be required to change switch position.

9. Transformers shall be designed to meet REA Telephone Influence Factor (TIF) requirements. Measurements for TIF shall be made in accordance with the 1960 weighting network, when measured with Western Electric 3A or 4A or Northeast Electronics TTS 37B Noise Measuring Sets, or equivalent. The measurements shall show an I.T. product not exceeding 15 per kVA of the transformer rating when made at rated voltage and not exceeding 45 per kVA of the transformer rating when made at 10 percent above rated voltage. These measurements shall be made on a 120 volt section of the low voltage winding with a source voltage TIF not exceeding 10.[2]

10. The radio influence voltage shall not exceed 100 micro-volts (average measurement) at 1000 kHz when measured at 110 percent of rated voltage in accordance with the methods outlined in ASA Publication C63.2, 1950, Appendix A, Figure 5. Dual voltage transformers shall be tested on the highest voltage connection.

Dated: July 1, 1976.

David H. Askegaard,
Acting Administrator.

[FR Doc.76–19782 Filed 7–8–76;8:45 am]

[2] A test method for measuring TIF may be found in "Recommended Practice for Voice-Frequency Electric Noise Tests of Distribution Transformers," IEEE Transactions on Communications, Vol. Com. 21 No. 12, Dec. 1973, page 1448. (Copies available from REA on request.)

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 13, 17]

ENDANGERED PLANTS

Public Hearing

Correction

In FR Doc. 76–19139 appearing at page 27381 in the issue for Friday, July 2, 1976 the headings should have read as set forth above.

National Park Service

[36 CFR Part 7]

ROCKY MOUNTAIN NATIONAL PARK, COLORADO

Dogs, Cats and Other Pets

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), section 4 of the Act of January 26, 1915, 38 Stat. 800, as amended (16 U.S.C. 195), and section 4 of the Act of March 2, 1929, 45 Stat. 1537, as amended (16 U.S.C. 198c), 245 DM1; NPS Order No. 77 (38 F.R. 7478); Regional Director, Rocky Mountain Region Order No. 1 (39 F.R. 12369), it is proposed to amend § 7.7 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to further clarify the regulations contained in § 2.8 of the general regulations regarding dogs and cats as they pertain to Rocky Mountain National Park. This proposal is intended to restrict dogs, cats and other pets to those areas generally accessible by automobile. The objective is to maintain, by special regulation, the scenic, aesthetic and natural values of off-road areas by prohibiting pets which present a potential conflict with park users and wildlife. This proposal will reinforce the current restrictions imposed by prohibitive signs posted by order of the Superintendent.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Rocky Mountain National Park, Estes Park, Colorado 80517, on or before August 9, 1976.

Paragraph (f) of § 7.7 is proposed to read as follows:

§ 7.7 Rocky Mountain National Park.

* * * * *

(f) *Dogs, cats, and other pets.* In addition to the provisions of 36 CFR 2.8, dogs, cats, and other pets on leash, crated, or otherwise under physical restraint are permitted in the park only within 100 feet of the edge of established roads or parking areas, and are permitted within established campgrounds and picnic areas; dogs, cats and other pets are prohibited in the backcountry and on established trails.

ROGER J. CONTOR,
Superintendent,
Rocky Mountain National Park.

[FR Doc.76–19876 Filed 7–8–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

FROZEN STRAWBERRIES

Revision of Standards for Grades

Notice is hereby given that the United States Department of Agriculture is considering revision of the United States Standards for Grades of Frozen Strawberries.

These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file same, in duplicate, not later than August 31, 1976 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED REVISION

The grade standards for frozen strawberries were last revised in April of 1955 and amended in February of 1958. Since the last major change in standards, new varieties have been developed and certain changes in marketing practice have taken place. In addition, a new style designated as "Halved" has gained popularity over the past several years, which is not specifically provided for in the current standards.

Current standards provide requirements for color, one of which, among other things, is the degree of uniformity in Grades A and B. These standards also permit 20 percent, and 30 percent, by weight, of disintegrated or mushy berries in the sliced style in Grades A and B, respectively.

Over the past several years less attention has been given to uniformity of color and more emphasis given to the amount of berries failing to meet minimum color limits with respect to light red or pinkish red color and maximum limits with respect to dark colored berries.

New varieties developed and used as well as current marketing practices indicate that the current maximum amounts for disintegrated or mushy berries in the sliced style for Grades A and B may be reduced.

The proposed revision would:

(1) Eliminate the uniformity requirement in the factor of color in Grades A and B. Uniformity currently is not evaluated in Grade C. This would not change;

(2) Make the maximum requirements for disintegrated or mushy berries in the factor of character in Grades A and B slightly more restrictive for sliced strawberries. The requirements in Grade C remained unchanged;

(3) Provide for a style to be designated as "Halved";

(4) Eliminate the dual grade nomenclature such as "U.S. Fancy," "U.S. Choice," and "U.S. Standard." Only the letter grade nomenclature would be retained. This is in keeping with the Department's policy to simplify grade nomenclature;

(5) Change the format of the current standards by using the attributes concept as requested by the American Frozen Food Institute. This format would;

(a) Require a standard sample unit size on which the various factors are evaluated;

(b) Classify the defects according to severity, providing separate AQL's (acceptable quality levels) for each classification;

(c) Provide acceptance sampling plans applicable for the style, one set designed for lot inspection, and one set designed solely for on-line inspection, both geared to the sample unit size, AQL's and known degrees of reliability; and

(d) Eliminate the scoring system.

The attributes concept is better adapted as a quality control aid than conventional standards and equally adapted for lot inspection use. This concept, based on sound statistical principles, provides a greater degree of reliability for acceptance or rejection with respect to specified requirements than conventional standards.

The proposed revision is as follows:

Subpart—United States Standards for Grades of Frozen Strawberries

Sec.

52.1981 Product description.
52.1982 Styles.
52.1983 Definition of terms.
52.1984 Sample unit size.
52.1985 Grades.
52.1986 Factors of quality and grade compliance.
52.1987 Sample size.
52.1988 Compliance with quality requirements.

AUTHORITY: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended 1090, as amended; 7 U.S.C. 1622, 1624.

Subpart—United States Standards for Grades of Frozen Strawberries

§ 52.1981 Product description.

Frozen strawberries means the product represented as defined in the Standards of Identity for Frozen Strawberries (21 CFR, 32.10) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

§ 52.1982 Styles.

(a) "Whole" means frozen strawberries that are essentially intact.

(b) "Sliced" means frozen strawberries produced by slicing whole strawberries into slices such that the majority of the slices have two approximately parallel cut surfaces.

(c) "Halved" means frozen strawberries that have been cut into two approximately equal parts.

§ 52.1983 Definition of terms.

(a) *Absolute Limit (AL).* Limit for maximum number of defects permitted in a sample unit.

(b) *Acceptable Quality Level (AQL).* A nominal value expressed in percent defective or defects per hundred units, whichever is applicable, specified for a given class of defects such that the sampling plan will result in acceptance of 95 percent of submitted inspection lots containing that percentage of defective items or defects per hundred units.

(c) *Acceptance limit* (denoted by the symbol "L"). As used in the cumulative sum (CUSUM) sampling plans, acceptance limit is the maximum allowable accumulation of defects exceeding the sample unit tolerance (T) in any sample unit or any consecutive number of sample units.

(d) *Character.* Character refers to the firmness, the degree of seediness, and degree of disintegration.

(e) *Color.* Color refers to the degree of redness of the individual strawberries characteristic of the variety, and to the brightness and overall color appearance of the sample unit.

(1) *Well colored.* The outer uncut surface of the individual strawberry units is a pinkish-red to intense red color and free from any grayish or brownish cast. Such color includes the whitish or light colored areas around the stem cavity that does not extend over the shoulder of the strawberries.

(2) *Fairly well colored.* The outer uncut surface of the individual strawberry units is a reddish pink to pale pink. Such units may possess white, pinkish white or green areas that do not exceed 25 percent of the outer uncut surface area, exclusive of the stem cavity, in the case of whole strawberries and 50 percent of the outer uncut surface in the case of sliced or halved strawberries.

(3) *Partially uncolored (whole strawberries only).* Not less than 25 percent and not more than 75 percent of the outer uncut surface is a white, pinkish white or green color.

(4) *Completely uncolored (whole strawberries only).* More than 75 percent of the outer uncut surface is a white, pinkish white or green color.

(5) *Uncolored (sliced, halved).* More than 50 percent of the outer uncut surface is a white, pinkish white or green color.

(6) *Materially darkened.* Strawberries that are materially darkened due to overmaturity and are a blackish-red or brownish-red color.

(f) *Cumulative sum sampling plan* (denoted by the term "CUSUM"). An on-line sampling plan which accumulates the number of defects in a sample that exceed a specific sample unit tolerance. A portion of production is acceptable (meets grade requirements) if the cumulative sum of defects does not exceed the specified acceptance limit.

(g) *Damaged.* A strawberry, or portion thereof, that is damaged by sunburn, insects, or birds to the extent that the appearance or eating quality is materially affected.

(h) *Decay.* The bacterial or fungus deterioration of a unit or portion of a unit.

(i) *Defects.* Any specifically defined variation from a particular requirement. Defects are classified as "minor", "major", "severe" and "critical."

(j) *Deviant.* As applied to these standards, "deviant" means a sample unit which fails the requirements for one or more of the prerequisites factors specified in § 52.1985 by not more than one grade below the intended grade.

(k) *Disintegrated.* Means broken, smashed, crushed, or mushy strawberries or portions thereof:

(1) With respect to whole strawberries:

(i) Broken means a whole strawberry that is broken into two or more separate parts and two or more of the parts are present in the sample unit. The separated parts of a whole berry are pieced together to simulate one apparent whole berry and counted as one broken berry.

(ii) Smashed or crushed means a whole strawberry that is smashed or crushed to the extent that it has completely lost resemblance to its original conformation due to crushing.

(iii) Mushy means a whole strawberry that is so soft as to be a pulpy mass.

(2) With respect to halved and sliced style:

(i) Mushy means halves or slices or portions thereof that are so soft as to be a pulpy mass or have separated into small pieces which have no conformation.

(l) *Extraneous vegetable material (measurable by area).* Means vegetable substances such as calyces and leaves or portions thereof.

(m) *Extraneous vegetable material (not measurable by area).* Vegetable substances such as strawberry vines, weeds, weed seeds, grass and any portions thereof that are harmless.

(n) *Grit, sand or silt.* Any particles of earthy material.

(o) *Not normally developed.* A strawberry or portion thereof that is affected by a hard seedy or deformed end to the extent that the appearance or eating quality is adversely affected:

(1) Materially; or

(2) Seriously.

(p) *Partial whole strawberry.* Means a strawberry that has more than 25 percent of the whole berry missing and which missing part is not present in the sample unit.

(q) *Sample.* The number of sample units to be used for inspection of a lot.

(r) *Sample unit.* The amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container; or

(2) A portion of the contents of a container; or

(3) A combination of the contents of two or more containers; or

(4) A portion of unpacked product.

(s) *Sample unit tolerance* (denoted by the symbol "T"). As used in the cumulative sum (CUSUM) sampling plans is the allowable number of defects in any sample unit.

(t) *Seedy.* Means a strawberry in which the seeds have become abnormally enlarged and are present in such quantity as to materially affect the eating quality.

(u) *Small size strawberry.* Means a strawberry of which the greatest dimension measured at right angles to a straight line extending from the stem to the apex is less than 16 mm (0.62 in.).

(v) *Stem.* A stem that attaches the strawberry to the plant that is either loose or attached and is longer than 3 mm (0.12 in.).

(w) *Unit.* A whole strawberry or a half or slice of a strawberry.

§ 52.1984 Sample unit sizes.

(a) Compliance with requirements for factors of quality and style (whole style only) is based on the following sample unit sizes:

(1) Whole strawberries with or without a packing medium—100 berries.

(2) All other styles—650 grams (22.9 ounces) total product (Strawberries plus packing medium).

§ 52.1985 Grades.

(a) "U.S. Grade A" is the quality of frozen strawberries that:

(1) Meets the following prerequisites (with deviants as specified in § 52.1988) in which the strawberries:

(i) Have a normal flavor and odor;

(ii) As a mass possess a good, bright, overall color appearance;

(iii) Are practically free from grit, sand or silt;

(iv) Have not more than 5 cm^2 (equivalent of 1 cm x 5 cm or 0.775 sq. in.) in whole style and not more than 2.5 cm^2 (equivalent of 1 cm x 2.5 cm or 0.388 sq. in.) in sliced and halved styles of extraneous vegetable material measurable by area;

(2) With respect to whole style the number of "small size" berries does not exceed the Absolute Limit (AL value) and/or acceptance values in Table I in the case of lot inspection, or in Table Ia, in the case of on-line inspection; and

(3) Is within the limits for defects as classified in Tables II or III and specified for Grade A in Tables IV, V, and VI as applicable for the styles, in the case of lot inspection, or Tables IVa, Va, and VIa in the case of on-line inspection.

(b) "U.S. Grade B" is the quality of frozen strawberries that:

(1) Meets the following prerequisites (with deviants as specified in § 52.1988) in which the strawberries:

(i) Have a normal flavor and odor;

(ii) As a mass possess a reasonably good overall color appearance;

(iii) Are reasonably free from grit, sand or silt;

(iv) Have not more than 12 cm^2 (equivalent of 1 cm x 12 cm or 1.86 sq. in.) in whole style and not more than 5 cm^2 (equivalent of 1 cm x 5 cm or 0.775 sq. in.) in sliced and halved styles of extraneous vegetable material measurable by area; and

(2) Is within the limits for defects as classified in Tables II or III and specified for Grade B in Tables IV, V, and VI, as applicable for the style, in the case of lot inspection, or in Tables IVa, Va, and VIa, in the case of on-line inspection.

(c) "U.S. Grade C" bulk pack intended for remanufacture only (in containers with more than 2.7 kg (6 pounds) net weight) is the quality of frozen strawberries that:

(1) Meets the following prerequisites (with deviants as specified in § 52.1988) in which the strawberries:

(i) Have a normal flavor and odor;

(ii) As a mass possess a fairly good overall color appearance;

(iii) Are fairly free from grit, sand or silt;

(iv) Have not more than 13 cm^2 (equivalent of 1 cm x 13 cm or 2.02 sq. in.) in whole style and not more than 7 cm^2 (equivalent of 1 cm x 7 cm or 1.09 sq. in.) in sliced and halved styles of extraneous vegetable material measurable by area; and

(2) Is within the limits for defects as classified in Tables II or III and specified for Grade C in Tables IV, V, and VI, as applicable for the style, in the case of lot inspection, or in Tables IVa, Va, and VIa, in the case of on-line inspection.

(d) "Substandard" is the quality of frozen strawberries that fail to meet the requirements for "U.S. Grade B" (consumer pack containers 2.7 kg (6 pounds) or less) or "U.S. Grade C" (bulk pack intended for remanufacturing only in containers with more than 2.7 kg (6 pounds) net weight).

§ 52.1986 Factors of quality and grade compliance.

(a) The grade of a lot of frozen strawberries is based on compliance with requirements for the following quality factors:

(1) Flavor and odor (a prerequisite);

(2) Size (for whole style in Grade A only with respect to small size strawberries);

(3) Grit, sand, or silt (a prerequisite);

(4) Overall color appearance as a mass (a prerequisite);

(5) Color (individual units);

(6) Workmanship; and

(7) Character.

(b) Defects are classified as minor, major, severe or critical in Tables II and III. Each "X" mark represents one defect.

TABLE I.—*Allowances for small size whole strawberries (grade A only), sample unit size—100 berries, lot inspection*

Absolute limit (AL)		7
Number of sample units	Number of berries	Number small size berries
3	300	15
6	600	27
13	1,300	53
21	2,100	82
29	2,900	110
38	3,800	142
48	4,800	177
60	6,000	218
Acceptable quality level (AQL)		3.25

TABLE Ia.—*Cusum sampling plan, on-line inspection*

	Allowances for small size berries	
	T	L
AQL	4 3.25	3

TABLE II.—*Classification of defects*

[Whole]

Quality factors	Defects	Classification			
		Minor	Major	Severe	Critical
Color [1]	Fairly well colored (in grades A and B)	X			
	Partially uncolored and materially darkened		X		
	Completely uncolored			X	
Workmanship [1]	Not normally developed (affected):				
	Materially		X		
	Seriously			X	
	Damaged		X		
	Stems		X		
	Extraneous vegetable material: Not measurable by area.			X	
	Decay, equivalent to area of a circle:				
	Not less than 3 mm to not more than 13 mm in diameter.			X	
	Greater than 13 mm in diameter				X
	Partial whole	X			
Character [1]	Disintegrated berries, seedy berries	X			

[1] Subject to sampling plans in table IV or IVa.

TABLE III.—*Classification of defects*

[Halved, sliced]

Quality factors	Defects	Classification			
		Minor	Major	Severe	Critical
Color [1]	Fairly well colored (in grades A and B only)	X			
	Uncolored and materially darkened		X		
Workmanship [1]	Not normally developed (affected):				
	Materially		X		
	Seriously			X	
	Damaged			X	
	Stems			X	
	Extraneous vegetable material: Not measurable by area.				X
	Decay, equivalent to the area of a circle:				
	Not less than 3 mm to not more than 13 mm in diameter.			X	
	Greater than 13 mm in diameter				X
Character [2]	Disintegrated, seedy; each 10 g or fraction thereof in increments of 5 g.	X			

[1] Subject to sampling plans in table V or Va.
[2] Subject to sampling plans in table VI or VIa.

TABLE IV.—*Grade compliance, whole lot inspection*

		Grade A				Grade B				Grade C			
Absolute limit (AL)		21	10	6	1	49	25	10	2	56	33	18	3
Number of sample units	Number of units	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical
3	300	48	21	12	3	122	58	21	74	138	79	41	17
6	600	89	39	21	4	234	109	39	7	266	151	76	22
13	1,300	183	78	42	7	490	225	78	13	558	314	156	32
21	2,100	289	122	64	11	780	355	122	20	888	497	245	43
29	2,900	394	165	86	14	1,067	484	165	26	1,216	680	333	54
38	3,800	511	213	111	17	1,390	629	213	33	1,584	884	432	77
48	4,800	640	266	138	21	1,747	789	266	40	1,992	1,109	541	80
60	6,000	795	329	170	25	2,175	980	329	49	2,481	1,380	671	
Acceptable quality level (AQL)		12.50	5.0	2.50	0.30	35.0	15.50	5.0	0.65	40.0	22.0	10.50	1.20

[1] Total equals minor plus major plus severe plus critical.

TABLE IVa.—*Cusum sampling plan, on-line inspection*

	Grade A								Grade B								Grade C							
	Total [1]		Major [1]		Severe		Critical Runs [2]		Total [1]		Major		Severe		Critical		Total [1]		Major		Severe		Critical	
	T	L	T	L	T	L			T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L
AQL	14 12.50	7	6 5.0	4	3 2.50	3	3 in 4 0.30		38 35.0	11	17 15.50	8	6 5.0	4	1 0.65	1	43 40.0	13	24 22.0	9	12 10.50	6	2 1.20	1

[1] Total equals minor plus major plus severe plus critical.
[2] Acceptable run criteria.

TABLE V.—*Grade compliance, lot inspection*

[Sliced, halved—color, workmanship]

			Grade A				Grade B				Grade C			
Absolute limit (AL)			25	12	10	3	46	23	21	5	39	33	27	7
Number of sample units	Weight of product		Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical
	Grams	*Ounces*												
3	1,950	69	59	26	21	5	112	54	46	11	96	78	62	15
6	3,900	138	112	49	38	9	215	102	86	20	184	148	117	26
13	8,450	299	232	98	75	16	450	210	177	38	385	308	243	52
21	13,650	482	366	153	117	24	715	331	278	58	611	489	384	81
29	18,850	666	499	208	159	31	978	451	379	78	835	668	524	108
38	24,700	873	649	269	205	39	1,273	586	491	100	1,086	868	680	140
48	31,200	1,102	814	336	255	49	1,600	734	615	125	1,365	1,090	853	174
60	39,000	1,378	1,011	416	316	59	1,992	912	764	153	1,698	1,355	1,060	215
Acceptable quality level (AQL)			10.0	4.0	3.0	0.50	20.0	9.0	7.50	1.40	17.0	13.50	10.50	2.0

[1] Total equals minor plus major plus severe plus critical.

TABLE Va.—*Cusum sampling plan, on-line inspection*

	Grade A								Grade B								Grade C							
	Total [1]		Major		Severe		Critical		Total [1]		Major		Severe		Critical		Total [1]		Major		Severe		Critical	
	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L
AQL	18 10.0	7	8 4.0	4	6 3.0	4	1 0.50	2	35 20.0	11	16 9.0	7	14 7.50	7	3 1.40	2	29 17.0	10	24 13.50	9	19 10.50	8	4 2.0	3

[1] Total equals minor plus major plus severe plus critical.

TABLE VI.—*Grade compliance, lot inspection*

[Sliced, halved—character]

			Grade A	Grade B	Grade C
Absolute limit (AL)			15	22	34
Number of sample units	Weight of product		Minor	Minor	Minor
	Grams	*Ounces*			
3	1,950	69	35	51	83
6	3,900	138	65	95	158
13	8,450	299	132	196	328
21	13,650	482	207	310	520
29	18,850	666	281	422	711
38	24,700	873	364	548	924
48	31,200	1,102	456	687	1,161
60	39,000	1,378	566	853	1,444
Acceptable quality level (AQL)			13.50	20.70	35.50

TABLE VIa.—*Cusum sampling plan, on-line inspection*

	Grade A, minor		Grade B, minor		Grade C, minor	
	T	L	T	L	T	L
	10	5	15	7	25	9
AQL	13.50		20.70		35.50	

§ 52.1987 Sample size.

The sample size to determine compliance with requirements for the prerequisites specified in § 52.1985 and other quality factors shall be as specified in the sampling plan in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" (§§ 52.1–52.83).

§ 52.1988 Compliance with quality requirements.

(a) Lot inspection.

A lot of frozen strawberries is considered as meeting the requirements for quality if:

(1) The number of deviants for the prerquisites specified for the applicable grade in § 52.1985 does not exceed the acceptance number specified in the sampling plans in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" (§§ 52.1–52.83).

(2) In the case of whole style the AL value and the cumulative acceptance values specified in Table I for "small size" berries are not exceeded for Grade A; and

(3) The AL values and the cumulative acceptance values for the applicable defect classifications specified in Tables IV, V, and VI are not exceeded.

(b) *On-line inspection.* A production or any portion of production is considered as meeting requirements for quality if:

(1) The number of deviants for the prerequisites specified for the applicable grade in § 52.1985 does not exceed the acceptance number specified in the sampling plans in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" (§§ 52.1–52.83); and

(2) In the case of whole style the "L" value in Table Ia is not exceeded; and

(3) The "L" values and run criteria in Tables IVa, Va, and VIa are not exceeded.

Dated: July 2, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-19861 Filed 7-8-76;8:45 am]

[7 CFR Part 911]

LIMES GROWN IN FLORIDA

Handling

Consideration is being given to the following proposal, as hereinafter set forth, which would continue through August 28, 1976, suspension of the use of 10-pound containers for the handling of fresh Florida limes. Such suspension is scheduled to end on July 24. The suspension is effective under Lime Regulation 27 (38 FR 12323; 15726; 41 FR 19299) which continues to authorize the use of six containers with minimum content requirements of 20 pounds and 38 pounds net weight of limes.

The proposed amendment was submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal reflects the committee's appraisal of present and prospective marketing conditions for limes.

The committee reports that trade reaction has been favorable during the initial period of suspension of the 10-pound containers and that supplies of limes will continue heavy through August 28. Limiting shipments to the larger 20- and 38-pound containers results in lower handling and marketing charges for a given volume of limes. Indications are that the lower packing charges enables lower f.o.b. prices and encourages larger per unit sales at attractive retail prices.

The committee reports that current retail lime prices are as low as 8–9 cents each. Such prices should encourage increased sales during the period of heaviest lime supplies and help maintain orderly marketing conditions.

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 15, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Such proposal reads as follows:

Amend the provisions of paragraph (a)(2) of § 911.329 (Lime Regulation 27; 38 FR 12323; 15726; 41 FR 19299) to read as follows:

§ 911.329 Lime Regulation 27.

(a) * * *

(2) During the period May 30, 1976, through August 28, 1976, no handler shall handle any variety of limes, grown in the production area, in containers having inside dimensions of 12 x 9⅝ x 3¾ inches and 12 x 9⅝ x 5 inches: *Provided*, That during such period and thereafter no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in individual bags having a capacity of more than 4 pounds net weight of limes.

* * * * *

Dated: July 6, 1976.

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

[FR Doc.76-19900 Filed 7-8-76;8:45 am]

[7 CFR Parts 946 and 980]

IRISH POTATOES GROWN IN WASHINGTON

Vegetables: Import Regulations

This proposal would require potatoes grown in the State of Washington to meet minimum quality and size requirements. This should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

Consideration is being given to the issuance of the handling regulation, hereinafter set forth, which was recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR Part 946). This marketing order program regulates the handling of Irish potatoes grown in the State of Washington and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the composition of the 1976 crop of Washington potatoes and the marketing prospects for this season. Shipments are expected to begin in late July. The grade, size, cleanliness, maturity and pack requirements proposed herein, which are the same as those currently in effect through July 31, 1976, are necessary to prevent potatoes

of lesser maturities, low quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

The committee recommended retaining the additional 10 percent tolerance for damage due to hollow heart and/or internal discoloration for potatoes packed in 50-pound cartons. This problem usually occurs in the larger size potatoes—the predominant ones packed in cartons. Without this tolerance these larger potatoes would have to be shipped in bags which provide less protection to the potatoes and less ease of handling.

Exceptions are proposed to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be allowed to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Seed would be exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Potatoes grown in the production area could be shipped without regard to the aforesaid requirements to specified locations in Morrow and Umatilla Counties, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part. Therefore, shipments to processing outlets are exempt.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed. In commercial prepeeling, operators remove the surface defects from potatoes which would be undesirable for the tablestock market, and smaller sizes are acceptable. For these reasons potatoes for prepeeling are provided with different requirements.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same, in duplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 23, 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 proposal is as follows:

§ 946.331 Handling regulation.

During the effective date hereof through July 31, 1977, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e) or (f) of this section.

(a) *Minimum quality requirements.* (1) *Grade: All varieties*—U.S. No. 2, or better grade.

(2) *Size:* (i) *Round varieties*—1⅞ inches minimum diameter.

(ii) *Long varieties*—2 inches minimum diameter or 4 ounces minimum weight.

(iii) *All varieties for export*—1½ inches minimum diameter.

(3) *Cleanliness:* All varieties—at least "fairly clean."

(b) *Minimum maturity requirements.* (1) *Round and White Rose varieties:* Not more than "moderately skinned."

(2) *Other long varieties (including but not limited to Russet Burbank and Norgold)*: Not more than "slightly skinned."

(c) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes which fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by U.S.D.A. Color Photograph E (Internal Discoloration—U.S. No. 2—Upper Limit), POT-CP-9, May, 1972, or not more than 5 percent serious damage by internal defects.

(d) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Livestock feed;

(2) Charity;

(3) Seed;

(4) Prepeeling;

(5) Canning, freezing, and other processing" as hereinafter defined; or

(6) Grading or storing at any specific location in Morrow and Umatilla Counties in the State of Oregon.

Shipments of potatoes for the purposes specified in paragraphs (d)(1), (2), (3), (4), (5), and (6) of this paragraph shall be exempt from inspection requirements specified in paragraph (g) of this section except shipments pursuant to paragraph (d)(6) shall comply with inspection requirements of (e)(2) of this section. Shipments specified in (d)(1), (2), (3), and (5) shall be exempt from assessment requirements specified in § 946.41.

(e) *Safeguards.* (1) Handlers desiring to make shipments of potatoes for prepeeling shall:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipments;

(ii) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler's certificate applicable to such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing.

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(2) Handlers desiring to make shipments for grading or storing at any specified location in Morrow and Umatilla Counties in the State of Oregon shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Upon receiving such application, the committee shall supply to the handler the appropriate certificate after it has determined that adequate facilities exist to accommodate such shipments and that such potatoes will be used only for authorized purposes;

(ii) If reshipment is for any purpose other than as specified in paragraph (d) of this section, each handler desiring to make reshipment of potatoes which have been graded or stored shall, prior to reshipment, cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Such shipments must comply with the minimum grade, size, cleanliness, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section.

(iii) If reshipment is for any of the purposes specified in paragraph (d) of this section, each handler making reshipment of potatoes which have been graded or stored shall do so in accordance with the applicable safeguard requirements specified in paragraph (e) of this section.

(3) Each person desiring to transport potatoes for grading or storing to points in District No. 5 or to Spokane County in District No. 1 shall apply to the committee for and obtain a special purpose certificate authorizing such movement.

(4) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing.

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment.

(v) Bill each shipment directly to the applicable processor.

(5) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exemption shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Inspection.* Except when relieved by paragraphs (d) or (f) of this section, no handler may handle any potatoes regulated hereunder unless an appropriate inspection certificate has been issued by an authorized representative of the Federal-State Inspection Service with respect thereto and the certificate is valid at the time of shipment.

(h) *Definitions.* The terms "U.S. No. 2," "fairly clean," "slightly skinned" and "moderately skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (§§ 51.1540–51.1566 of this title), including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in the prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (United States Standards for Grades of Peeled Potatoes §§ 52.2421–52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as when used in the marketing agreement, as amended and this part.

(i) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the red skinned round type imported during the months of July and August in the effective period of this section shall meet the minimum grade, size, quality and maturity requirements for round varieties specified in paragraphs (a) and (b) of this section.

Dated: July 6, 1976.

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

[FR Doc.76-19901 Filed 7-8-76;8:45 am]

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Expenses and Rate of Assessment

Consideration is being given to authorizing the Area No. 2 Committee to spend $18,500 for its operations during the fiscal period ending June 30, 1977, and to collect three-tenths cent per hundredweight on assessable potatoes handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in the State of Colorado. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in duplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 22, 1976. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 948.276 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1977, by the Area No. 2 committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $18,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.003 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: July 6, 1976.

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

[FR Doc.76-19899 Filed 7-8-76;8:45 am]

[7 CFR Part 984]

[Docket No. AO–192–A6]

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Decision on Proposed Further Amendment of the Marketing Agreement and Order

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), (hereinafter referred to collectively as the "order"), regulating the handling of walnuts grown in California, Oregon, and Washington. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at San Francisco, California, on January 27 and 28, 1976, pursuant to notice thereof issued on January 8, 1976.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on May 25, 1976 (41 FR 22084), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein:

MATERIAL ISSUES

The material issues of record are as follows:

(1) Reducing the "area of production" to the State of California and changing certain related provisions specified in the order;

(2) Revising the definitions of "To handle", "surplus walnuts", and "hold"; deleting the definition of "withholding factor"; and adding a definition for the term "To certify";

(3) Revising the Board nomination provisions for cooperative handlers;

(4) Changing the concept of volume regulation from that of surplus to reserve; changing the word "surplus" to "reserve" throughout the order; and adding authority for recommending the percentage of reserve walnuts that may be exported;

(5) Revising provisions on minimum grade and size regulations;

(6) Revising provisions on inspection and certification of walnuts;

(7) Making changes in Board representation and nomination provisions to bring them into conformity with the recommended change in the basis of determining a handler's reserve and assessment obligations; and deleting related obsolete provisions;

(8) Revising the basis of a handler's reserve obligation and the method of computing this obligation; replacing holding requirements for surplus walnuts with similar requirements for reserve walnuts; providing for the control and disposition of reserve walnuts; and moving provisions on transfer of excess credits to another section of the order;

(9) Deleting the provisions authorizing handlers to declare a specified quantity of walnuts for handling and satisfying the applicable surplus and assessment obligations;

(10) Making conforming changes in provisions on interhandler transfers;

(11) Revising provisions on the disposition of substandard walnuts, Board assistance in meeting reserve obligations, and exemptions;

(12) Revising provisions on Board expenses and handler assessments;

(13) Revising provisions on verification of reports; and

(14) Making such changes in the order as may be necessary to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and conclusions—The following findings and conclusions on the material issues are based on the record of the hearing:

(1) The current "area of production", defined in § 984.4, covers the States of California, Oregon, and Washington. This area should be reduced to cover only the State of California.

The current order became effective in 1948. During the first five years under the order, commercial walnut production in Oregon and Washington averaged 16.2 million pounds, and in California the average was 137.6 million pounds. Over the years, as commercial production in California steadily increased, the production in Oregon and Washington steadily declined. The 1975 commercial production in California totaled a record 393.4 million pounds. However, in Oregon and Washington, it was only 1.7 million pounds, or less than 0.5 percent of the total United States commercial production (California, Oregon, and Washington) of 395.1 million pounds. Production of walnuts in Washington has been so insignificant in recent years that the U.S. Department of Agriculture has not published any data on it.

The increase in California commercial walnut production is mainly due to the development of higher-yielding varieties, additional acreage, and more efficient cultural practices. In Oregon and Washington, prevailing bad weather during the harvest season and natural climatic conditions causing Oregon and Washington production to be at least one month later for market than California production have discouraged development of new varieties, and encouraged the steady decline in production. This decline is expected to continue. Hence, any sudden upsurge in walnut production in Oregon and Washington after their removal from the production area is not anticipated.

Without adequate supplies to market, the number of handlers in Oregon and Washington has also substantially declined. All but one of the inshell packing facilities have gone out of business. Testimony revealed that only three shelling facilities are still handling walnuts, but as production continues its decline these three may also go out of business.

About 50 percent of the small volume of walnuts produced in Oregon and Washington is generally sold in local and direct consumer markets. Should any of these walnuts be sold outside of Oregon and Washington, they are not expected to affect the marketing of California walnuts. Therefore, the failure to control the marketing of Oregon and Washington walnuts will not interfere with the marketing of California walnuts.

Occasionally, some orchard-run walnuts from Northern California have been trucked to handlers in Oregon for processing, packing, and marketing. Currently, this movement is not handling and is free from order obligations (inspection, volume and assessment). However, the recommended exclusion of Oregon and Washington from the production area covered by the order would make such a movement an act of handling. Thereafter, anyone shipping walnuts from California to Oregon or Washington would be subject to the order obligations before the walnuts left California. No compliance problems are foreseen if this movement continues.

In as much as California is now the only significant commercial walnut producer in the United States, no practical purpose, including compliance with marketing program provisions, would be served by keeping Oregon and Washington in the area of production. Moreover, the recommended reduction in area would limit application of the program to the smallest regional production area practicable, consistent with carrying out the declared policy of the act.

Certain provisions in the order which make reference to the States of Oregon and Washington and nonvoting delegate representation from these two states on the Walnut Marketing Board (the administrative agency of the order) should be deleted to reflect the recommended exclusion of Oregon and Washington from the area of production.

The definitions of the terms walnuts (§ 984.8), and part and subpart (§ 984.31), make reference to walnuts grown in the States of Oregon and Washington. Since it is recommended that Oregon and Washington be removed from the production area, the references to Oregon and Washington in both of these definitions are not needed, and therefore should be deleted.

Section 984.35(a) (5) and (6) provide grower representation on the Board for growers from two grower districts. Group (5) includes growers in District 1 marketing through independent handlers in California and those who market through independent or cooperative handlers in Oregon and Washington. District 1 is made up of the States of Oregon and Washington and the walnut producing counties in the State of California, that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties. Group (6) includes growers in District 2 who market their walnuts through independent handlers. District 2 is made up of all of the walnut producing counties in California south of that boundary line. Section 984.35(a) (7) provides representation on the Board for Oregon and Washington handlers by a nonvoting delegate. Since Oregon and Washington are recommended to be removed from the production area and coverage under the marketing order program, growers and handlers from these two states should not be afforded representation on the Board. Thus, the representation afforded Oregon and Washington growers and handlers from Groups (5) and (7) respectively, should be deleted to reflect the recommended change in production area. Also, in connection with the recommended change in production area, the States of Oregon and Washington should be removed from District 1. Continuing grower districts (1) and (2) would facilitate nominations of the two grower members from Groups (5) and (6) by giving growers in the southern and northern portions of California a better opportunity to be represented on the Board. These districts are relatively equal with respect to walnut acreage and production and divided along established boundary lines. The reference to voting members in § 984.35 (b) should be deleted since California would be the only state included in the production area and all members on the Board would be voting members.

Any reference to nonvoting delegates or voting members in §§ 984.36 (Term of office), 984.37 (Nominations), 984.38 (Eligibility), 984.39 (Qualify by acceptance), 984.40 (Alternate), 984.41 (Vacancy), 984.42 (Expenses) and 984.84 (Personal liability) should be deleted to reflect the reduced production area. Section 984.40(b) also provides that cooperative grower and handler groups from the same state shall be considered as the same group when a temporary substitution of a member is necessary. The words "from the same state" are no longer needed because of the recommended reduction in the production area and they should be deleted from the last sentence.

Sections 984.48 and 984.49 provide for the recommendation and establishment of volume regulation for Oregon and Washington. The recommended reduction in the production area makes the inclusion of these two states unnecessary and they should be deleted.

A report of shipments between the States of California, Oregon, and Washington is required pursuant to § 984.74.

The recommended reduction of the production area would make this report unnecessary and therefore § 984.74 should be deleted from the order.

Section 984.89(b)(3) specifies the producer majority required in a termination referendum. Since Oregon and Washington would be removed from the area of production, the inclusion of these two states is unnecessary and they should be deleted from § 984.89(b)(3).

(2) The exception in the definition of the term "To handle" in § 984.13 should be revised to read: "Except, that the term 'to handle' shall not include sales and deliveries within the area of production by growers to handlers." The exception in current definition provides that the disposition of surplus or substandard walnuts is not an act of handling. Consequently, such walnuts are not used in calculating a handler's base under the volume regulation or in his assessment requirements. It was proposed in the notice of hearing that this part of the exception in the current definition should be deleted since the basis for applying the volume regulations and assessment obligations would be changed. Therefore, for the reasons discussed in Material Issue (8) the purpose of the change would be to bring this definition into conformity with the change from a surplus concept to a reserve concept. In making such a change, any walnuts certified as merchantable and disposed of as reserve walnuts would be considered an act of handling. Consequently, reserve walnuts (currently surplus walnuts) that are certified as merchantable would be included as a part of the new volume regulation base. As further discussed in Material Issue (8) the basis of these program requirements is recommended to be changed to the quantity of walnuts certified as merchantable. The exclusion of substandard walnuts from the definition is necessary since the disposition of such walnuts is to be covered in another section of the order.

Section 984.26 defines the term "surplus walnuts" to mean walnuts which are held to meet a surplus obligation. The term "hold" is defined in § 984.33 to specify the conditions of holding walnuts to meet a surplus obligation. A later recommendation, discussed in Material Issue (4) would amend the order to recognize a different supply and export situation by changing from a surplus concept to a reserve concept. Hence, the word, "reserve" should be substituted for "surplus" wherever it apears in these two sections to reflect this change. Also, the definition of the term "hold" should be revised to make it clear that handlers would be required to hold certified merchantable walnuts to meet a reserve obligation under the proposed change of the order.

Current § 984.32 defines the term "withholding factor" as the quotient, expressed as a percentage rounded to the nearest one-tenth, resulting from dividing the surplus percentage by the free percentage established by the Secretary pursuant to § 984.49. The factor has been used by handlers to determine their surplus obligations in years of volume control by applying the factor to the weight of walnuts handled or declared for handling. The recommendation to change the basis for order obligations from the volume of walnuts handled or declared for handling to merchantable certifications and the change in the method of computing such obligations makes the use of this factor unnecessary. Hence, the term "withholding factor", in § 984.32 and the authority for its establishment in § 984.49(b) should be deleted.

In the notice of hearing, it was proposed that the term "certified" be defined to mean the issuance of a certification of inspection of walnuts by the inspection service. However, to make the definition more grammatically correct and to clarify its intent, the term "To certify" should be used. The term "To certify" should be defined to make its meaning clearly apparent. The term "certified" is used in §§ 984.35, 984.37, 984.51, 984.54, and 984.69 (recommended to be revised) of the order, dealing with Board representation, nominations, inspection and certification of inshell and shelled walnuts, establishment of obligation and program assessments, repectively.

(3) The notice of hearing contained a proposal to revise provisions regarding the method of voting handler membership to the Walnut Marketing Board to give the second largest cooperative in California one of the two cooperative handler positions on the Board. The proposal further provided that the second largest cooperative qualify for this position by handling at least five percent of the preceding year's crop.

The order currently provides cooperative handlers and their growers two handler members and alternate members, and two grower members and alternate members on the Board. It also provides for a grower member and an alternate member to represent either independent growers or cooperative growers depending upon the quantity of walnuts handled by the independent or cooperative handlers in the State of California during a specified period. Cooperative growers currently qualify for this position on the Board. Consequently, the cooperative handlers and their growers are represented on the Board by a total of three grower members and alternate members and two handler members and alternate members.

The current provisions for nominating persons to fill these five positions provide for weighting the vote of each cooperative handler in California by the kernelweight of merchantable walnuts which it handled (recommended to be changed to the kernelweight of walnuts certified as merchantable) during the marketing year preceding the year in which Board nominations are held. Therefore, the cooperative handling the largest share of the California crop can nominate persons to fill the five positions which the cooperative handlers and their growers are currently entitled.

The record evidence revealed that the larger of the two walnut marketing cooperatives in California handled about 54 percent of the total California walnut crop for the past ten marketing years. Hence, these handlings are about eleven times larger than the qualification percentage of the proposal. Moreover, these handlings indicate that the larger cooperative which is made up of a large number of growers, has substantial experience in handling and marketing walnuts.

The proponent (the smaller of the two cooperatives) of the modified nomination provisions contended that since a larger portion of its shipments are to foreign countries, that any Board decision arrived at during a meeting on limiting exports of reserve walnuts should not be made without its views.

All Board meetings are open meetings and any person is allowed to attend and express their views on matters discussed. Hence, no person including the proponent, is precluded from making its views known to the Board. All such views are considered by the Board.

The proponent also contended that its proposal would make the cooperative nomination provisions consistent with those for nominating independent handlers to serve on the Board. Currently, each independent handler in California votes for two independent nominees to fill the two positions allocated to such handlers on the Board. However, no independent handler may have more than one representative on the Board.

There are about 30 independent handlers in California representing about 40 percent of the California walnut crop. Several of these handle more walnuts than the proponent and yet they are not assured individual representation on the Board under the current order or under the order as recommended to be amended. Hence, it would not be equitable to these handlers if the proponent is allowed representation on the Board.

Since all of the Board meetings are open meetings and the larger cooperative handles the much larger portion of the total crop as aforementioned, and since individual independent handlers in the industry are not assured representation on the Board, the current handler nomination provisions in this respect should not be changed. Therefore, the proposal is not adopted.

(4) In the early years of the program the export market was virtually nonexistent. However, the necessity to find a good secondary market for rapidly increasing domestic walnut production, caused the industry to develop this market in recent years to such an extent that a large volume of walnuts has been exported to foreign countries. There appears to be a reasonable prospect that the export market will continue to take an increasing amount of domestic walnut production. It is estimated that exports of inshell walnuts for the 1975–76 marketing year will exceed 70 million pounds, and shelled exports will exceed 4 million pounds. If these volumes are exported,

total industry exports would climb to an all time record high.

Therefore, the export market should be considered an important secondary market; a reserve market meriting an effort to stabilize supplies destined to such outlet. Hence, the portion of the domestic walnut production excluded from the domestic market (United States, Puerto Rico, and the Canal Zone) and earmarked for export or noncompetitive outlets should be referred to as the reserve. The method of control and disposition of the reserve is discussed in Material Issue (8).

The order should be changed to recognize the changed supply and export situation by changing from a surplus to a reserve concept. Hence, the entire order should reflect this change by substituting the word "reserve" for "surplus" throughout the order. Also, the heading preceding § 984.54 should be changed from "Surplus Walnuts" to "Reserve Walnuts" to further reflect this change.

Currently the order provides a method for limiting the quantity of walnuts that can be marketed in domestic markets (United States, Puerto Rico, and the Canal Zone). These walnuts are referred to as free walnuts. The order also designates the portion of domestic production in excess of domestic needs as surplus and provides for its disposition in export and other noncompetitive outlets. The export market has become more important to the industry so it is now desirable to add some stability to supplies of walnuts moving into this market.

The production of walnuts has increased rapidly in the last eight years from growth of established bearing trees and increased bearing acreage. This expansion is expected to continue from newly planted acreage. The average production for the four-year period 1967–1970 was 194.7 million pounds, and in the 1971–74 period it increased to 291.9 million pounds. It is projected that the production in 1980 could be as high as 586 million pounds.

The industry has had substantial success in expanding domestic markets to absorb some of the increased production. However, production continues to exceed domestic demand by a substantial amount. The industry also conducted considerable export development efforts which have partially offset increases in the quantities in excess of domestic needs. However, even with continued development efforts, supplies as large as those projected for 1980 may be too large to manage effectively without some type of export volume control. Another factor involved is that a significant portion of the industry's exports are to countries which are a part of the European Economic Community. Because a few of the European Economic Community countries are walnut producers, the industry is concerned that the European Economic Community may take action at some time to limit U.S. walnut exports into these countries.

Hence, supplies for export could be larger than needed and attempts to move excessive walnut supplies into that market could cause weak market conditions including depressed prices. Therefore, § 984.48 should be revised to give the Board authority to recommend the percentage of reserve walnuts that may be exported pursuant to § 984.56, when it determines that the quantity of reserve walnuts that may be exported should be limited. Whenever the Board recommends an export percentage pursuant to § 984.48(a)(7), the Secretary should establish a percentage if he finds it would tend to effectuate the declared policy of the act. The establishment of an export percentage pursuant to revised § 984.49 would keep the reserve walnuts in excess of those needed for export out of the export market. To do so would permit orderly marketing of adequate supplies at stable prices. The expected increase in walnut production may result in excess supplies which should be disposed of in outlets noncompetitive with developed domestic and export markets for merchantable walnuts. Maintaining adequate supplies and stable prices would contribute toward the protection of the domestic and export markets and the protection of grower returns.

However, it should be provided that walnuts withheld from export could be later released during the marketing year at any time prior to July 1, as they may be needed to meet unanticipated export demand. Thus, provision should be made for increasing the export percentage to release additional reserve walnuts to meet export demand if the need arises. Therefore, revised § 984.49 should specify that any time prior to July 1, the Board may recommend an increase in the export percentage, if it finds that there is an insufficient volume of reserve walnuts available for export and additionl demand exists, which would not adversely affect the disposition of the oncoming crop. Upon the basis of the Board's recommendation, or other information, the Secretary could then modify the percentage.

Between the effective period of the initial export percentage and July 1, information will normally become available to permit improved estimates of supplies and export requirements prior to the new crop. A Board recommendation to release additional reserve walnuts to export should not be delayed beyond the time when the reserve walnuts are needed for export since it is necessary to satisfy export demand while it exists. Thus, providing such authority would conform with the desirable objective of keeping the export market adequately supplied, but not oversupplied.

Once the initial export percentage of reserve walnuts of a marketing year is established, it should not be decreased because a handler may have already committed all of his reserve walnuts previously authorized for export or more reserve walnuts than provided by the reduced export percentage. Similarly, if the free percentage is increased on or prior to February 15 pursuant to revised § 984.49, the export percentage should also be increased, so that the quantity of reserve authorized for export would not be reduced by the export percentage.

The proposed revision of the first sentence in § 984.49(a) in the notice of hearing provided that "Whenever the Secretary finds, on the basis of the Board's recommendations or other information, that limiting the quantity of walnuts which may be handled during a marketing year would tend to effectuate the declared policy of the Act, he shall establish for California a free percentage to prescribe the portion of such walnuts which may be handled in normal markets, and a reserve percentage to prescribe the portion that must be withheld from such handling, and similarly for Oregon and Washington except that the reserve percentage shall be one-half that of California." At the hearing, the proponents supported substitution of the words "as free walnuts" for "normal markets" because the term "free walnuts" as defined in the order would be more specific. The record also supported deletion of the words "from such handling" immediately following the word "withheld", because the disposition of reserve walnuts would become an act of handling. It is also necessary to revise the sentence to recognize the recommended reduction in the area of production and to make it clear that the phrase "limiting the quantity of walnuts which may be handled" refers to the quantity of walnuts handled in domestic markets.

Hence, the first sentence should read: "Whenever the Secretary finds, on the basis of the Board's recommendations or other information, that limiting the quantity of walnuts which may be handled in domestic markets for merchantable free walnuts during a marketing year would tend to effectuate the declared policy of the Act, he shall establish a free percentage to prescribe the portion of such walnuts which may be handled as free walnuts, and a reserve percentage to prescribe the portion that must be withheld as reserve walnuts."

The final date for recommending an increase in the free precentage and a reduction in the reserve percentage should be February 15, rather than prior to February 15. This change would give the Board one more day to make such a recommendation. In a particular year, this extra day could be needed to prepare for and make such a recommendation.

In the notice of hearing, the proposed provisions of § 984.49(b)(2) stated that the revision of export percentage to release additional reserve walnuts for export should be permitted at any time during the marketing year. At the hearing, the proposal was modified to enable the Board to recommend a revision of the export percentage at any time prior to July 1. This proposal should be adopted.

Under normal rulemaking procedures, a minimum of three weeks will elapse between the time when the Board's recommendation is submitted to the Secre-

tary for revision of the export percentage and the Department's action in establishing any revised percentage. Thus, if the Board's recommendation to increase the export percentage were made later than July 1, as proposed in the notice of hearing, the establishment of the revision would not occur until after July 31, the date when all reserve walnuts are proposed to be pooled by the Board. Hence, any recommended release of additional reserve walnuts into export markets after July 1 could not be made in time.

(5) The minimum grade and size regulations for the handling of inshell and shelled walnuts under the order are contained in § 984.50 (a) and (b), respectively. As discussed earlier, the recommended change in the definition of the term "To handle" would make the disposition of substandard walnuts an act of handling. Making such a change would require that substandard walnuts be subject to requirements of § 984.50 (a) and (b). However, substandard walnuts should not be covered under § 984.50 (a) and (b) because such walnuts, as defined in § 984.12 of the order, are walnuts of a quality below these minimum grade and size regulations. This change should be made by beginning the first sentences of paragraphs (a) and (b) with the words "Except as provided in § 984.64,".

Section 984.50(e) provides that the Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for any walnuts acceptable in satisfaction of a surplus obligation. This paragraph should be revised by changing the word "surplus" to "reserve" wherever it appears in this paragraph. This revision would bring this paragraph into conformity with the recommended change in the order of changing from a surplus concept to a reserve concept. It should also be revised by replacing the words "in satisfaction of" with the words "for disposition for credit against". Under the recommended amendment of the order, handlers would be required to hold certified merchantable walnuts to meet a reserve obligation. However, lots of walnuts meeting the minimum requirements for reserve in § 984.50(e) would be acceptable for disposition for credit against a reserve obligation and such disposition would be a permissible reduction in the quantity of reserve walnuts a handler would be required to hold. The paragraph heading "Minimum requirements for surplus" was not included in the notice of hearing. This paragraph heading should be included but with the word "surplus" changed to "reserve" as a conforming change.

(6) In the notice of hearing, the proposed revision of § 984.51(a) required inspection and certification before or upon the handling of any walnuts or the disposition of any reserve walnuts. However, the record evidence revealed that under the order as recommended to be amended, all walnut sales, shipments, or dispositions by handlers are to be considered acts of handling and a distinction between handling and disposition of reserve is not needed. Also, only walnuts for use as free or reserve walnuts, including substandard walnuts which are offered as credit against a handler's reserve obligation, should be inspected and certified. Therefore, the proposed revision of the first sentence of paragraph (a) should be changed to provide that "Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations." The revision of this paragraph would further bring the order into conformity with the recomended change from a surplus concept to a reserve concept. Revision is also necessary to conform with the change in the basis of a reserve obligation from handlings or declarations for handling to merchantable certifications which is discussed in Material Issue (8).

The proposed revision of the last sentence of paragraph (a) in the notice of hearing provided that the Board may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part. The evidence of record indicates that this should be done through rulemaking.

Paragraph (b) of § 984.51 should be revised to provide that inshell merchantable walnuts certified shall be converted to the kernelweight equivalent at 45 percent of their inshell weight. To recognize changes which may occur from time to time, such as the introduction of new varieties, the authority for the Board, with the approval of the Secretary, to change this conversion percentage should be continued in effect.

Paragraph (c) of § 984.51 should be revised to provide that upon inspection, all walnuts for use as free and reserve walnuts shall be identified by tags, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or of a designated inspector, and such identification shall not be altered or removed except as directed by the Board. The proposal as published in the notice of hearing required all walnuts to be identified in such manner. However, the hearing evidence indicated that only free and reserve walnuts including substandard walnuts which are to be used for reserve credit needed to be identified in this manner. Identification of these walnuts is necessary for the Board to determine compliance with the quality, size, minimum kernel content requirements and volume regulations of the program.

The assessment requirements in § 984.69, as well as the holding requirements in § 984.54(b) should be incurred at the time walnuts are certified as merchantable. However, if a handler who had inshell walnuts certified as merchantable and for some reason subsequently decided to shell the lot, he should notify the Board of his intention to shell the lot, have the certification for the lot of inshell walnuts cancelled by the Board and his reserve and assessment obligations adjusted accordingly. After the walnuts were shelled, the handler would be required to have a new inspection and his reserve and assessment obligations recomputed on the basis of the kernelweight of shelled walnuts certified as merchantable.

The record evidence indicated that the grade and size regulations for walnuts moving into domestic and export markets should be the same to prevent inequities in applying any established volume regulation.

(7) Section 984.35(a)(4) currently provides for a grower member and an alternate member to represent either independent growers or cooperative growers depending upon the volume of walnuts handled by the independent or cooperative handlers in California during a specified period. Section 984.37 (a) and (c) provide for the votes for each position on the Board of cooperative growers, and independent and cooperative handlers to be weighted by the quantity of the kernelweight of the merchantable walnuts handled during a specified period. These representation and nomination provisions should be changed to provide for weighting the vote of each of these groups, by the kernelweight of the walnuts certified as merchantable so that these provisions conform to the recommended change in the volume and assessment obligation base.

Section 984.37(g) provides a transition from the membership of the Walnut Control Board to the membership of the Walnut Marketing Board. This paragraph is obsolete and should be deleted.

(8) Section 984.54 should be revised to provide that whenever free and reserve percentages are in effect for a marketing year, each handler shall withhold a kernelweight of walnuts equal to the application of the reserve percentage to the kernelweight of merchantable walnuts certified. The kernelweight of certified merchantable walnuts handlers are required to withhold shall be designated as the "reserve obligation". Walnuts handled as free walnuts by any handler in accordance with the requirements of Part 984 shall be deemed to be that handler's quota fixed by the Secretary within the meaning of Section 8(a)(5) of the act.

The revision would change the basis of a handler's reserve obligation from the kernelweight of walnuts handled or declared for handling to the kernelweight of walnuts certified as merchantable. Also, the quantity of walnuts required to be withheld would be computed by applying the reserve percentage to the kernelweight of walnuts certified as merchantable rather than by dividing the surplus of percentage by the free percentage and applying the resultant withholding factor rounded to the nearest one-tenth of one percent, to the kernelweight of walnuts handled or declared for handling. These two changes should be made for the following reasons.

Handlers generally obtain inspection and certification of large lots of walnuts to have them available for later shipment in smaller quantities with a minimum of delay. Under the current provisions, a handler's surplus obligation is not known to him until he handles these walnuts or declares them for handling and it sometimes happens that a great deal of time elapses between inspection and certification, and handling. It is desirable that a handler know his reserve obligation sooner, namely at the time his walnuts are certified as merchantable, so that he can better plan his operations under any established volume regulation. Furthermore, the expansion of export markets and the likelihood of their continued growth are expected to cause some handlers to begin concentrating solely on exporting walnuts.

Under the current provisions of the order, such exported walnuts are free of surplus obligations as well as assessment obligations if the disposition credits are transferred to another handler with a withholding obligation because the disposition of surplus walnuts is not handling and not a part of the withholding obligation base. However, walnuts moving to export pursuant to this proposed provision and other provisions of the order would be regulated by these provisions since walnuts exported would be required to be certified as merchantable quality. As such, the handlers of these walnuts would be required to meet reserve obligations as well as assessment obligations established during a marketing year on these walnuts. Furthermore, in years when the percentage of reserve walnuts for export is established all handlers would contribute pro rata to the pool established to divert walnuts from the domestic markets for merchantable free walnuts and export markets, and greater uniformity would be achieved in applying this volume regulation. More importantly, any percentage limitation on exports of reserve walnuts would prevent overloading the export market with excess supplies. The change in the basis of program assessments is discussed later in Material Issue (12).

Section 984.54(b) currently requires that each handler shall at all times hold in his possession or under his control in proper storage the quantity of walnuts necessary to meet his surplus obligation. Section 984.54(b) should be changed to provide that each handler shall, at all times, hold in his possession or under his control in proper storage the kernelweight of certified merchantable walnuts necessary to meet his reserve obligation. Requiring handlers to meet their holding requirements at the time of certification with certified merchantable walnuts will facilitate compliance because a handler's obligation can be determined as soon as the inspection is complete and the certification made available to the Board, shortly after inspection.

For the purposes of reserve management and handler compliance, § 984.54 should set forth the permissible reductions in the quantity of reserve walnuts a handler is required to hold. A handler's holding requirement should be reduced by any quantity disposed of by him in eligible reserve markets pursuant to § 984.56 and by any quantity for which he is otherwise relieved by the Board to so hold. For instance, the Board may relieve a handler from the holding requirements when he obtains credits for disposition in excess of a reserve obligation from another handler, when a handler delivers walnuts to the Board for disposition in reserve markets and crediting against his reserve obligation, or loss of reserve walnuts through conditions beyond the handler's control, such as through fire, flood, or earthquake.

Section 984.56 should specify the conditions governing the disposition of reserve walnuts. It should specifically provide that the Board has power and authority to sell or dispose of any and all reserve walnuts withheld upon the best terms and at the highest return obtainable consistent with the ultimate complete disposition of reserve. The Board may authorize disposition to government agencies, or export the quantity of reserve walnuts permitted to be exported by the export percentage established pursuant to § 984.49(b) to destinations outside the United States, Puerto Rico, and the Canal Zone. Reserve walnuts may be exported through handlers acting as agents of the Board under the terms and conditions specified by the Board.

Provisions should be included in § 984.56 specifically authorizing handlers to deliver walnuts to the Board for pooling at any time during the marketing year (August 1–July 31). Currently, the Board cannot accept delivery of surplus walnuts for pooling and disposition prior to making a determination, on or before December 15 of any marketing year, of the percentage of a handler's surplus obligation acceptable for pooling and disposition prior to February 15 of such year. This determination is no longer needed. Currently substandard walnuts which are of low quality, constituting a sanitation problem on the handler's premises, are delivered for pooling prior to February 15 of the marketing year. Since such lots of walnuts cannot be sold during the marketing year in commercial markets for merchantable walnuts without costly reconditioning, accepting such walnuts for pooling in excess of a handler's accrued reserve obligation on or prior to February 15 should cause no inequities to handlers even in years when initial volume percentages are revised to make more walnuts available to domestic markets for merchantable free walnuts. Currently, any surplus remaining unsold as of August 31, or for which a handler is not relieved by the Board of responsibility to hold, must be pooled and disposed of by the Board as soon as practicable through the most readily available surplus outlets. The record evidence indicates the pooling date should be changed to July 31. That is, any reserve walnuts that the handler as agent of the Board has not disposed of during the marketing year should be delivered to the Board for pooling on demand pursuant to § 984.56 (c). The quantity of reserve walnuts pooled would include the reserve walnuts in excess of those needed for export.

The evidence of record indicated that reserve walnuts not authorized for export should be available to supply export markets during the early part of the following marketing year if prospective market conditions indicate that additional walnuts would be needed. However, the requirement to pool reserve walnuts after July 31, the end of the marketing year, would prevent handler's from using such walnuts for this purpose. Therefore, the request is denied for this reason. The Board should be authorized to rent and operate or arrange for the use of facilities for storage and disposition of reserve walnuts delivered to it.

The proposed revision of § 984.56 in the notice of hearing omitted authority to permit handlers to act as agents of the Board to sell reserve walnuts to government agencies, charitable institutions, and other noncompetitive outlets, or make donations to such outlets as agents of the Board. However, the record indicates that the authority for handlers to sell reserve walnuts to government agencies as agents of the Board should remain in effect to facilitate government surplus removal purchases. Thus, § 984.56 should provide that the Board may dispose of reserve walnuts through handlers acting as agents of the Board under the terms and conditions specified by the Board. This will retain much of the flexibility given the Board in selling or disposing of reserve walnuts contained in the current § 984.56.

The record further indicates that authority to dispose of reserve walnuts in any new market(s) should be included in the administrative rules and regulations. Hence, any new market(s) would be specifically described in such rules and the reference to normal markets should be changed to markets noncompetitive with markets for merchantable free walnuts. Hence, the last sentence of paragraph (c) in the notice of hearing should be revised to read: "The Board shall dispose of these walnuts for use in the following outlets: Government agencies, charitable institutions, poultry or animal feed, walnut oil or other markets noncompetitive with markets for merchantable free walnuts."

The kernelweight of any walnuts disposed of in accordance with § 984.56 should be credited against the handler's reserve obligation. The proposal in the notice of hearing provided that at any time up to September 15 of the following marketing year, upon a handler's written request, the Board should transfer a part or all of the handler's disposition credit in excess of his reserve obligation to any handler he designates. However, the earlier proposal requiring the pooling of any undisposed reserve walnuts on demand after July 31 would make it impossible to transfer as late as September 15. Hence, this provision should be changed to limit such transfers to any time during the marketing year. This provision replaces similar provisions currently specified in § 984.58,

and transferring it to § 984.56 improves order organization. Hence, § 984.58 should be deleted.

The proceeds remaining after the payment of all expenses required by the Board in receiving, holding, and disposing of pooled walnuts should be distributed pro rata by the Board to each handler in proportion to his contribution thereto, measured in kernelweight, or such other basis as the Board may adopt with the approval of the Secretary. Under the current order, the Board has disposed of all pooled walnuts in oil and feed outlets where the quality of walnuts makes little difference in the sales price. However, with larger production expected from established bearing trees and newly planted acreage, it is probable that walnuts of a quality better than substandard walnuts may be pooled and sold in outlets which pay a higher price than oil and feed outlets. For instance, some pooled walnuts may be sold in export or newly developed noncompetitive markets at much higher prices than returns from oil and feed outlets. Under such conditions, it would be desirable to treat each quality category of walnuts as a separate pool, charge each pool the applicable expense incurred by the Board in receiving, holding, and disposing of pooled walnuts, and distribute the remaining proceeds to the respective handlers whose walnuts were sold from each pool. Hence, different methods of distributing the remaining proceeds may be needed to assure equity.

Moreover, § 984.56 should also provide authority for the Board, with the approval of the Secretary, to recommend necessary rules and regulations to carry-out the provisions of the section. The recommended provisions are designed to meet current needs, but changes in the industry, impossible to anticipate such as the development of new marketing opportunities, may necessitate a revision of these provisions. Currently, § 984.56 contains provisions authorizing handlers as agents of the Board to donate surplus walnuts to charitable institutions and noncompetitive outlets; specifying the dates by a handler as agent of the Board must file his intention to dispose of and ship surplus walnuts; providing that surplus disposition shall be made with safeguards to prevent them from entering normal markets and specifying that the Board shall not demand delivery of surplus walnuts which a handler has agreed to undertake disposition under the Board's authority, indicating where and how delivery of pooled surplus walnuts is to be made. Obviously, the matters covered by these provisions are very complex and changes brought about by revision of § 984.56 venture into new areas which make it impossible to determine at this time what problems and situations may arise as a result of this revision. The evidence of record indicates that the aforementioned provisions should be handled through rulemaking. Hence, they should be deleted from the order, and in the interest of flexibility, placed in the rules and regulations.

(9) Section 984.57, "Declaration privilege", currently provides handlers with an option as to whether or not walnuts being carried into the next marketing year should be subject to the volume and assessment regulations of the current marketing year or the next marketing year. As discussed earlier under Material Issue (6), reserve and assessment obligations would be incurred at the time walnuts are certified as merchantable. Thus, a handler who desired carryover walnuts to be subject to the requirements of the then current marketing year merely has to grade them and arrange to have them inspected and certified as merchantable. If he does not want the obligations of the then current marketing year to apply, he could defer having the walnuts inspected until the next marketing year. Hence, the order, as recommended to be amended, provides handlers the same option as currently provided by § 984.57. Thus, § 984.57 should be deleted.

(10) In view of the recommended change in the order from a surplus concept to reserve concept, it is necessary to make conforming changes in the interhandler transfer provisions in § 984.59. In paragraph (b) the word "surplus" should be changed to "reserve" wherever it appears. The proposed revision in § 984.59 in the notice of hearing removed the authority of the Board, with the approval of the Secretary, to establish methods and procedures for interhandler transfers. The record discloses that this flexibility is necessary for proper administration of the interhandler transfer provisions and that the authority should be retained in paragraph (b). The proponents also proposed that it should be made clear that the buyer assumes any outstanding assessment and reserve obligations, and inspection requirements with respect to walnuts transferred. The evidence of record indicates that this proposal should be adopted.

(11) Section 984.64, "Disposition of substandard walnuts", should be revised to provide that substandard walnuts may be disposed of only for manufacture into oil, livestock feed, or for such other uses as the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts. It should also require that such disposition be made with proper safeguards to prevent such walnuts from thereafter entering the channels of trade in existing domestic markets for merchantable free walnuts and export markets. Whenever free and reserve percentages are in effect, any walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e), may be pooled and the disposition credited to the handler's reserve obligation pursuant to § 984.56. The authority for this practice has been implicit in the order since the inception of overall volume regulation in 1954 on inshell and shelled walnuts. The authority should be expressly stated in § 984.64. Furthermore, the provisions currently in § 984.75 on reports of disposition of substandard walnuts should be placed in revised § 984.64 to improve order organization. Hence, Section 984.75, "Reports of disposition of substandard walnuts" is no longer needed under the order as recommended for amendment and should be deleted.

In the notice of hearing, the proposal to revise § 984.64 contained the term "normal markets". The hearing record discloses that this term refers to existing domestic markets and export markets for merchantable walnuts and that these more specific terms should be used in place of "normal markets".

Current § 984.66, "Assistance of Board in meeting surplus obligation", should be retitled "Assistance of Board in meeting reserve obligation" and the word "surplus" should be changed to "reserve" wherever it appears in this section to reflect the recommended change in the order from a surplus concept to reserve concept.

The word "surplus" should be changed to "reserve" wherever it appears in § 984.67, "Exemptions". This is to bring this section into conformity with the change in the order from a surplus concept to a reserve concept.

(12) Section 984.68 requires the Board to file a proposed budget of total expenses and rates of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

Currently, § 984.68 provides that the budget be allocated between inshell and shelled walnuts handled or declared for handling on the basis of estimated costs of the respective operations. Such apportionment was necessary as a basis for establishing assessment rates pursuant to § 984.69, levied on inshell walnuts handled or declared for handling and shelled walnuts handled or declared for handling, respectively. At one time only inshell walnuts were regulated under the order. After 1954, when authority for regulating shelled walnuts was added to the order there were two distinct operations carried out under one marketing program. Volume regulation now applies equally to both inshell and shelled walnuts. Hence, there is no reason to continue the apportionment between inshell and shelled operations in § 984.68, or the establishment of separate assessment rates for inshell and shelled walnuts required in current § 984.69.

The provisions of program assessments in § 984.69 should also be revised to change the basis for determination of the burden of expenses by handlers. Currently, the basis is the quantity of inshell and shelled walnuts handled or declared for handling. This basis should be changed to the kernelweight of certified merchantable inshell or shelled walnuts. This change is necessary to conform the basis for program assessments to the basis for volume regulation. The new basis will provide a practical and realistic method of computing handlers' pro rata shares of expenses in operating the program. For practical administration, the assessment obligation should accrue at the time that walnuts are cer-

tified as merchantable and the weight of inshell walnuts certified as merchantable should be converted to the kernelweight equivalent at the conversion percentage established pursuant to § 984.51(b).

(13) The provisions of § 984.77, "Verification of reports", should be revised to more accurately reflect their purpose of authorizing the check and verification of reports filed by handlers, or the operations of handlers. At the hearing, the proponents proposed several changes in the proposed revision contained in the notice of hearing. The proposed revision in the notice of hearing gave the Board access to any handler's premises wherein walnuts may be held by such handler. However, it was brought out at the hearing that if a handler maintained his records at a premise different from where the walnuts were held, these records would not be covered under this provision and the Board could be denied access to them. Since all records are needed for verifying and checking reports filed by handlers or the operations of handlers, the proponents proposed that the provisions be revised so that the Board would have access to any premises where walnuts or records pertaining to walnuts are held. This proposal should be adopted, in accordance with the record evidence.

Proponents also proposed that the provisions be brought into conformity with § 984.80 which directs a handler to maintain books and records of walnuts received, held, and disposed of by him, and expressly states the right of the Secretary to verify such handler records. This should be adopted particularly since the proposed revision of § 984.77 did not provide for reports of handler receipts or expressly state the rights of the Secretary. Also, the proponents proposed that the Board, with the approval of the Secretary, be authorized to establish methods or procedures for verification of reports. For instance, if a handler refuses authorized representatives of the Secretary access to his walnuts or records, the Board could disallow the handler credit against his reserve obligation until he allowed authorized representatives access to his records or walnuts.

In the notice of hearing, the last two sentences of current §984.77 were omitted. The proponents proposed that the two sentences be retained, with the exception of the words "restricted" and "surplus" in the last sentence which should be deleted since the word "restricted" is not used in the current order, and the word "surplus" would not be used in the order as recommended to be amended. Each of these proposals should be adopted for the reasons stated.

(14) Some of the amendatory actions herein cause the need to make certain conforming changes, as hereinafter set forth, in the provisions of the order so that the order as amended, will be in conformity with those actions. Such changes are discussed herein with the issues to which pertinent. All such changes should be incorporated herein.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed March 5, 1976, as the final date for interested persons to file proposed findings and conclusions and written arguments or briefs, based upon the evidence received at the hearing.

One brief was filed on behalf of interested persons. This brief and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested finding and conclusion filed by the interested person is inconsistent with the findings and conclusions set forth herein, the request to make such a finding or to reach such a conclusion is denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of walnuts grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of walnuts grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of walnuts grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Walnuts Grown in California", and "Order Amending the Order, as Amended, Regulating the Handling of Walnuts Grown in California", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of walnuts grown in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the area of production in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1975, through June 30, 1976.

The agent of the Secretary to conduct such referendum is hereby designated to be Martin J. Kelly, William J. Higgins, and J. S. Miller.

Signed at Washington, D.C. on July 6, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

Order[1] amending the order, as amended, regulating the handling of walnuts grown in California.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of walnuts grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of walnuts grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of walnuts grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of walnuts grown in California shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator on May 25, 1976, and published in the FEDERAL REGISTER on June 1, 1976 (41 FR 22084), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Revise § 984.4 to read:

§ 984.4 Area of production.

"Area of production" means the State of California.

2. Revise § 984.8 to read:

§ 984.8 Walnuts.

"Walnuts" means only walnuts of the "English" (Juglans regia) varieties grown in California.

§ 984.13 [Amended]

3. Amend § 984.13 by deleting "(a)" and the words, "or (b) the authorized disposition of surplus or substandard walnuts", in the exception.

§ 984.21 [Amended]

4. Amend § 984.21 by changing the word "surplus" to "reserve".

5. Revise § 984.26 to read:

§ 984.26 Reserve walnuts.

"Reserve walnuts" means those walnuts which are held to meet a reserve obligation.

6. Revise § 984.31 to read:

§ 984.31 Part and subpart.

"Part" means the order regulating the handling of walnuts grown in California, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of walnuts grown in California shall be a "subpart" of such part.

7. Revise § 984.32 to read:

§ 984.32 To certify.

"To certify" means the issuance of a certification of inspection of walnuts by the inspection service.

8. Revise § 984.33 to read:

§ 984.33 Hold.

"Hold" means to maintain possession or keep control of, in proper storage at all times, the kernelweight of certified merchantable walnuts necessary to meet a reserve obligation.

9. Revise § 984.35 to read:

§ 984.35 Walnut Marketing Board.

(a) A Walnut Marketing Board is hereby established consisting of 10 members selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member. The members and their alternates shall be selected by the Secretary from nominees submitted by each of the following groups or from other eligible persons belonging to such groups:

(1) Two members to represent cooperative handlers;

(2) Two members to represent independent handlers;

(3) Two members to represent growers who market their walnuts through cooperative handlers;

(4) One member to represent growers who market their walnuts through cooperative handlers or independent handlers, whichever category of such handlers had certified as merchantable more than 50 percent of the kernelweight of all walnuts certified as merchantable by all handlers during the two marketing years preceding the year in which nominations were made—the member representing growers who market their walnuts through independent handlers shall be nominated at large in the State of California;

(5) One member to represent growers from District 1 who market their walnuts through independent handlers; and

(6) One member to represent growers from District 2 who market their walnuts through independent handlers.

(b) The tenth member and alternate shall be selected after the selection of the nine members from the groups specified in paragraph (a) of this section and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his alternate shall be neither a walnut grower nor a handler.

(c) Grower Districts:

(1) *District 1.* District 1 encompasses the counties in the State of California that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties.

(2) *District 2.* District 2 shall consist of all other walnut producing counties in the State of California south of the boundary line set forth in subparagraph (1) of this paragraph.

(3) The Secretary on the basis of a recommendation of the Board or other information may establish different districts within the area of production.

§ 984.36 [Amended]

10. Amend § 984.36 by deleting the words "nonvoting delegate" immediately preceding the words "and their alternates".

§ 984.37 [Amended]

11. Amend § 984.37 as follows:

(a) In paragraph (a), revise the second sentence to read: The vote of each such handler shall be weighted by the kernelweight of the walnuts certified as merchantable during the preceding marketing year for each such handler.

(b) In the first sentence of paragraph (c), delete the words "and the nonvoting delegate" immediately after the words "Nominations for all handler members". Also, revise the second sentence to read as follows: "All handlers' votes shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year".

(c) In paragraph (d) delete the word "voting" wherever it appears.

(d) Delete paragraph (g).

12. Revise § 984.38 to read:

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member or alternate to represent one of the groups specified in § 984.35(a) (1) through (6), unless he is engaged in the business he is to represent, or represents, either in his own behalf or as an officer or employee of the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he is to represent.

§ 984.39 [Amended]

13. Amend § 984.39 by deleting the words, "nonvoting delegate," immediately after the words "Each person selected by the Secretary as a member" and change the word "practical" to "practicable".

14. Amend § 984.40 by revising paragraph (a) and by deleting the words "in the same state" immediately after the words "cooperative grower group" in the last sentence of paragraph (b). Revised paragraph (a) reads as follows:

§ 984.40 Alternate.

(a) An alternate for a member of the Board shall act in the place and stead of such member in his absence or in the event of his death, removal, resignation, or disqualification, until a successor for his unexpired term has been selected and has qualified.

* * * * *

§ 984.41 [Amended]

15. Amend § 984.41 by deleting the words, "nonvoting delegate", wherever they appear.

§ 984.42 [Amended]

16. Amend § 984.42 by deleting the words, "nonvoting delegate,".

17. Revise § 984.48(a)(6), renumber § 984.48(a)(7) and (8) as § 984.48(a)(8) and (9) respectively, and add a new subparagraph § 984.48(a)(7) to read:

§ 984.48 Marketing estimates and recommendations.

(a) * * *

(6) Its recommendation as to the free and reserve percentages to be established for walnuts;

(7) Its recommendation of the percentage of reserve walnuts that may be exported pursuant to § 984.56, when it determines that the quantity of reserve walnuts that may be exported should be limited;

* * * * *

18. Revise § 984.49 to read:

§ 984.49 Volume regulation.

(a) *Free, reserve, and export percentages.* Whenever the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of walnuts that may be handled in domestic markets for merchantable free walnuts during a marketing year will tend to effectuate the declared policy of the act, he shall establish a free percentage to prescribe the portion of such walnuts which may be handled as free walnuts, and a reserve percentage to prescribe the portion that must be withheld as reserve walnuts. Whenever the Board recommends an export percentage pursuant to § 984.48(a)(7), the Secretary shall establish a percentage if he finds it would tend to effectuate the declared policy of the act.

(b) *Revision of percentages.* (1) On or before February 15 of the marketing year, the Board may recommend that the free percentage be increased and the reserve percentage be decreased. On the basis of the Board's recommendation or other information the Secretary may establish such revisions. If the reserve percentage is reduced when an export percentage is in effect, an increase shall be made in the export percentage so that the quantity previously authorized for export will not be reduced. If the revised reserve quantity is less than the quantity previously authorized for export the export percentage shall be 100 percent. Upon revision, all reserve obligations that are theretofore accrued on merchantable walnuts certified during such year on the basis of the previously effective percentages shall be adjusted accordingly.

(2) Any time prior to July 1, the Board may recommend an increase in the export percentage, if it finds that there is an insufficient volume of reserve walnuts available for export and additional demand exists, which would not adversely affect the disposition of the oncoming crop. On the basis of the Board's recommendation or other information, the Secretary may establish such revision.

19. Revise § 984.50 (a), (b), and (c) to read:

§ 984.50 Grade and size regulations.

(a) *Minimum standard for inshell walnuts.* Except as provided in § 984.64, no handler shall handle inshell walnuts unless such walnuts are equal to or better than the requirements of U.S. No. 2 grade and baby size as defined in the then effective United States Standards for Walnuts (Juglans regia) in the Shell. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

(b) *Minimum standard for shelled walnuts.* Except as provided in § 984.64, no handler shall handle shelled walnuts unless such walnuts are equal to or better than the requirements of the U.S. Commercial grade as defined in the then effective United States Standards for Shelled Walnuts (Juglans regia) and the minimum size shall be pieces not more than 5 percent of which will pass through a round opening 6/64 inch in diameter. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

* * * * *

(c) *Minimum requirements for reserve.* The Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for any lot of walnuts acceptable for disposition for credit against a reserve obligation: *Provided,* That reserve walnuts exported must meet the requirements of paragraph (a) of this section if inshell, or paragraph (b) of this section if shelled.

20. Revise § 984.51 (a), (b), and (c) to read:

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations. Such inspection shall be performed by the inspection service designated by the Board with the approval of the Secretary. Handlers shall obtain a certificate for each inspection and cause a copy of each certificate issued by the inspection service to be furnished to the Board. Each certificate shall show the identity of the handler, quantity of walnuts, the date of inspection, and for inshell walnuts the grade and size of such walnuts as set forth in the United States Standards for Walnuts (Juglans regia) in the Shell. Certificates covering reserve shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts (Juglans regia). The Board, with the approval of the Secretary, may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part.

(b) Inshell merchantable walnuts certified shall be converted to the kernelweight equivalent at 45 percent of their inshell weight. This conversion percentage may be changed by the Board with the approval of the Secretary.

(c) Upon inspection, all walnuts for use as free or reserve walnuts shall be identified by tags, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or of a designated inspector and such identification shall not be altered or removed except as directed by the Board. The assessment requirements in § 984.69 shall be incurred at the time of certification.

* * * * *

21. Revise the center heading preceding § 984.54 to read "Reserve Walnuts", and revise § 984.54 to read:

RESERVE WALNUTS

§ 984.54 Establishment of obligation.

(a) *Reserve obligation.* Whenever free and reserve percentages are in effect for a marketing year, each handler shall withhold a kernelweight of certified merchantable walnuts equal to a quantity derived by the application of the reserve percentage to the kernelweight of merchantable walnuts certified. The kernelweight of certified merchantable walnuts which handlers are required to withhold shall be the "reserve obligation." The walnuts handled for use as free walnuts by any handler in accordance with the provisions of this part shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8(a)(5) of the act.

(b) *Holding requirements.* Each handler shall at all times hold in his possession or under his control in proper storage the kernelweight of certified merchantable walnuts necessary to meet his reserve obligation less: (1) Any quantity which was disposed of by him pursuant to § 984.56; and (2) any quantity for which he is otherwise relieved by the Board of responsibility to so hold walnuts.

22. Revise § 984.56 to read:

§ 984.56 Disposition of reserve walnuts.

(a) *General.* The Board shall have power and authority to sell or dispose of any and all reserve walnuts withheld upon the best terms and at the highest returns obtainable consistent with the ultimate complete disposition of reserve, subject to all conditions of this section. The Board may dispose of reserve walnuts through handlers acting as agents of the Board under the terms and conditions specified by the Board.

(b) *Export.* The Board may export or authorize the disposition in export to the destinations outside the United States, Puerto Rico, and the Canal Zone, the quantity of reserve walnuts permitted to be exported by the export percentage establishment pursuant to § 984.49. Reserve walnuts may be exported by any handler as an agent of the Board under the terms and conditions specified by the Board.

(c) *Pooling.* At any time during the marketing year a handler may deliver reserve walnuts and any substandard walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e) to the Board for pooling and crediting against his reserve obligation. Any reserve walnuts that the handler as agent of the Board has not disposed of by the end of the marketing year shall thereafter be delivered to the Board for pooling on demand. The Board shall dispose of these walnuts for use in the following outlets: Government agencies, charitable institutions, poultry or animal feed, walnut oil or other markets noncompetitive with markets for merchantable free walnuts. The Board may rent and operate or arrange the use of facilities for storage and disposition of reserve walnuts delivered to it.

(d) *Crediting.* The kernelweight of walnuts disposed of in accordance with this section shall be credited to the handler's reserve obligation. At any time during the marketing year, upon a handler's written request, the Board shall transfer part or all of the handler's credit in excess of his reserve obligation to any handler he designates.

(e) *Pool proceeds.* The proceeds remaining after the payment of all expenses incurred by the Board in receiving, holding and disposing of pooled walnuts shall be distributed pro rata by the Board to each handler in proportion to his contribution thereto, measured in kernelweight, or such other basis as the Board may adopt with the approval of the Secretary.

(f) *Rules and regulations.* The Board, with the approval of the Secretary, may prescribe such rules and regulations as are necessary to carry out the provisions of this section.

§ 984.57 [Reserved]

23. Delete § 984.57.

§ 984.58 [Reserved]

24. Delete § 984.58.

25. Revise §984.59(b) to read:

§ 984.59 Interhandler transfers.

* * * * *

(b) A handler may, for the purpose of meeting his reserve obligation, acquire walnuts from another handler, and any assessments, reserve obligations, and inspection requirements with respect to walnuts so transferred, shall be assumed by the buying handler. The Board, with the approval of the Secretary, may establish methods and procedures including necessary reports for such transfers.

* * * * *

26. Revise § 984.64 to read:

§ 984.64 Disposition of substandard walnuts.

Substandard walnuts may be disposed of only for manufacture into oil, livestock feed, or such other uses as the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts and with proper safeguards to prevent such walnuts from thereafter entering channels of trade in such markets. Wherever free and reserve percentages are in effect, the kernelweight of any walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e), may be pooled and the disposition credited to the handler's reserve obligation pursuant to § 984.56. Each handler shall submit, in such form and at such intervals as the Board may determine, reports of (a) his production and holdings of substandard walnuts and (b) the disposition of all substandard walnuts to any other person, showing the quantity, lot, date, name and address of the person to whom delivered, the approved use and such other information pertaining thereto as the Board may specify.

27. Revise § 984.66 to read:

§ 984.66 Assistance of the Board in meeting reserve obligation.

The Board may assist any handler in accounting for his reserve obligation and may aid any handler in acquiring walnuts to meet any deficiency in his reserve obligation, or in accounting for, or disposing of reserve walnuts.

28. Revise § 984.67(a) to read:

§ 984.67 Exemptions.

(a) *Exemption from volume regulation.* Reserve percentages shall not apply to lots of merchantable inshell walnuts which are of mammoth size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

* * * * *

29. Revise § 984.68 to read:

§ 984.68 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, and for such other purposes as the Secretary may, pursuant to this part, determine to be appropriate. The Board shall file a proposed budget of expenses and a rate of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

30. Revise § 984.69 (a) and (b) to read:

§ 984.69 Assessments.

(a) *Requirement for payment.* Each handler shall pay the Board, on demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per kernelweight pound of walnuts fixed by the Secretary times the kernelweight of merchantable walnuts he has certified. At any time during or after the marketing year the Secretary may increase the assessment rate as necessary to cover authorized expenses and each handler's pro rata share shall be adjusted accordingly.

(b) *Reserve walnut pool expenses.* The Board is authorized temporary use of funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in disposing of reserve walnuts pooled. All such expenses shall be deducted from the proceeds obtained by the Board from the sale or other disposal of pooled reserve walnuts.

§ 984.74 [Reserved]

* * * * *

31. Delete § 984.74.

§ 984.75 [Reserved]

32. Delete § 984.75.

33. Revise § 984.77 to read:

§ 984.77 Verification of reports.

For the purpose of verifying and checking reports filed by handlers or the operations of handlers, the Secretary and the Board through its duly authorized representatives shall have access to any premises where walnuts and walnut records are held. Such access shall be available at any time during reasonable business hours. Authorized representatives shall be permitted to inspect any walnuts held and any and all records of the handler with respect to matters within the purview of this part. Each handler shall maintain complete records on the receiving, holding, and disposition of both inshell and shelled walnuts. Each handler shall furnish all labor necessary to facilitate such inspections at no expense to the Board or the Secretary. Each handler shall store all walnuts held by him in such manner as to facilitate inspection and shall maintain adequate storage records which will permit accurate identification with respect to inspection certificates of respective lots and of all such walnuts held or disposed of theretofore. The Board, with the approval of the Secretary, may establish any methods and procedures needed to verify reports.

§ 984.84 [Amended]

34. Amend § 984.84 by deleting the words "nonvoting delegate," wherever they appear.

§ 984.89 [Amended]

35. Amend § 984.89(b)(3) by changing the word "States" to "State" and by deleting the words "Oregon and Washington" immediately preceding the proviso.

MARKETING AGREEMENT, AS FURTHER AMENDED, REGULATING THE HANDLING OF WALNUTS GROWN IN CALIFORNIA

The parties hereto, in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure effective thereunder (7 CFR Part 900) desire to enter into this agreement further amending the marketing agreement regulating the handling of walnuts grown in California; and each party hereto agrees that such handling shall, from the effective date of this marketing agreement, be in conformity to, and in compliance with, the provisions of said marketing agreement as hereby further amended:

The provisions of §§ 984.1 through 984.90, inclusive, of the order as amended and as further amended by the order annexed to and made a part of the decision of the Secretary of Agriculture with respect to a proposed marketing agreement and order regulating the handling of walnuts grown in California, plus the following additional provisions shall be, and the same hereby are, the terms and conditions hereof; and the specified provisions of said annexed order are hereby incorporated into this marketing agreement as if set forth in full herein:

§ 984.91 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 984.92 Additional parties.

After the effective date hereof, any handler may become a party to this agreement is a counterpart is executed by him and deliverd to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effctive as to such new contracting party.

§ 984.93 Order with marketing agreement.

(a) Each signatory handler requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of walnuts in the same manner as is provided for in this agreement.

(b) The undersigned hereby authorizes the Director, or Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, to correct any typographical errors which may have been made in this marketing agreement.

IN WITNESS THEREOF, the contracting parties, acting under the provisions of the act, for the purpose and subject to the limitations therein contained, and not otherwise, have hereto set their respective signatures and seals.

By: _____[1]
(Signature)

_____
(Firm name)

_____
(Title)

_____
(Mailing Address)

_____
(Date of Execution)

(Corporate Seal; if none, so state)

[1] If one of the contracting parties to this agreement is a corporation my signature constitutes certification that I have the power granted to me by the Board of Directors to bind this corporation to the marketing agreement.

[FR Doc.76-19902 Filed 7-8-76;8:45 am]

[7 CFR Part 1004]

[Docket No. A0-160-A53]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Middle Atlantic marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, on or before July 26, 1976. Five copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at the Friendship International Hotel, Baltimore-Washington International Airport, Maryland, on May 20, 1976, pursuant to notice thereof which was issued May 7, 1976 (41 FR 18862).

The material issue on the record of the hearing relates to increasing the rate of deduction under the advertising and promotion program from 5 cents per hundredweight to 7 cents per hundredweight of producer milk.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Rate of deduction for the advertising and promotion program. The rate at which the advertising and promotion program is funded from producer monies should be increased from 5 cents per hundredweight to 7 cents per hundredweight of producer milk.

The advertising and promotion program was established under the Middle Atlantic order in February 1972 with respect to marketings on and after April 1 of that year. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator from the producer-settlement fund and turned over to an agency organized by producers and producers' cooperative associations. Certain reserves are withheld by the market administrator to cover the administrative costs incurred by him and refunds to producers.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a non-brand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products.

The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, is given an opportunity to request a refund of the money withheld from his pool proceeds. About 10 percent of the producers in the market received a refund for the first quarter of 1976.

Four cooperative associations whose members supply about 60 percent of the milk regulated under the order proposed that the rate of deduction for funding the advertising and promotion program be increased from the present 5 cents to 7 cents. Proponents indicated that it was their belief that the program has contributed to an increase in Class I sales during various periods and has minimized declining sales during times of rising milk prices. It was their position, however, that the current funding rate is no long adequate to maintain the promotional effort initially contemplated by producers and subsequently established under the program. Proponents claimed

that the current inflationary trend in the economy has caused the cost of all advertising and promotion activities to rise significantly. At the same time, producer contributions to the program have remained relatively constant. Thus, they contended, inflation has caused a reduction in advertising and promotipon expenditures and thus a reduction in the effectiveness of the program.

Opposition to an increase in the funding rate was expressed by a cooperative association representing slightly less than 10 percent of the producers on the market. The cooperative indicated that if the rate of deduction were increased in the Middle Atlantic market, comparable rate increases probably would be requested in other markets having similar programs. Opponent claimed that this would be an undesirable development at this time since dairy farmers were only now beginning to recover from a recent unprecedented cost-price squeeze. The opposing cooperative also claimed that any attempt in surrounding areas to bring the funding rate in line with the proposed rate under Order 4 could threaten the participation in the programs for such areas. Also, it was claimed that the data for the Middle Atlantic market show no significant improvement in fluid milk sales since the start of the advertising and promotion program, thus raising a question as to the potential effectiveness of any increased funding. In addition, the cooperative indicated that producer participation in the program has been falling steadily since the program was initiated and that a higher funding rate would aggravate this situation.

As indicated at the outset, the funding rate for the advertising and promotion program should be increased by 2 cents per hundredweight of producer deliveries. An increase in the funding rate is necessary if the promotional effort under the program is to be maintained at the general level which producers initially supported when the program was established and which a majority of the producers continue to support. At the program's inception, producers supported the current funding rate of 5 cents per hundredweight with the expectation that this rate would permit a given level of advertising and promotion activity. Although producer contributions under the program have remained relatively constant, inflationary conditions within the economy have seriously curtailed the amount of promotional activity that can be generated by the available funds. Since the start of the program, the purchasing power of the dollar, for example, has declined about 35 percent in terms of wholesale prices, and about 26 percent on the basis of consumer prices.

The Order 4 advertising and promotion agency disburses the bulk of its available funds to the United Dairy Industry Association (UDIA) and the several dairy councils that operate within the Middle Atlantic market. During the period of April 1972 through December 1975, UDIA received $5,727,423 from the Order 4 agency. About three-fourths of this amount was used for local advertising; the remainder was spent on national programs. The local dairy councils received $1,793,406 during this period.

The UDIA carries out its activities through three sub-organizations. Consumer advertising is handled by the American Dairy Association. The National Dairy Council conducts nutrition research and nutrition education programs. The research arm of UDIA is Dairy Research, Inc., which pursues the development of new dairy products and processing techniques.

A representative of UDIA testified at the hearing as to the costs attendant to advertising through various media. The witness indicated that on a national basis UDIA has experienced the following cost increases since 1972 for the most commonly used media:

Media:	Percent increase
Spot television	50
Nighttime network TV	33
Spot radio	28
Daily newspapers	30

It was pointed out that in advertising milk a media mix might be used that would consist of 60 percent spot television, 25 percent spot radio, and 15 percent nighttime television. With this particular media mix, the cost of advertising today is 42 percent higher than in 1972, thus requiring a 42 percent increase in expenditures if the 1972 level of advertising is to be maintained. If, on the other hand, advertising expenditures are held at the 1972 level, only 70 percent as much advertising can be purchased today as previously.

The UDIA witness further noted that in the past year advertising costs in the Middle Atlantic market have increased more than they have nationally. Spot television for prime time (8–11 p.m.) is up 33 percent locally versus a 27 percent increase for the nation. For fringe prime time (early and late evening), costs are up 32 percent in the Order 4 area compared to 29 percent nationally. For daytime advertising, costs are up 61 percent locally versus 21 percent nationally.

In addition to testimony regarding UDIA activities, witnesses also described the activities of the local dairy councils and the need for additional funding. Such organizations provide nutrition education to various groups and persons in the local communities. Through personal contacts by staff people, literature, films and exhibits, the dairy councils emphasize the importance of a nutritionally adequate diet, including the use of milk and other dairy products.

As in the case of advertising, dairy council activities likewise have been adversely affected by the recent inflationary trend in the economy. Witnesses indicated that such activities have either been curtailed or held at less than normally desired expenditure levels because of the higher cost of carrying out these activities.

While costs under the advertising and promotion program have been increasing, producer contributions to the program have remained relatively constant. For example, funds transferred by the market administrator to the Order 4 agency totaled $2,117,804 in 1973, $2,121,863 in 1974, and $2,162,677 in 1975. Any significant increase in available funds is not likely except through an increase in the rate at which monies are deducted from producers' returns for the program.

In support of their proposal, proponents indicate that the advertising and promotion program has had a "positive" effect on the per capita consumption of milk. They stated that prior to the start of the program per capita sales in the market had been declining. Proponents claimed that the program reversed this sales trend except during a period of rapidly rising milk prices. They contended that even in this latter situation the program had a positive effect by minimizing the sales decline.

The opposing cooperative, on the other hand, claimed that there is no conclusive evidence that the advertising and promotion program has improved milk sales in the Middle Atlantic market. The cooperative contended in its brief that an increase in the program's funding rate should be adopted only if the record demonstrates that the program has produced positive results that are sufficient to justify program expenditures.

Serious question must be raised as to whether the record evidence in fact demonstrates one way or the other that the advertising and promotion program has in fact caused milk sales to be at a level higher than otherwise would have been the case without such a program. The effectiveness of advertising is difficult to measure, and a valid evaluation of the program would need to be based on a more extensive study than presumably was undertaken by either the proponent or opponent cooperatives. It would seem a prudent step, of course, for those producers participating in the program to seek such an evaluation of the advertising and promotion activities that they are funding.

Adoption of the proposed increase in funding should not be denied, however, for lack of a reasonable determination at this time of the effectiveness of the current program. As indicated in the decision supporting the adoption of this program, the enabling legislation for advertising and promotion programs under Federal orders was envisioned as the authority for a self-help program under which milk producers could collect and spend their own funds to improve their own markets for milk.[1] An essential feature of this legislation is that such programs are to be voluntary with respect to contributions by producers. Producers wishing not to contribute to the program have the option of requesting a refund of the assessments against their deliveries.

[1] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the Middle Atlantic Order that was issued on January 14, 1972 (37 FR 793).

Thus, Order 4 producers opposing the advertising and promotion program simply need not participate. A substantial majority of the producers in the market, however, have indicated their support of a program funded at a higher rate and they should be given the opportunity to participate in such a program if they so wish.

In its brief, the opposing cooperative stated that such substantial support by producers for the proopsal under consideration does not constitute "evidence with respect to the economic and marketing conditions which relate to the proposed amendments" and does not in itself constitute a sufficient or proper justification for adopting the proposal. While other considerations are involved, producer support is an important consideration. The intent of the enabling legislation includes recognition of the desire of producers to have a program designed to improve or promote the domestic marketing and consumption of milk and its products. Testimony at the hearing indicates that a substantial majority of the producers in the market support such a program and, as implied in the court decision quoted by opponent in its brief on another point, the Secretary is entitled to weigh the desires of local producers in reaching his decision. With respect to producer support, it is noted that although the opposing cooperative, as an organization, objects to an increase in the funding rate it does support the current program, and over half of its members on the Middle Atlantic market are participants. Contrary to opponent's contention, such evidence of support and actual participation does reflect economic and marketing conditions in the Middle Atlantic market.

The opposing cooperative further stated in its brief that any proposal adopted must be "reasonable and supported by adequate evidence." The cooperative contended that the proposal under consideration does not meet these conditions.

It is recognized that what is "reasonable" and what constitutes "adequate evidence" becomes a matter of judgment. Nevertheless, in light of the enabling legislation, it is concluded that the proposal adopted herein is reasonable and that it is supported by adequate evidence regarding the economic and marketing conditions in the market.

The opposing cooperative also argued that the Department should not rely in its decision on the presumption that the advertising and promotion program is voluntary. It claimed that at best the program is only "quasi-voluntary" because the procedure for obtaining refunds of the assessments against their marketings is "unduly burdensome on dairy farmers."

The current refund procedure was established at the time the program was initiated. The procedure is in accordance with the statutory requirements regarding refunds under advertising and promotion programs. It should be noted that the refund procedure was proposed and supported by the producers at the time the program was adopted, and producers have not sought any change in this procedure since then.

As justification for not adopting a higher funding rate, the opposing cooperative contended that producer participation in the program is declining and that increased deductions would accelerate this decline. It is true that there has been a very gradual decline in the participation rate since the program started. However, about 90 percent of the producers are still participants. It is not possible, of course, to determine in advance what impact a higher funding rate might have on producer participation. The substantial support among producers for a higher funding rate would suggest that the impact might be minimal. In any case, speculation that there might be some further decline in producer participation does not represent a valid basis for denying adoption of the proposal.

Another argument offered by the opposing cooperative against the proposal was that an increase in the funding rate under Order 4 would generate requests for similar increases in other markets where advertising and promotion programs, both Federal and state, are in effect. The cooperative contended that dairy farmers are just now recovering from recent adverse economic conditions and that this is an inopportune time for a reduction in returns to producers as a result of a higher funding rate. In addition, the cooperative expressed concern about the potential decline in producer participation in these other programs as a result of any increased funding.

In this case, also, there is no way of determining in advance what impact any changes in the Order 4 advertising and promotion program might have on similar programs in neighboring markets. Again, however, this is not a valid consideration in deciding on the appropriateness of the funding rate for the Middle Atlantic market.

To implement the conclusions of this decision, several parts of the order must be amended to reflect the change in the rate of deduction, i.e., from 5 cents to 7 cents per hundredweight. In addition, certain changes should be made in several provisions that were intended to be applicable only at the time the advertising and promotion program became effective. For example, one provision would require the market administrator, "promptly after the effective date of this amending order," to notify participating producers of their opportunity to nominate Agency representatives. Then, "witihn 30 days after the effective date of this amending order," the market administrator would be required to conduct a referendum to determine representation on the Agency. In still another case, producers would not be limited to filing refund requests during the quarterly 15-day filing period now prescribed but instead could file such requests anytime "during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds" in accordance with the presently used procedure. The several provisions should be revised in such a manner that the amended order, upon effectuation, will not instruct the market administrator to carry out certain activities or permit certain refund procedures not intended to be applicable at this time.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conlusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be

amended. The following order amending the order, as amended, regulating the handling of milk in the Middle Atlantic marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

§ 1004.61 [Amended]

1. In § 1004.61, paragraphs (a)(3) and (b)(1)(i) and (ii) are amended by changing the number "5" to "7."

§ 1004.71 [Amended]

2. In § 1004.71, paragraph (b)(2) is amended by changing the number "5" to "7."

§ 1004.76 [Amended]

3. In § 1004.76, paragraph (b)(5) is amended by changing the number "5" to "7."

4. In § 1004.113, paragraph (c)(1) is revised to read as follows:

§ 1004.113 Selection of Agency members.

* * * * *

(c) * * *

(1) Promptly after the initial effective date of the advertising and promotion program under this order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperative and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

* * * * *

§ 1004.120 [Amended]

5. In § 1004.120, the last sentence of paragraph (c) is deleted and paragraph (d) is amended by changing the number "5" to "7."

6. In § 1004.121, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1004.121 Duties of the market administrator.

* * * * *

(a) Within 30 days after the initial effective date of the advertising and promotion program under this order, and annually thereafter, conduct a referendum to determine representative on the Agency pursuant to § 1004.113(c);

(b) Set aside the amounts subtracted under § 1004.61(a)(3) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(4) of this section; payments, if any, to producers or states pursuant to paragraph (b)(2) and (3) of this section; and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) To producers, a refund of the amounts of mandatory checkoff for advertising and promotion programs required under authority of state law applicable to such producers, but not in amounts that exceed a rate of 7 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1004.61(a)(3).

(3) To any state after the end of each calendar quarter, a payment on behalf of any producer for which a specific authorization has been received pursuant to § 1004.120(d), but not in an amount that exceeds a rate of 7 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1004.61(a)(3) for such calendar quarter.

(4) To each producer after the end of each calendar quarter, a refund for which the producer has made application pursuant to § 1004.120. Such refund shall be at a rate of 7 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1004.61(a)(3) for such calendar quarter, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b)(2) and (3) of this section.

(c) Forward to each new producer a copy of the provisions of the advertising and promotion program (§§ 1004.110 through 1004.122).

* * * * *

Signed at Washington, D.C., on: July 6, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-19903 Filed 7-8-76;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 112]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments

● *Purpose:* To provide restrictive language for certain labels and to clarify requirements for rabies vaccine labels. ●

Notice is hereby given in accordance with the provisions contained in section 553 of Title 5, United States Code, that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Part 112 of Title 9 of the Code of Federal Regulations issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158).

Statement of Considerations: Under the present regulations, any restriction imposed by the Deputy Administrator, pursuant to his authority under the Virus-Serum-Toxin Act, concerning a biological product is required to be noted on the applicable product license. In order to inform the public of such restriction, prescribed statements shall be required on carton labels and enclosures of the restricted product. When the product is restricted for veterinary use, to use by a veterinarian, or to be used under the direction of a veterinarian, the words which are required to appear on carton labels and enclosures are stated in the proposed amendment of § 112.2.

Test requirements in § 113.129 for vaccines containing inactivated rabies virus and those in § 113.147 for vaccines containing live rabies virus, include the establishment of initial vaccination and revaccination recommendations. Results of tests conducted under such sections have shown that the present labeling requirements in § 112.7 (c) and (d) are no longer suitable for the effective protection of domestic animals and the public health, safety, or interest, and should, therefore, be changed. The test results also show that the requirements in § 112.7(d) are not complete and should be clarified.

The proposed changes in § 112.7(c) include the addition of a statement recommending a route of administration at one site in the thigh. Further, they include statements concerning the new minimum recommended dose and the number of doses, subsequent revaccination recommendations, and a required statement recommending annual revaccination in high risk areas if a statement of annual revaccination does not already appear on the label.

The proposed changes in § 112.7(d) include a revision of the high risk area statement to conform with the one being added to § 112.7(c). The changes also include a revised statement concerning accidental human exposure to the rabies vaccines virus, the recommended dose and number of doses, and subsequent revaccination recommendations. The reference to the U.S. Department of Health, Education, and Welfare publication would be deleted because it does not contain adequate recommendations.

1. Section 112.2 would be amended by revising paragraph (d) to read:

§ 112.2 Final container label, carton label, and enclosure.

* * * * *

(d) Carton labels and enclosures shall be subject to paragraphs (d)(1), (d)(2), and (d)(3) of this subsection.

(1) The statement, "Restricted to use by or under the direction of a veterinarian" or "Restricted to use by a veterinarian," shall be used on all carton labels and enclosures when such restriction is prescribed on the product license.

(2) If the licensee states on the carton labels and enclosures of a product that its sales are restricted to veterinarians, then the entire production of that particular product in the licensed establishment shall be so restricted by the licensee.

(3) The statement "For veterinary use only" or an equivalent statement may appear on the carton labels and enclosures for a product if such statement is being used to indicate that the product is recommended specifically for animals, and not for humans.

2. Section 112.7 would be amended by revising the introductory portion of paragraph (c); by revising paragraphs (c)(1) and (c)(2); by adding paragraphs (c)(3) and (c)(4); by revising paragraphs (d)(1) and (d)(5); and by adding two

new paragraphs, (d) (6) and (d) (7), to read:

§ 112.7 Special additional requirements.

* * * * *

(c) In the case of a biological product containing inactivated rabies virus, carton labels, enclosures, and all but very small final container labels shall include a warning against freezing and the recommendations provided in this paragraph.

(1) A recommendation that intramuscular injection be made at one site in the thigh.

(2) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(3) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.129(b) or (c) or both.

(4) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

(d) * * *

(1) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

* * * * *

(5) A statement containing the recommended action to be taken in cases of accidental human exposure to the vaccine virus shall be prominently placed on all enclosures and also place on carton labels for all cartons containing more than one final container of biological product.

(6) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(7) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.147 (b) or (c) or both.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477; 38 FR 19141)

Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Services, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Maryland 20782. All comments received on or before September 8, 1976, will be considered.

All written submissions made pursuant to this notice will be made available for public inspection at the above address, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, DC, this 6th day of July 1976.

J. M. Heil,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-19898 Filed 7-8-76;8:45 am]

[9 CFR Parts 303, 320, and 381]

IDENTIFICATION OF CUSTOM OPERATORS

Withdrawal of Proposed Regulation

The purpose of this notice is to withdraw the proposed rulemaking published in the Federal Register October 25, 1974 (39 FR 37991-37992), in which the Animal and Plant Health Inspection Service proposed to amend Parts 303 and 320 of the Federal meat inspection regulations (9 CFR Parts 303 and 320) and Part 381 of the poultry products inspection regulations (9 CFR Part 381), to require persons, firms, and corporations who engage in the custom slaughter of livestock and/or poultry or the preparation or processing of products thereof, which are exempt from the inspection provisions of said Acts, to submit a report to the Regional Director, Meat and Poultry Inspection Program, including their name and address and other information related to their operations.

Comments were received from 20 interested persons in response to the proposal. The majority of the comments did not favor the amendment, on the basis that the increased paperwork would overburden small slaughterers. As a result of the comments received, the Department has re-evaluated the proposal and has concluded that such a report to the Regional Directors would not appreciably assist the Department in carrying out the purposes of the Federal Meat Inspection Act and the Poultry Products Inspection Act, and that it would indeed pose a substantial increase in paperwork to small operators.

In consideration of the foregoing, the proposed rulemaking published in the Federal Register October 25, 1974 (39 FR 37991-37992) is hereby withdrawn.

Done at Washington, D.C., June 30, 1976.

F. J. Mulhern,
Administrator, Animal and
Plant Health Inspection Service.

[FR Doc.76-19632 Filed 7-8-76;8:45 am]

Food and Nutrition Service

[7 CFR Part 275]

[Amdt 88]

FOOD STAMP PROGRAM

State Agency Costs

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (7 U.S.C. 2011-2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture, proposes to amend the regulations governing the operation of the Food Stamp Program. The proposal would amend Part 275, Appendix A, Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies. Standards for Selected Items of Cost, Paragraph B(3), Capital expenditures, would be amended to provide for a higher exemption for immediate federal financial participation in the costs of acquisition of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, or nonexpendable personal property having a useful life of more than one year.

The present exemption of $300 would be increased to $2,500, an amount more consistent with the realities of present-day equipment costs. This exemption has been suggested by several State agencies. Immediate federal financial participation in the acquisition costs of single items costing more than $2,500 per unit would require the approval of FNS.

The criterion for approval by FNS would be the standard of allowability as a program cost—that is, that the acquisition be necessary and reasonable for proper and efficient administration of the program, and be allocable thereto. This would not preclude a State agency's recovering its costs of capital acquisitions of more than the exempt amount through depreciation or use allowances as presently authorized by the regulations.

A corollary effect of the proposed amendment should be that State agencies realize a responsibility for effective management of property in which FNS participated in the acquisition cost.

Interested parties may submit written comments, suggestions, or objections regarding the proposed amendment to Mrs. Nancy M. Syder, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than August 9, 1976. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued.

All written comments, suggestions or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director, Food Stamp Division, during regular business hours (8:30 a.m. to 5 p.m.) at 500 12th Street SW., Washington, D.C. Room 650.

The proposed amendment is as follows:

APPENDIX A—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO ADMINISTRATION OF THE FOOD STAMP PROGRAM BY STATE AGENCIES

* * * * *

STANDARDS FOR SELECTED ITEMS OF COST

* * * * *

B. *Cost allowable with approval of FNS*—

* * *

(3) *Capital expenditures.* The cost, net of any credits, of facilities, equipment, other capital assets, and repairs which materially increase the value of useful life of capital assets, and/or of nonexpendable personal property, having a useful life of more than one year and an acquisition cost of more than $2,500 per unit, is allowable when such

procurement is specifically approved by FNS. No such approval shall be granted unless the State agency shall demonstrate to FNS that such a cost is (i) necessary and reasonable for proper and efficient administration of the program, and allocable thereto under the principles provided herein, and (ii) that procurement of such item or items has been or will be made in accordance with the standards set out in 275.15 of Part 275. In no case shall such a cost become a program charge against FNS prior to approval in writing by FNS of the procurement and the cost. When assets acquired with Federal funds are (i) sold, (ii) no longer available for use in a federally sponsored program, or (iii) used for purposes not authorized by FNS, the Federal agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026.)

(Catalog of Federal Domestic Assistance Program No. 10.551, National Archives Reference Services.)

Dated: July 6, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76–19863 Filed 7–8–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 540]

[Docket No. 75N–0374]

PENICILLIN STREPTOMYCIN POWDER; PENICILLIN - DIHYDROSTREPTOMYCIN POWDER

Proposed Revocation of Certification Provision

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (hereinafter, the Director) is proposing to revoke § 540.174b *Penicillin-streptomycin power; penicillin-dihydrostreptomycin powder* (21 CFR 540.174b); comments are due by August 9, 1976.

The Director is issuing, elsewhere in this issue of the FEDERAL REGISTER, a notice of opportunity for hearing for certain penicillin, streptomycin, vitamin combination products for use in animal drinking water. The background and details of the proposal below are discussed fully in the notice. The Director concludes that neither the products discussed in the notice nor any similar product should be permitted in the drinking water of animals. This proposal supersedes a similar proposal published in the FEDERAL REGISTER of January 10, 1973 (38 FR 1219).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343–351 (21 U.S.C. 357, 360b)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.29), it is proposed that Part 540 be amended by revoking § 540.-174b *Penicillin-streptomycin powder; penicillin-dihydrostreptomycin powder.*

Interested persons may, on or before August 9, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the docket number appearing in the heading) regarding this proposal, except that comments pertaining to issues which are the subject of the related notice of opportunity for hearing published elsewhere in this issue of the FEDERAL REGISTER shall be filed in accordance with that notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: July 1, 1976.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.76–19956 Filed 7–8–76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

ALASKA

Proposed Supplement to Approved Plan

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) for the review of changes and progress in State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska Plan and the adoption of Subpart R to Part 1952 containing this decision. On January 26, 1976, the State of Alaska submitted to the Seattle Regional Office of the Occupational Safety and Health Administration a supplement to the plan involving developmental changes. Following regional review, the supplement was forwarded to the Assitant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether it should be approved. The supplement is described below.

2. *Description of the supplement.* Alaska Administrative Rules. The State has submitted rules covering inspections, citations and proposed penalties; the Occupational Safety and Health Review Board; recordkeeping and reporting; variances; and on-site consultation and training (Alaska administrative Code, Title 8, Chapter 61, sections .020 through .420). These rules correspond to the Federal rules 29 CFR Parts 1903, 1904, 1905 and 2200.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and the supplement may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration Room N–3112, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

4. *Public participation.* Interested persons are hereby given until August 9, 1976 in which to submit written data, views, and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Program, Occupational Safety and Health Administration, Room N–3112, 200 Constitution Avenue, NW., Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart R of Part 1952 and initiate further proceedings, if necessary.

Signed at Washington, D.C., this 30th day of June 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–19550 Filed 7–8–76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 249, 378b, 389]

[EDR–300, SPDR–45, ODR–13; Docket 28404, Dated: June 16, 1976]

CONTRACT BULK INCLUSIVE TOURS

Proposed Rulemaking

Correction

In FR Doc. 76–18001 appearing at page 24903 in the issue of Monday, June 21, 1976 make the following change:

On page 24908 in § 378b.31(b) (2) (v) the fourth line reading "uled day of departure of the originating" should be deleted and in its place inserted "count directly to the hotels, sightseeing".

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R–0048]

TRUTH IN LENDING

Proposed Amendments to Regulation Z to Implement the Consumer Leasing Act

The Board is publishing for comment proposed amendments to Regulation Z

("the Regulation") to implement the Consumer Leasing Act of 1976 ("the Act") (Pub. L. 94-240) enacted on March 23, 1976, which amended the Truth in Lending Act (15 U.S.C. Chapter 41, 1601 et seq.). The Act, which requires the Board to issue implementing regulations and becomes effective March 23, 1977, provides for the disclosure of certain information in leases of personal property primarily for personal, family or household purposes, where the total contractual obligation is less than $25,000, and the term is greater than four months. The Act also limits the liability of the lessee at the end of the lease term and assures meaningful and accurate disclosures in advertising of leasing terms.

The Board has set forth the proposed regulations implementing the Act as amendments to Regulation Z. This step eliminates the duplication of sections of Regulation Z that would be necessary for a separate leasing regulation. It also provides a simple format for lease disclosures and permits lessors, many of whom may be familiar with Regulation Z, to refer to a body of experience gained under that Regulation. Many of the amendments are technical; they merely implement the statutory language. The major leasing disclosure provisions have been added as a new section (§ 226.15), and other additions have been made to the definitional section (§ 226.2), the general disclosure section (§ 226.6), the advertising section (§ 226.10), and the exemption of State regulated transactions section (§ 226.12).

A more detailed discussion of the proposal follows.

1. The findings and purpose of the Consumer Leasing Act are incorporated in § 226.1 of the Regulation. This section also outlines where responsibility for administrative enforcement resides and the penalties and liabilities for noncompliance. The proposed amendments also make reference to section 185(b) of the Act which provides for lessor liability under section 130 of Truth in Lending to any person who suffers actual damage because of a violation of the lease advertising requirements.

2. The definitions of the terms "consumer lease," "lessee," "lessor" and "personal property" as found in the Act are included in § 226.2 with the other definitions of Regulation Z. It was not necessary to include the terms "security" and "security interest" as those terms are presently defined in § 226.2(gg). The Board proposes three additional definitions to add clarity to the Regulation and to facilitate comparison of lease terms by consumers. The proposed terms are: "aggregate cost of the lease," "fair market value at consummation" and "realized value." The following example is provided to illustrate the use of the terms "aggregate cost of the lease" and "fair market value at consummation." It is merely an example and is not intended to set a pattern or form for disclosure. The example also provides the differential required to be disclosed in proposed § 226.15(b)(15)(i).

Example of Disclosure under § 226.15(b)(15)(i):

Fair market value at consummation (cost to lessor of lease property including markup)	$5,800
Monthly payments (24-month lease):	
Rental	100
Lease charge	20
Total	120
Total of periodic payments	2,880
1. Total of periodic payments	2,880
2. Cash payment or trade-in allowance	400
3. Estimated fair market value of lease property at end term	3,000
Aggregate cost of the lease	6,280
Aggregate cost of the lease	6,280
Fair market value at consummation	−5,800
	480

The Board asks that comments be addressed to these definitions as well as to any need for additional definitions. The existing definitions of "advertisement" (§ 226.2(d)), "arrange for the extension of credit" (§ 226.2(h)), consummation (§ 226.2(kk)), and one pertaining to the construction of regulatory terms (§ 226.2(jj)) also have been adjusted to accommodate the Consumer Leasing Act. Appropriate letter designations for the definitions will be provided in the final regulations.

3. Those paragraphs of § 226.6 relating to inconsistent State requirements, additional information, multiple creditors and customers, unknown information estimates, effect of subsequent occurrences and preservation and inspection of evidence of compliance are modified to include references to leasing where necessary to provide general standards and guidance in making lease disclosures. Attention is directed to § 226.6(f) which permits estimates where information required to be disclosed is unknown at the time of disclosure.

4. The advertising provisions of the Consumer Leasing Act (section 184) are incorporated into the existing advertising provisions of Regulation Z. The general advertising rule is expanded to prohibit a lease advertisement at specific amounts or terms unless the lessor customarily leases or will lease the property for those amounts or at those terms. Provision is made for the use of charts or tables in multi-page or catalog lease advertising. The Board is interested in receiving comments concerning any special problems posed by the advertising disclosure requirements including those regarding merchandise tags used on property to be leased which is on display for potential lessees.

5. As is available under Truth in Lending, any State may apply for and receive an exemption from the Act's requirements of certain State regulated leasing transactions and the Board will subsequently provide procedures and criteria for exemption applications. The regulation provides that in order for an exemption to be granted, the State law must either be substantially similar to the Federal Act or afford greater protection and benefit to lessees than does the Federal law. An applying State must also demonstrate that there is adequate provision for enforcement.

6. Most of the lease disclosure requirements reflect the specific provisions contained in the Consumer Leasing Act. Generally, the disclosures must be made together on one side of either the lease contract or a separate disclosure statement. Because of the practical difficulty in multiple item leases of describing all the property leased on one page together with the other required disclosures, the Regulation permits the use of a separate statement or statements containing the description incorporated by reference in the disclosure statement.

In addition to the disclosures enumerated in the Act, the Board proposes to require, in open end leases, a statement of the limits placed by the Act on the lessee's liability at the end of the lease term and of the fact that the lessee has the opportunity to procure an appraisal of the leased property. These have been included because the enumerated disclosure in section 182 that the lessee may have end term liability is incomplete without a statement of the limitations on that liability which the additional disclosure would supply. Similarly, disclosure of the presumptions concerning end term liabilities would be unfair to lessors without disclosing that agreements which negate those presumptions can be made between lessor and lessee and an appraisal agreed to by both parties can be obtained.

7. Another provision requires new lease disclosures when a lease is renegotiated or extended. This provision would not apply in multiple item leases where a new item is provided or a previously leased item is returned and the change in the average monthly payment is 10 per cent or less. The Board is interested in learning whether the 10 per cent adjustment is sufficient to cover such minor changes in the lessee's obligation. Additionally, comment should be directed to other terms that may change in a renegotiation or extension and the need for redisclosure in those instances.

The Board invites comment on the proposed amendments generally and especially in those instances indicated in the previous discussion. In developing the proposed amendments, the Board has attempted to maintain the stated Congressional aim of neutrality regarding various business entities engaged in consumer leasing and noninterference with the ability of particular lessors to carry on business. The proposed amendments are intended by the Board to provide consumers with certain basic information which is both meaningful and useful in securing the lease of personal property.

The deadline for receipt of written comments on the proposed amendments is August 16, 1976. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments should include a reference to Docket No. R-0048. A date for public hearings will be set during the comment period.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968) the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

§ 226.1 [Amended]

Section 226.1 is amended as follows:

(1) By revising the last sentence of paragraph (a)(1) to read as follows:

(a)(1)* * * Except as otherwise provided herein, this part, within the context of its related provisions, applies to all persons who are creditors, as defined in paragraph (s) of § 226.2, and in the case of consumer leases, as defined in paragraph (nn) of § 226.2, to all persons who are lessors, as defined in paragraph (gg) of § 226.2.

* * * * *

(2) In paragraph (a)(2) by inserting the words "and consumer lease" between the words "Advertising of consumer credit" and "terms must comply" and by adding the following sentence before the last sentence of the paragraph:

* * * This Part is also designed to assure that lessees of personal property are given meaningful disclosures of lease terms, to delimit the ultimate liability of lessees in leasing personal property and to require meaningful and accurate disclosures of lease terms in advertisements. * * *

(3) In paragraph (b)(1) by inserting a comma after the word "creditors" deleting the word "and" between the words "creditors" and "credit' and inserting the words "and lessors" between the words "issuers" and "is."

(4) By amending paragraph (c) to read as follows:

* * * * *

(c) *Penalties and liabilities.* Section 112 of the Act provides criminal liability for willful and knowing failure to comply with any requirement imposed under the Act and this Part. Section 134 provides for criminal liability for certain fraudulent activities related to credit cards. Section 130 provides for civil liability in individual or class actions for any creditor or lessor who fails to comply with any requirement imposed under Chapter 2, Chapter 4 or Chapter 5 of the Act and the corresponding provisions of this Part. Section 130 also provides creditors or lessors a defense against civil and criminal liability for any act done or omitted in good faith in conformity with the provisions of this Part or any interpretation thereof by the Board, or with any interpretations or approvals issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason. Section 130 further provides that a multiple failure to disclose in connection with a single account or single consumer lease shall permit but a single recovery. Section 115 provides for civil liability for an assignee of an original creditor where the original creditor has violated the disclosure requirements and such violation is apparent on the face of the instrument assigned, unless the assignment is involuntary. Pursuant to section 108 of the Act, violations of the Act or this Part constitute violations of other Federal laws which may provide further penalties.

* * * * *

§ 226.2 [Amended]

Section 226.2 is amended as follows:

(1) In paragraph (d) by inserting the words "or lessee or prospective lessee" between the words "prospective customer" and "in."

(2) By amending paragraph (h) to read as follows:

* * * * *

(h) "Arrange for the extension of credit or for the lease of personal property" means to provide or offer to provide consumer credit or a lease which is or will be extended by another person under a business or other relationship pursuant to which the person arranging such credit or lease.

(1) Receives or will receive a fee, compensation, or other consideration for such service, or

(2) Has knowledge of the credit or lease terms and participates in the preparation of the contract documents required in connection with the extension of credit or the lease. It does not include honoring a credit card or similar device where no finance charge is imposed at the time of that transaction.

* * * * *

(3) In paragraph (jj) by deleting the word "and" after the words "consumer loan" and adding the words "and 'lease' to mean 'consumer lease'" after the words "consumer credit transaction."

(4) In paragraph (kk) by inserting the words "or a lessor and lessee" between the words "customer" and "irrespective."

(5) By adding the following after paragraph (ll):

"Aggregate cost of the lease" equals the total of (1) the scheduled periodic payments under the lease, (2) any nonrefundable cash payment required of the lessee or agreed upon by the lessor and lessee or any trade-in allowance made at consummation and (3) the estimated fair market value of the leased property at the end of the lease term.

"Consumer lease" means a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family or household purposes, for a period of time exceeding four months, for a total contractual obligation not exceeding $25,000, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease. It does not include a lease which meets the definition of a credit sale in § 226.2(t), nor does it include a lease for agricultural, business or commercial purposes or one made to an organization.

"Fair market value at consummation" equals the cost to the lessor of the leased property including, if applicable, any increase or markup by the lessor prior to consummation.

"Lessee" means a natural person who leases under or is offered a consumer lease.

"Lessor" means a person who in the ordinary course of business regularly leases, offers to lease or arranges for the leasing of personal property under a consumer lease.

"Personal property" means any property which is not real property under the law of the State where it is located at the time it is offered or made available for lease.

"Realized value" means the price received by the lessor for the leased property at disposition, the highest offer for disposition or the fair market value at the end of the lease term, less any adjustment for costs incurred or to be incurred by the lessor in conjunction with the disposition if not previously charged to the lessee.

§ 226.6 [Amended]

Section 226.6 is amended as follows:

(1) By adding a new § 226.6(b)(3) to read as follows:

* * * * *

(b)(3)(i) A State law which is similar in nature, purpose, scope, intent, effect or requisites to a section of chapter 5 of the Act is not inconsistent with the Act or this Part within the meaning of section 186(a) of the Act if the lessor can comply with the State law without violating this Part. If a lessor cannot comply with a State law without violating a provision of this Part which implements a section of chapter 5 of the Act, such State law is inconsistent with the requirements of the Act and this part within the meaning of section 186(a) of the Act and is preempted.

(ii) A State, through its Governor, Attorney General, or other appropriate official having primary enforcement or interpretative responsibilities for its consumer leasing law, may apply to the Board for a determination that the State law offers greater protection and benefit to lessees than a comparable provision(s) of chapter 5 of the Act and its implementing provision(s) in this part, or is otherwise not inconsistent with chapter 5 of the Act and this Part, or for a determination with respect to any issues not clearly covered by § 226.6(b)(3)(i) as to the consistency or inconsistency of a State law with chapter 5 of the Act or its implementing provisions in this Part.

* * * * *

(2) In paragraph (c) by inserting the words "or lessor's" between the words "creditor's" and "option" and by inserting the words "or lessee" between the words "customer" and "or" in the first sentence, and by inserting the words "or lessor" between the words "creditor" and "who elects" in the second sentence.

(3) By revising paragraphs (d), (e) and (f) to read as follows:

* * * * *

(d) *Multiple creditors or lessors; joint disclosure.* If there is more than one

creditor or lessor in a transaction, each creditor or lessor shall be clearly identified and shall be responsible for making only those disclosures required by this Part which are within his knowledge and the purview of his relationship with the customer or lessee. If two or more creditors or lessors make a joint disclosure, each creditor or lessor shall be clearly identified. The disclosures required under paragraphs (b) and (c) of § 226.8 shall be made by the seller if he extends or arranges for the extension of credit. Otherwise disclosures shall be made as required under paragraphs (b) and (d) of § 226.8 and paragraph (b) of § 226.15.

(e) *Multiple customers or lessees; disclosure to one.* In any transaction other than a credit transaction which may be rescinded under the provisions of § 226.9, if there is more than one customer or lessee, the creditor or lessor need furnish a statement of disclosures required by this part to only one of them other than an endorser, comaker, guarantor, or a similar party.

(f) *Unknown information estimate.* If at the time disclosure must be made, an amount or other item of information required to be disclosed, or needed to determine a required disclosure, is unknown or not available to the creditor or lessor and the creditor or lessor has made a reasonable effort to ascertain it, the creditor or lessor may use an estimated amount or an approximation of the information, provided the estimate or approximation is clearly identified as such, is reasonable, is based on the best information available to the creditor or lessor and is not used for the purpose of circumventing or evading the disclosure requirements of this Part.

* * * * *

(4) By revising the footnote to paragraph (g) to read as follows:

(5) In paragraph (i) by inserting the words "or lessor" between the words "creditor" and "for" in the first sentence and between the words "creditor" and "shall" in the last sentence.

Section 226.10 is amended by redesignating the introductory text of § 226.10 (a) as § 226.10(a)(1), § 226.10(a)(1) as § 226.10(a)(1)(i) and § 26.10(a)(2) as § 226.10(a)(1)(ii), and by adding a new § 226.10(a)(2). Section 226.10 reads as follows:

§ 226.10 Advertising credit and lease terms.

(a) *General Rule.* * * *

(2) No advertisement to aid, promote or assist directly or indirectly any consumer lease may state that a specific lease of any property at specific amounts or terms is available unless the lessor usually and customarily leases or will lease such property at those amounts or terms.

(b) *Catalogs and multi-page advertisements.* If a catalog or other multiple-page advertisement sets forth or gives information in sufficient detail to permit determination of the disclosures required by this section in a table or schedule of credit or lease terms, such catalog or multiple-page advertisement shall be considered a single advertisement provided:

(1) The table or schedule and the disclosures made therein are set forth clearly and conspiciously; and

(2) Any statement of credit or lease terms appearing in any place other than in that table or schedule of credit or lease terms clearly and conspicuously refers to the page or pages on which that table or schedule appears, unless that statement discloses all of the credit or lease terms required to be stated under this section. For the purpose of this subparagraph, cash price is not a credit term.

* * * * *

(g) *Advertising of consumer leases.* No advertisement to aid, promote or assist directly or indirectly any consumer lease shall state the amount of any payment, the number of the required payments, or that any or no downpayment or other payment is required at consummation of the lease unless the advertisement also states clearly and conspicucusly each of the following items of information as applicable:

(1) That the transaction advertised is a lease.

(2) The total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease or that no such payments are required.

(3) The number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease.

(4) A statement of whether or not the lessee has the option to purchase the lease property and at what price and time. The method of determining the price may be substituted for disclosure of the price.

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the differential, if any, between the estimated fair market value of the lease property and its realized value at the end of the lease term, if the lessee has such liability.

Section 226.12 is amended to read as follows:

§ 226.12 Exemption of certain State regulated transactions.

(a) *Exemption for State regulated transactions.* In accordance with the provisions of Supplements II, IV, V, and VI to Regulation Z, any State may make application to the Board for exemption of any class of transactions within the State from the requirements of chapters 2, 4 or 5 of the Act and the corresponding provisions of this part, *Provided*, That:

(1) The Board determines that under the law of that State, that class of transactions is subject to requirements substantially similar to those imposed under chapter 2 or chapter 4 of the Act, or both, or under chapter 5, and the corresponding provisions of this part; or in the case of chapter 4, the consumer is afforded greater protection than is afforded under chapter 4 of the Act, or in the case of chapter 5, the lessee is afforded greater protection and benefit than is afforded under chapter 5 of the Act, and

(2) There is adequate provision for enforcement.

(b) *Procedures and criteria.* The procedures and criteria under which any State may apply for the determination provided for in paragraph (a) of this section are set forth in Supplement II to Regulation Z with respect to disclosure and rescission requirements (sections 121–131 of chapter 2), Supplement IV with respect to the prohibition of the issuance of unsolicited credit cards and the liability of the cardholder for unauthorized use of a credit card (sections 132–133 of chapter 2), in Supplement V with respect to fair credit billing requirements (sections 161–171 of chapter 4) and in Supplement VI with respect to consumer leasing (sections 181–186 of chapter 5).

* * * * *

A new § 226.15 is added to read as follows:

§ 226.15 Consumer leasing.

(a) *General requirements.* Any lessor shall, in accordance with § 226.6 and to the extent applicable, make the disclosures required by paragraph (b) of this section with respect to any consumer lease. Such disclosures shall be made prior to the consummation of the lease on a dated written statement which identifies the lessor and the lessee, and a copy of such statement shall be given to the lessee at that time. All of the disclosures shall be made together on either:

(1) The contract or other instrument evidencing the lease on the same side of the page and above the place for the lessee's signature; or

(2) One side of a separate statement which identifies the lease transaction.

In any lease of multiple items, the description required by § 226.15(b)(1) may be provided on a separate statement or statements which are incorporated by reference in the disclosure statement required by § 226.15(a).

(b) *Specific disclosure requirements.* In any lease subject to this section the following items, as applicable, shall be disclosed:

(1) A brief description of the leased property, sufficient to identify the property to the lessee and lessor.

(2) The total amount of any payment, such as a security deposit, advance payment, capitalized cost reduction or any trade-in allowance, appropriately identified, to be paid by the lessee at the consummation of the lease.

[6] Such acts, occurrences, or agreements include the failure of the customer or lessee to perform his obligations under the contract and such actions by the creditor or lessor as may be proper to protect his interests in such circumstances. Such failure may result in the liability of the customer or lessee to pay delinquency charges, collection costs, or expenses of the creditor or lessor for perfection or acquisition of any security interest or amounts advanced by the creditor or lessor on behalf of the customer or lessee in connection with insurance, repairs to or preservation of collateral.

(3) The amount paid or payable by the lessee during the lease term for official fees, registration, certificate of title, license fees or taxes.

(4) The number, amount and due dates or periods of payments scheduled under the lease and the total amount of such periodic payments.

(5) The total amount of all other charges, individually itemized, payable by the lessee to the lessor, which are not included in the periodic payments.

(6) A statement of any express warranties or guarantees made by the lessor with respect to the leased property, and an identification of any express warranties or guarantees made by the manufacturer and available to the lessee with respect to the leased property. If no express warranties or guarantees are made as to the leased property, that fact shall be disclosed.

(7) An identification of the party responsible for maintaining or servicing the leased property together with a brief description of the responsibility, and a statement of reasonable standards for wear and use, if the lessor sets such standards.

(8) A brief identification of insurance required in connection with the lease provided or paid for by the lessor including the types and amounts of coverages and cost to the lessee or, if not provided or paid for by the lessor, the types and amounts of coverages required of the lessee.

(9) A description of any security interest held or to be retained by the lessor in connection with the lease and a clear identification of the property to which the security interest relates.

(10) The amount or method of determining the amount of any penalty or other charge for delinquency, default or late payments.

(11) A statement whether or not the lessee has the option to purchase the leased property and, if at the end of the lease term, at what price, and, if prior to the end of the lease term, at what time and the price or method of determining the price.

(12) A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the lease term and the amount or method of determining the amount of any penalty or other charge for early termination.

(13) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the lease term.

(14) A statement that the lessee shall be liable for the differential between the estimated fair market value of the property and its realized value at early termination or the end of the lease term.

(15) Where the lessee's liability at the end of the lease term is based upon the estimated fair market value of the leased property:

(i) The fair market value of the property at consummation of the lease, the itemized aggregate cost of the lease at the end of the lease term, and the differential between them.

(ii) That there is a rebuttable presumption that the estimated fair market value of the leased property at the end of the lease term is unreasonable and not in good faith to the extent that it exceeds the realized value by more than three times the average payment allocable to a monthly period, and that the lessor cannot collect the amount of such excess liability unless the lessor brings a successful action in court in which the lessor pays the lessee's attorneys fees, and that this presumption and attorney's fees provision do not apply to the extent the excess of estimated fair market value over realized value is due to unreasonable wear or use, or excessive use.

(iii) A statement that the provisions of § 226.15(b)(15)(ii) do not preclude the right of a willing lessee to make any mutually agreeable final adjustment regarding such excess liability, provided such agreement is reached after the end of the lease term.

(16) A statement that the lessee may obtain at the end of the lease term or at early termination, at the lessee's expense, a professional appraisal by an independent third party agreed to by the lessee and the lessor of the value which could be realized at sale of the leased property which shall be final and binding on the parties.

(c) *Renegotiations or extensions.* If any existing lease is renegotiated or extended, such renegotiation or extension shall be considered a new lease subject to the disclosure requirements of this Part, except that the requirements of this paragraph shall not apply to a lease of multiple items where a new item(s) is provided or a previously leased item(s) is returned, and the average payment allocable to a monthly period is not changed by more than 10 per cent.

By order of the Board of Governors, July 1, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-19823 Filed 7-8-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1090-1099, 1307]

[Ex Parte No. 325]

INTERMODAL TRANSPORTATION, FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

Substituted Service—Water-for-Motor Service (Fishyback Service)—Alaskan Trade

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of June, 1976.

The purpose of this notice and order is to inform the general public and interested parties of the institution of a rulemaking proceeding investigating the need for regulations (which may deviate from established principles in similar situations) concerning substituted water-for-motor carrier service to or from Alaska, and to solicit the participation of interested parties in such proceeding. This rulemaking proceeding is instituted pursuant to sections 553 and 559 of the Administrative Procedure Act (5 U.S.C.), the national transportation policy (49 U.S.C. preceding section 1), and Parts I, II, III, and IV of the Interstate Commerce Act, and particularly sections 2, 3, 15(3), 15(10), 15(12), 17(3), 204(a)(6), 206(a)(1), 208(b), 210a, 216(c), 216(d), 216(e), 217, 222, 304, 305, 307, 402, 403(a), 404, 406, and 410(a) of the Interstate Commerce Act (49 U.S.C.).

Ar-Dees Alaska Truck Lines, Inc., 76-6; K & W Trucking Co., Inc., 76-3; Lynden Transport, Inc., 76-4; and Weaver Bros., 76-5; in special permission applications as numbered in connection with each name, and as motor common carriers holding overland authority between points in the continental "lower" 48 States, such as Chicago, Ill., St. Paul, Minn., Portland, Ore., and Seattle, Wash., and points in Alaska, seek authority to substitute water-for-motor service between Seattle, Wash., and Anchorage, Alaska.[1] Each carrier proposes to use the substitute service of Totem Ocean Trailer Express, Inc., (TOTE), a water carrier operating between Washington and Alaska, which supports the applications. K & W also proposes to use the substitute service of Sea-Land Service, Inc. The applicants specifically petition for permission to depart from the terms of Rules 4(f) and 5(a) of Tariff Circular No. 3. These applications were protested as shall be explained.

The applicants do not all possess operating authority necessary to provide joint-line service with the water carrier nor authority to service certain involved points such as Seattle (or at least a maritime carrier's docks in Seattle) from thority for a self-help program under would permit a combined land-sea-land movement. (Lynden's authority is somewhat broader than that of the other applicants). The fact that in various instances the involved carriers do not have the requisite operating authority to serve the points of interchange, as well as the fact that the proposed rate levels will be lower where the substitute (water-for-motor) service is performed, are major differences between the involved requests and those for other substituted service provisions.

Applicants justify their requests due to the unique geographic situation and transportation requirements to and from the State of Alaska, the difficult weather often encountered in rendering their usual service, increased highway restrictions by the Government of Canada (and the State of Alaska), the public interest

[1] The applications seek certain other relief including substitution of rail-for-motor service for the account of K & W, via Chicago and Milwaukee, St. Paul and Pacific Railroad Company between Chicago and St. Paul and between Chicago and St. Paul and Seattle, and for the account of K & W and Weaver, via the Alaska Railroad, between Anchorage and Fairbanks. Also included in the applications are requests to correct certain erroneously published provisions and to establish a percentage surcharge on overwidth shipments.

in supplying the rapidly increasing needs resulting from construction of the Trans-Alaska Pipeline,[2] and the use of the substitute service of TOTE as the only means to continue to move their required traffic to and from Alaska on a regular and dependable basis. The efficiencies in using the substitute service would be passed on to the public in the form of lower rates. Applicants also point out that fuel will be conserved due to use of the water-substituted route.

Applicants argue that no authority between St. Paul and Seattle or Anchorage and Fairbanks is required for carriers holding irregular-route authority between St. Paul and Anchoage properly to use TOTE's substituted service between Seattle and Anchorage because no joint-line service is involved. This is based on the fact that the motor carrier assumes responsibility for the shipment from origin to destination, which moves solely on the motor carrier's bill of lading, pursuant solely to its rates. Applicants agree to accept the following conditions for the maintenance of two sets of rates: (1) the shipper has the option of designating the all-motor route, in lieu of the substituted service route for its movement; (2) the substituted service route is continuously available; and (3) the substituted service route is always the cheaper route.

Sea-Land Freight Service, Inc., a motor common carrier operating between points in Alaska (except the panhandle) and between points in the Seattle commercial zone, and SAL, Inc., an affiliated Part IV freight forwarder, which operates from Seattle to points in Alaska, protested the applications. They contend that the proposed substitution would substantially enlarge the operating authorities of the applicants, competing with motor carriers who currently have authority between Seattle and Alaska. These protestants state that applicants should seek the appropriate operating authority. They question whether the proposal violates the circuity limitations in Substituted Service-Piggyback, 322 I.C.C. 301 (1964). Also, they urge that the proposed operations are more in the nature of freight forwarding than motor carriage, and would have an adverse competitive impact on SAL's operations.

Alaska Hydro-Train, which operates a car-barge operation between Seattle and Whittier, Alaska, participating in all varieties of traffic between the lower 48 States and Alaska, under joint rail-water-rail rates, protested the applications on the basis that the applications should be ones for temporary authority. It believes the proposed operations present opportunities for discrimination.

Mukluk Freight Lines, Inc., a motor common carrier authorized to operate between points in Alaska believes the proposal would permit the applicants to perform service for which they hold no authority, to the detriment of Mukluk. Moreover, it urges that applicants must have authority to serve the interchange points. It contends that an ocean carrier not subject to the Interstae Commerce Act cannot perform a substituted service for an overland motor carrier and that this principle is essential to the preservation of competition in Alaska. Mukluk argues that a new competitive service will result due to reduced rates, shortened transit time, and the ability to operate during more months of the year.

Mukluk objected to receiving no notice of a proposed competitive service, as did Crowley Maritime Corporation and North Star Forwarding Corporation, which operates as a freight forwarder between Seattle and points in Alaska. North Star contends that applicants' operations are actually freight forwarding, especially due to the possible substitution of rail carriage between Midwest origins and Seattle. North Star asserts that traffic due to construction of the Trans-Alaska Pipeline is declining and that protestant and other classes of carriers continue to handle the available traffic adequately, notwithstanding temporary factors which may affect only one class of carrier, namely the applicants.

Applicants replied to the arguments of Sea-Land Freight and Alaska Hydro-Train by stating that 1962 amendments to section 216(c) of the act permit joint arrangements between I.C.C.-regulated motor carriers and F.M.C.-regulated water carriers. (TOTE's tariff has been filed with the I.C.C. pursuant to section 216(c)). They believe that the circuitry limitations referred to by Sea-Land do not apply to the irregular-route carriers involved, especially considering the gateway elimination proceeding. They believe that the shippers' right to choose the route will prevent discrimination. They argue that their services are not those of freight forwarders. They also believe that protestants have not shown they will be hurt competitively.

It appears that if the principles of Substituted Service-Piggyback, 322 I.C.C. 301 (1964) as well as others stated by protestants, are applied to this situation, the applications would be denied. However, due to the unusual and important nature of this situation, and the absence of clearly governing precedents regarding water-for-motor ("fishyback") operations, particularly in regard to Alaska, further analysis appears warranted.

Because of the complex and general issues involved in these applications, we believe that they should be resolved in a rulemaking proceeding where all potentially affected parties are able to participate. Besides resolving the questions presented by the instant applications, rules of general application to the Alaskan trade may be developed.

In addition to the issues raised by the statements of the various parties, detailed above, the following specific areas should be addressed by participants in this proceeding:

(1) The importance of the Alaska trade to the national defense, foreign commerce, and commerce between the several states.

(2) The state and feasibility of land surface all-year transportation between the 48 contiguous States and Alaska (Alcan highway) and whether or not conditions on the Alcan Highway warrant consideration of substituted service continuously, spasmodically, or during defined time periods.

(3) The extent to which water transportation is available for "fishyback" service between various United States ports, or Canadian ports, and various Alaskan ports.

(4) How "fishyback" differs from "piggyback" service, and does this difference warrant a departure from conclusions previously enunciated as to TOFC substituted service (or expressed or implied, if any, as to ocean carrier substituted service)?

(5) Specific consideration of the need to preserve, in the present context, the principle of the TOFC doctrine that traffic may be tendered to and received from the substitutionary "carriers only at points which the motor * * * carriers are authorized to serve." (49 CFR 1090.3(e))

(6) Thus, should applicants be required to obtain authority to serve the interchange points?

(7) Is the shipper option to designate routing sufficient protection against discrimination or other unlawful practices?

(8) Should the rates for the proposed motor-water-motor substituted service be required to be equivalent to the all-motor level, or may some difference therefrom be permitted? If a difference is warranted, on what grounds (for example, transit time, cost, reliability, or others) should the differential be established?

(9) Is there any validity to the argument that the proposed operation as conducted with substitutionary rail service is actually freight forwarding?

(10) In view of the lower rates for the substitute service, is it unlikely that shippers will ever use the all-motor service, and would this lack of use result in paper rates and a virtual abandonment of all-motor service?

(11) Would any destructive competitive practice or any competitive effect of any kind result from the proposal?

(12) Should energy-fuel use considerations be evaluated as pertinent to the consideration of substituted service in this investigation?

(13) Should traffic imbalance and efficient equipment utilization be considered as elements in evaluating the use and applicability of substituted service?

(14) Do special conditions (such as weather, circuity, imbalance, service relationships) relating to lower 48—Alaska transportation service require a distinctive evaluation of the principle of substituted service as applied to this transportation link?

(15) Do the highway impediments mentioned mean that for the future, water carriage would be the "normal" means of conveying freight between Alaska and the lower 48 states? If so, what effect should this have on present operating authorities?

Upon consideration of the foregoing matters and good cause appearing therefor:

[2] Applicants estimate a tripling of their traffic volume this season.

It is ordered, That pursuant to sections 553 and 559 of the Administrative Procedure Act, the national transportation policy (49 U.S.C. preceding section 1), and Parts I, II, III, and IV of the Interstate Commerce Act, and especially sections 2, 3, 15(3), 15(10), 15(12), 17(3), 204(a)(6), 206(a)(1), 208(b), 210a, 216(c), 216(d), 216(e), 217, 222, 304, 305, 307, 402, 403(a) 404, 406, and 410(a), a proceeding be, and it is hereby, instituted to resolve the issues raised by Special Permission Application Nos. 76–3, 76–4, 76–5, and 76–6, and to investigate the need for regulations concerning substituted water-for-motor service in the Alaskan trade, while addressing the areas of inquiry raised in the above notice and other issues raised by such investigation.

It is further ordered, That Ar-Dees Alaska Truck Lines, Inc., K & W Trucking Co., Inc., Lynden Transport, Inc., and Weaver Bros., as well as motor carriers holding authority from this Commission authorizing any type of Alaskan service, be made respondents in this proceeding.

It is further ordered, That Totem Ocean Trailer Express, Inc., and Sea-Land Service, Inc., as well as other parties which protested the above-discussed special permission applications are requested to participate in this proceeding as their interests may appear.

It is further ordered, That all parties desiring to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C., 20423, on or before July 26, 1976, and that, although individual participation is not precluded, parties having common interests should endeavor to consolidate their presentations to the greatest extent possible in order to conserve time and to avoid unnecessary expense.

It is further ordered, That, as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

It is further ordered, That the Bureau of Enforcement be, and it is hereby, directed to participate in this proceeding for the purpose of developing the record herein.

And it is further ordered, That a copy of this order be served upon Ar-Dees Alaska Truck Lines, Inc., K & W Trucking Co., Inc., Lynden Transport, Inc., Weaver Bros., Inc., motor carriers holding authority from this Commission authorizing any type of Alaskan service, Totem Ocean Trailer Express, Inc., Sea-Lane Service, Inc., Sea-Land Freight Service, Inc., SAL, Inc., Alaska Hydro-Train, Mukluk Freight Lines, Inc., Crowley Maritime Corporation and North Star Forwarding Corporation, and the Governor of the State of Alaska, and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

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

By the Commission. (Commissioner Murphy dissenting.)

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–19914 Filed 7–8–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. DEBEERS INDUSTRIAL DIAMOND DIVISION (IRELAND) LTD., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a competitive impact statement (CIS) have been filed with the United States District Court for the Southern District of New York in Civil Action No. 74 Civ. 5389, *United States of America* v. *DeBeers Industrial Diamond Division (Ireland) Limited, et al.* The judgment pertains only to defendant DeBeers Industrial Diamond Division (Ireland) Limited. The other two defendants in this action, Anco Diamond Abrasives Corporation and Diamond Abrasives Corporation, have already agreed to a judgment which was entered on March 19, 1976. The complaint alleges that defendants conspired to fix prices and allocate territories and customers for the sale of diamond grit. The judgment enjoins DeBeers from fixing prices and allocating customers and territories and from terminating or taking action against any of its distributors because of the distributor's choice of prices, customers, or markets for diamond grit. The CIS describes the terms of the judgment and the background of the action and concludes that the relief obtained does not differ from that sought in the complaint. Public comment is invited on or before September 10, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Divsion, Department of Justice, Washington, D.C. 20530.

Dated: July 1, 1976.

BRUCE B. WILSON,
Acting Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, *v.* DeBeers Industrial Diamond Division (Ireland) Ltd., ANCO Diamond Abrasives Corp., and Diamond Abrasives Corp., Defendants (Civil Action No. 74 Civ. 5389 (LPG). Filed: July 1, 1976.)

Stipulation

It is stipulated by and between the plaintiff, the United States of America, and the defendant, DeBeers Industrial Diamond Division (Ireland) Limited, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: July 1, 1976.

For the plaintiff: Thomas E. Kauper, *Assistant Attorney General;* Baddia J. Rashid, Charles F. B. McAleer, Joel Davidow, Richard L. Daerr, Jr., Stephen P. Kilgriff, James A. Gilbert, *Attorneys, Antitrust Division, U.S. Department of Justice.*

For the defendant: Shearman & Sterling. By:

ROBERT L. CLARE, Jr.,
Attorneys for Defendant, DeBeers Industrial Diamond Division (Ireland) Ltd.

Stipulation approved for filing.

LEE P. GAGLIARDI,
United States District Judge.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, *v.* DeBeers Industrial Diamond Division (Ireland) Ltd., ANCO Diamond Abrasives Corp., and Diamond Abrasives Corp., Defendants. Civil Action No. 74 Civ. 5389 LPG Filed: July 1, 1976.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and plaintiff and the consenting defendant, DeBeers Industrial Diamond Division (Ireland) Limited, by its attorneys, having consented to waive, solely for the purpose of this Final Judgment, its rights to contest the jurisdiction of the Court over its person and, having further consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, including the issue of jurisdiction over the person of the consenting defendant, and without this Final Judgment constituting evidence or an admission by the consenting defendant with respect to any such issue:

Now, therefore, without the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of plaintiff and of said consenting defendant, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the defendant solely for the purposes of this Final Judgment. The complaint states claims upon which relief may be granted against the consenting defendant under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in the Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Diamond Grit" means synthetic and natural diamond crushing bort, grit or powder used primarily, though not exclusively, as abrasive in metal bonded grinding wheels for grinding of stone, glass and ceramics; in resin bonded wheels for the grinding of tungsten carbide and certain steels; in metal bonded saws for cutting of concrete and masonry and in certain impregnated drills;

(C) "Subsidiary" means any Person controlled by the consenting defendant or one in which 50 percent or more of the voting rights is owned or controlled by the consenting defendant;

(D) "Affiliate" means any Person engaged directly or indirectly in the sale of diamond grit in which 50 percent or more of the voting rights is owned or controlled by the consenting defendant's shareholder;

(E) "Distributor" means any Person appointed or acknowledged by the consenting defendant on the date of entry of this Final Judgment, and any person thereafter so appointed or acknowledged, as a distributor of diamond grit supplied by consenting defendant.

(F) "United States" means the United States, any territory thereof, the District of Columbia and any insular possession or other place under the jurisdiction of the United States.

III

The provisions of Sections IV, V and VI of this Final Judgment applicable to the consenting defendant shall also apply to each of its officers, directors, agents and employees, its parent companies, subsidiaries, affiliates, successors and assigns, and to all other persons in active concert or participation with the consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise. The Final Judgment shall not apply to (i) transactions or activity solely between a consenting defendant and its subsidiaries, affiliates, officers, directors, agents, parent companies, employees or any of them when acting in such capacity or (ii) transactions or activity outside the United States which do not have a direct or substantial effect on the foreign or domestic commerce of the United States, except sales by the consenting defendant to the plaintiff or any agency or instrumentality thereof or (iii) transactions or activity required by the laws or regulations of the jurisdictions in which the transaction or activity takes place.

IV

The consenting defendant is enjoined and restrained from directly or indirectly:

(A) Entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, ar-

rangement or understanding, with any person purchasing diamond grit from it to:

(1) Fix, maintain or stabilize the price to be charged by such person for the sale of diamond grit to any third person;

(2) Allocate, limit or divide territories, markets or customers for the sale of diamond grit;

(3) Submit noncompetitive, collusive or rigged bids or quotations for any sale of diamond grit;

(B) For a period of five years from the date of this Final Judgment, sponsoring any conference, meeting or seminar for its diamond grit distributors, unless such conference, meeting or seminar deals exclusively with technical matters concerning the development and application of diamond grit or other similar materials.

V

For a period of five years from the date of entry of this Final Judgment, the consenting defendant is ordered to file with plaintiff, every six months for the first two years and annually for the remaining three years, an affidavit in writing listing and describing all subjects relating to the sale of diamond grit by the consenting defendant's diamond grit distributors discussed by or communicated to the participants at any meeting, conference or seminar sponsored by the consenting defendant for its diamond grit distributors.

VI

Consenting Defendant is enjoined and restrained from directly or indirectly:

(A) Terminating or threatening to terminate any diamond grit distributor because of the prices at which, the persons or classes of persons to whom, or the areas in which such distributor has sold or offered to sell diamond grit; and

(B) Discontinuing, curtailing or limiting the sale of diamond grit, or otherwise penalizing any diamond grit distributor because of the prices at which, the persons or classes of persons to whom, or the areas in which such distributor has sold or offered to sell diamond grit.

VII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant made to its principal office, duly authorized representatives of the Department of Justice shall be permitted:

(A) Access to the consenting defendant's principal office during its office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the consenting defendant, who may have counsel present, relating to any of the subject matter contained in this Final Judgment; and

(B) Subject to the reasonable convenience of the consenting defendant, and without restraint or interference from it, to interview at the consenting defendant's principal office, officers or employees, who may have counsel present, regarding any such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the consenting defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted in this Section VII shall be divulged by any representative of the Department of Justice to any other person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings in which the United States is a party, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

Service of process in any proceeding for the purpose of the construction, carrying out, modification, enforcement of compliance or punishment of any violation of this Final Judgment, and for no other purpose, may be effected on consenting defendant by personal service upon Shearman & Sterling, 53 Wall Street, New York, New York, and consenting defendant hereby constitutes Shearman and Sterling as its agent for the sole purpose of receiving service in any such proceeding by the plaintiff under this Final Judgment. Service so made shall be deemed service on consenting defendant. The terms of this Section shall ceast to have any force or effect at the expiration of a period of ten (10) years from the date of entry of this Final Judgment.

IX

Consenting Defendant shall establish and maintain, for a period of ten (10) years from the date of entry of this Final Judgment, an irrevocable letter of credit with a bank having an office in New York, New York in the amount of one hundred twenty-five thousand dollars ($125,000.00) in favor of the United States of America, to serve as security for the satisfaction of any final judgment, not subject to further appeal, which judgment adjudicates that consenting defendant is in contempt of this Final Judgment and imposes a penalty for a sum certain upon consenting defendant by reason of such contempt.

Payment shall be made under said letter of credit only to the United States of America, and only upon each occurrence of both of the following:

(A) The procuring by the United States of America against the consenting defendant of a final judgment, not subject to further appeal, adjudicating that consenting defendant is in contempt of this Final Judgment and imposing a penalty for a sum certain upon consenting defendant by reason of such contempt; and

(B) The certification by the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice (and by no other person) of the fact that a final judgment adjudicating that consenting defendant is in contempt of this Final Judgment has been procured by the United States of America, of the fact that such final judgment is not subject to further appeal, and of the monetary amount of the penalty imposed upon consenting defendant by reason of such contempt by such final judgment.

In the event of any payment pursuant to the preceding paragraph out of the funds available under the aforementioned letter of credit, consenting defendant shall cause an amount equal to such payment to be added to the remaining balance of said letter of credit so that the sum of one hundred twenty-five thousand dollars ($125,000.00) shall again be available thereunder as security for the satisfaction of any further final judgment as contemplated by this Section for ten (10) years from the date of entry of this Final Judgment; provided, however, that in no event shall the United States of America be entitled to payment under said letter of credit of any amount in excess of one hundred twenty-five thousand dollars ($125,000.00) by reason of any one final judgment.

X

Jurisdiction is retained for the purpose of enabling either party consenting to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance with and the punishment of any violations thereof.

XI

Entry of this Final Judgment is in the public interest.

Dated: New York, New York.

United States District Judge.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. DeBeers Industrial Diamond Division (Ireland) Ltd.; Anco Diamond Abrasives Corp.; and Diamond Abrasives Corp., Defendants. (Civil Action No. 74 Civ. 5389 (LPG); Filed: July 1, 1976.)

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. 16 (b)–(h) P.L. 93-528 (December 21, 1974)], the United States of America hereby files this competitive impact statement relating to a proposed consent judgment in the above entitled action to be entered against defendant DeBeers Industrial Diamond Division (Ireland) Limited.

(1) *Nature and purpose of the proceeding.* This action was filed on December 10, 1974 against DeBeers Industrial Diamond Division Limited, a South African corporation ("DeBeers South Africa"), and Diamond Abrasives Corporation ("DAC") and Anco Diamond Abrasives Corporation ("Anco"), United States distributors for DeBeers diamond grit, charging that defendants and other co-conspirators engaged in an unlawful combination and conspiracy to restrain foreign and interstate trade and commerce in diamond bort, grit and powder ("diamond grit") in violation of Section 1 of the Sherman Act (15 U.S.C. 1). Diamond grit, both synthetic and natural, is used primarily, through not exclusively, as an abrasive in metal bonded grinding wheels for grinding of stone, glass and ceramics; in resin bonded wheels for the grinding of tungsten carbide and certain steels; in metal bonded saws for cutting of concrete and masonry; and in certain impregnated drills.

The United States sought relief against the named defendants enjoining the alleged violations, prohibiting defendants from engaging in any other future conspiracies or programs having a similar purpose or effect, and such other relief as the nature of the case might require.

On December 17, 1975, a stipulation and proposed final judgment were filed with the Court with respect to defendants DAC and Anco. After compliance by all parties with the Antitrust Procedures and Penalties Act, the proposed final judgment with respect to DAC and Anco was found by the Court to be in the public interest and entered on March 19, 1976.

Prior to the filing of this proposed judgment, a stipulation between the United States and attorneys representing DeBeers South Africa and DeBeers Industrial Diamond Division (Ireland) Limited ("DeBeers Ireland") was filed and approved by the Court, substituting DeBeers Ireland for De-

Beers South Africa as the named defendant in this action for all purposes. By this stipulation, the original named defendant has been replaced with an affiliated company more closely involved in the actual sales of diamond grit. DeBeers Ireland is the marketing affiliate for the diamond grit business of the DeBeers group of companies and was intimately involved in the alleged violations enumerated in the complaint.

This change in the named defendant was made as a concession to the defendant during negotiations of the proposed consent judgment. Defendant argues that DeBeers Ireland is more properly the party to be charged with the alleged violations since it is the company responsible for the marketing of diamond grit. The Government takes the position that either DeBeers South Africa or DeBeers Ireland could have been charged with the alleged violations.

Since by the terms of the proposed final judgment, all DeBeers affiliates involved directly or indirectly in the sale of diamond grit are bound by the injunctive provisions of the decree, the change in the defendant does not alter the scope of the judgment. However, the right of the Government to inspect documents and interview officers and employees pertains only to DeBeers Ireland and does not extend to the original named defendant. For enforcement purposes the Government deems it sufficient to have access to documents of DeBeers Ireland, since it is our understanding that all marketing of diamond grit involves that company. This arrangement also alleviates any potential conflict with the penal laws of the Republic of South Africa prohibiting compliance with any foreign order, direction or letter of request for business information without the permission of the South African government.

(2) *Practices and events giving rise to the alleged violation of the antitrust laws.* The complaint alleges that from 1967 to the time of the filing of the complaint a combination and conspiracy existed among defendants and co-conspirators to fix prices and to allocate territories and customers in the sale of diamond grit. The parties to the conspiracy were the named defendants and various co-conspirators, including principal officers of the defendants and certain European companies.

The Government would have contended at trial that the charges alleged in the complaint were substantiated by evidence of illegal conduct by defendants and co-conspirators as follows:

(a) participation in meetings at which agreements were made to fix prices and allocate territories and customers in the sale of diamond grit.

(b) agreement by defendants and co-conspirators in a scheme of resale price maintenance for the sale of diamond grit.

The practices giving rise to this action were also investigated by a federal grand jury. The grand jury indicted the same three companies which were the original defendants in this action for violations similar to those alleged in the complant. On April 8, 1975, defendants DAC and Anco moved the Court in the criminal action to change their pleas from not guilty to nolo contendere. The pleas were accepted by the Court and DAC was fined $30,000 and Anco $20,000.

The third defendant, DeBeers South Africa, has not yet made an appearance in the criminal action. Pursuant to Federal Rule of Criminal Procedure 11, the Court has entered a not guilty plea for this defendant. The substitution of DeBeers Ireland for DeBeers South Africa as defendant in this action has no bearing on the continuing liability of DeBeers South Africa in the criminal case.

(3) *The proposed consent judgment and its anticipated effects on competition.* The proposed consent judgment enjoins the defendant from all the activities alleged to have constituted the conspiracy. It is anticipated that the conduct prohibited by the judgment and the affirmative duties imposed on the consenting defendant will enhance price competition in the diamond grit industry and will insure competitive sources of supply for American users of diamond grit material.

If the proposed consent judgment is approved by the Court, the consenting defendant will be enjoined from agreeing with any person purchasing diamond grit from it to fix prices, to allocate territories or customers, or to submit collusive bids for any purchase or sale of diamond grit. For a period of five years defendant will be enjoined from sponsoring any conference or seminar for its diamod grit distributors, unless the conference or seminar deals exclusively with technical matters concerning the development and applications of diamond grit or other similar materials. Defendant is therefore prohibited from sponsoring for its diamond grit distributors any seminar dealing with sales information or policies.

For a period of five years consenting defendant is also ordered to file with the Government, every six months for the first two years and annually for the remaining three years, an affidavit in writing listing and describing all subjects relating to the sale or purchase of diamond grit discussed at any such conference or seminar it sponsors for its diamond grit distributors.

Consenting defendant is also enjoined from terminating of threatening to terminate, or restricting or otherwise penalizing, any of its distributors because of the prices at which or the customers to whom or the territories in which such distributor has sold or offered to sell diamond grit.

The consent judgment affords the Government methods of detecting any new violations by interviewing employees or by inspection of documents and records in control of consenting defendant. Such documents and records shall be made available upon the Government's request. Any information obtained by the United States pursuant to the consent judgment shall not be divulged except in the course of legal proceedings in which the United States is a party, for the purpose of securing compliance with this final judgment, or as otherwise required by law.

For a period of ten years, service of process on the consenting defendant in connection with any proceedings emanating from this judgment may be effected by personal service upon the New York law firm of Sherman & Sterling. This provision merely makes service of process more convenient for the Government, since service in connection with proceedings emanating from this judgment could also be effected on consenting defendant wherever it resides.

The final judgment also provides that consenting defendant shall establish and maintain, for a period of ten years, an irrevocable letter of credit with a bank having an office in New York in the amount of $125,000 in favor of the United States of America to serve as security for satisfaction of any contempt judgment obtained against the defendant. A copy of the letter of credit, which will be executed on the date this final judgment is entered by the Court, is attached to this competitive impact statement as Exhibit A.

The letter of credit provision is designed to insure the good faith effort of the defandant in complying with the terms of the judgment. Since consenting defendant made no appearance in response to the service of a summons and complaint in this case, and is submitting to the personal jurisdiction of the Court solely for the purpose of this final judgment, the Government insisted in negotiations that an additional assurance of defendant's resolve to conform to the judgment was necessary.

The letter of credit is limited to a duration of ten years because that was considered a sufficient time for its purposes. A longer period of time would increase its costs to the point that it would appear to be a penalty placed on the defendant rather than an assurance of compliance with the judgment. It should be noted that consenting defendant is bound forever by the injunctive provisions of this judgment, and the Government is not limited to the letter of credit as the only means to enforce any contempt judgment obtained, nor is there any limit to the amount of the penalty which may be assessed in connection with any contempt action.

The District Court retains jurisdiction of the case and may modify the provisions of the consent judgment or add thereto upon application of either of the parties. The District Court also retains jurisdiction for the purpose of enforcing compliance with the judgment or punishing violation of it.

(4) *Remedies available to potential private plaintiffs.* Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal equitable relief which they would have had, were the proposed consent judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

(5) *Procedures available for modification of the proposed consent judgment.* The proposed consent judgment is subject to a stipulation between the United States and the consenting defendant which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, for the 60 day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the FEDERAL REGISTER such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) *Alternatives to the proposed judgment considered by the United States.* In view of the fact that the consent judgment provides for relief which does not differ from that sought in the complaint, neither a substantially different judgment nor full trial on the merits was considered an appropriate alternative to settlement. There were no proposals considered by the Government during these negotiations and then rejected; however, there were a number of provisions which were altered. Section III of the judgment, which makes the provisions of the judgment applicable to not only the consenting defendant but also its parent companies, subsidiaries, affiliates, successors and assigns, among others, was limited to the injunctive provisions of the judgment, i.e.,

Sections IV, V, and VI. This was done to alleviate the fear of the consenting defendant that every part of its worldwide holdings would be subject to the visitation rights of the Government under Section VII of the judgment. Section III also makes the judgment applicable only to transactions or activity outside the United States which has "a direct or substantial effect" on the foreign or domestic commerce of the United States. This was done to clarify the effect of the terms of this judgment on any action outside the United States which affected United States commerce only in an indirect, de minimis fashion. For purposes of this judgment, the effect on United States commerce must be direct or, if the effect is indirect, it must be substantial.

In Section VIII a provision granting the Court the option after ten years of continuing service of process procedures outlined therein was deleted. The Government does not consider this an essential term of the judgment, since the consenting defendant can always be served at its home office by registered mail, or by order of the Court in another manner. This provision is solely to make service more convenient for a reasonable period of time.

Originally the letter of credit provision outlined in Section IX of the judgment was written for a different amount and a different time period. The original proposal contained an amount of $250,000 for a period of five years. However, a longer period of time was considered necessary by the Government. Since the longer period of time necessitated a much larger payment for the letter of credit on the part of the consenting defendant, it was agreed that the amount should be lessened so that the letter of credit provision would not be so expensive that it became a penalty in itself. The Government considers the amount adequate to satisfy the purposes of this provision.

(7) *Determinative documents.* There are no materials or documents, which the Government considered determinative, in formulating this proposed consent judgment. Therefore, none is being filed along with this competitive impact statement.

Dated: July 1, 1976.

Joel Davidow and Stephen P. Kilgriff, Attorneys, Department of Justice.

EXHIBIT A

[Letterhead of Midland Bank Ltd.]

[Date]

UNITED STATES OF AMERICA
c/o Unified States Department of Justice, Antitrust Division, Washington, D.C.

Re: Irrevocable Letter of Credit
No. _____
_____

GENTLEMEN: By order of our client, DeBeers Industrial Diamond Division (Ireland) Limited, an Irish corporation, we hereby open our Irrevocable Letter of Credit No. _____, in your favor, in the amount of US$125,000 (One hundred twenty-five thousand United States Dollars), effective immediately and expiring at the close of business on _____, 1986, at our office at 30 St. Swithin's Lane, London, England.

This Letter of Credit is opened pursuant to the requirements of that certain final judgment entered on _____, 1976 in *United States* v. *DeBeers Industrial Diamond Division (Ireland) Limited et al.*, 74 Civ. 5389–LPG, United States District Court for the Southern District of New York (the "Final Judgment").

Funds under this Letter of Credit are available to you against your sight draft up to an amount of US$125,000 drawn on us, mentioning thereon our Credit No. _____. Such draft must be presented on or prior to the expiry of this Letter of Credit and must be accompanied by a certificate of the Attorney General of the United States or the Assistant Attorney General of the United States in charge of the Antitrust Division of the United States Department of Justice stating that:

(a) A judgment (the "Judgment"), not subject to further appeal, has been entered against DeBeers Industrial Diamond Division (Ireland) Limited adjudicating that DeBeers Industrial Diamond Division (Ireland) Limited is in contempt of the Final Judgment entered on _____, 1976 in *United States* v. *DeBeers Industrial Diamond Division (Ireland) Limited et al*, 74 Civ. 5389–LPG, United States District Court for the Southern District of New York, and imposing a monetary penalty upon DeBeers Industrial Diamond Division (Ireland) Limited by reason of such contempt;

(b) The amount of the sight draft accompanying said certificate is no more than the amount of the monetary penalty imposed upon DeBeers Industrial Diamond Division (Ireland) Limited for contempt of the Final Judgment by the Judgment, and payment of the sight draft will constitute satisfaction for that amount of the Judgment; and

(c) No prior sight draft has been presented for payment under this Letter of Credit on the basis of the particular Judgment on the basis of which the present sight draft is being presented.

Except as otherwise provided herein, this Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credits (1974 Revision), International Chamber of Commerce Publication No. 290.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein (other than the above-mentioned Uniform Customs and Practices for Documentary Credits) or in which this Letter of Credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any such document, instrument or agreement.

We will honor your request for payment made under and in compliance with the terms of this Letter of Credit, provided that such request is in an amount, is presented within the period, and is accompanied by the documents required for drawing hereunder, as provided above. Communications in respect of this Letter of Credit should be addressed to the attention of N.K. Hughes, Midland Bank Limited, International Division, 30 St. Swithin's Lane, London, England, and specific reference should be made to the number of this Letter of Credit.

Very truly yours,

Authorized Signature,
Midland Bank Limited.

[FR Doc.76-19851 Filed 7-8-76;8:45 am]

UNITED STATES V. MICHIGAN NATIONAL CORPORATION, ET AL.

Proposed Consent Judgment, Stipulations and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed consent judgment, stipulations and competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of Michigan, Southern Division, in Civil Action No. 4–70667, *United States of America* v. *Michigan National Corporation, Michigan National Bank, First National Bank of East Lansing, E. L. National Bank, and James E. Smith, Comptroller of the Currency.* The Complaint in this case challenged the acquisition of the First National Bank of East Lansing by the Michigan National Corporation, alleging a violation of Section 7 of the Clayton Act in the relevant market for commercial banking services. The proposed consent judgment requires that Michigan National Corporation divest all of its interest in the First National Bank of East Lansing within two and one-half years. In addition, no officer, director or employee of Michigan National shall at the same time be an officer, director, agent or employee of the purchaser of any stock or assets divested pursuant to the terms of the proposed consent judgment. The proposed consent judgment also, with narrow exceptions, enjoins the Michigan National Corporation for a period of five years from acquiring, without the consent of the Justice Department or the Court, stock or assets of any commercial bank within a fifteen mile radius of Grand Rapids or Saginaw, Michigan. The stipulations provide that the Justice Department's other suits challenging Michigan National Corporation's acquisition of the Valley National Bank of Saginaw, Central Bank, N.A., and the First National Bank of Wyoming shall be dismissed with prejudice upon entry by the Court of this proposed consent judgment. Public comment is invited on or before September 9, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Mr. Hugh P. Morrison, Jr., Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: June 29, 1976.

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

United States of America, Plaintiff, v. Michigan National Corp., Michigan National Bank, and First National Bank of East Lansing, and E. L. National Bank, Defendants, and James E. Smith, Comptroller of the Currency, Intervenor. (Civil Action No. 4–70667 Filed: June 29, 1976.)

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, P.L. 93–528, and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent,

which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: June 29, 1976.

For Plaintiff: Thomas E. Kauper, *Assistant Attorney General;* Baddia J. Rashid, Charles F. B. McAleer, Jill Nickerson, Hugh Morrison, Jr., Jules M. Fried, Peter E. Halle, Francis P. Newell, Rene A. Torrado, Jr.

For defendants: Eugene F. Townsend, Jr.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. Michigan National Corp., Michigan National Bank, and First National Bank of East Lansing, and E. L. National Bank, Defendants, and James E. Smith, Comptroller of the Currency, Intervenor. (Civil Action No. 4-70667 Filed: June 29, 1976.)

Final Judgment

Plaintiff United States of America, having filed its complaint herein on November 14, 1973, and defendants having appeared by their attorneys, and plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact herein and without this Final Judgment constituting evidence or admission by any party with respect to any issue of law or fact herein;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby ordered, adjudged, and decreed:

I

This Court has jurisdiction over the subject matter herein and the parties consenting hereto. The complaint states a claim upon which relief may be granted under Section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), as amended, commonly known as the Clayton Act.

II

As used in this Final Judgment:

(A) "Michigan National" means defendants Michigan National Corporation, Michigan National Bank and their subsidiaries;

(B) "First National" means defendant First National Bank of East Lansing.

III

The provisions of this Final Judgment shall apply to the defendants and to their officers, directors, agents, employees, successors and assigns and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Michigan National is hereby ordered and directed to divest, as a single competitive entity, all of its ownership interest, direct or indirect, in First National within two (2) years and six (6) months of the date of entry of this Final Judgment. If the divestiture has not been made within said two and one-half year period, Michigan National is ordered and directed to immediately commence to divest by means of a spin off to its own shareholders all of its ownership interest in First National.

(B) Michigan National shall take such action as is necessary for First National to sustain itself as a viable banking entity in order to insure Michigan National's ability to comply with subsection (A).

(C) Michigan National shall submit to plaintiff for approval the details of any proposed plan of divestiture intended to implement the provisions of subsection (A) above. Within thirty (30) days of the receipt of these details, the plaintiff may request supplementary information concerning the plan, which shall be furnished by Michigan National. Following the receipt of any such supplementary information submitted pursuant to plaintiff's request for such information, plaintiff shall have thirty (30) days in which to object to such plan of divestiture by written notice to Michigan National. If no request for supplementary information is made, said notice of objection shall be given within thirty (30) days of receipt of the originally submitted details of the plan. If plaintiff objects to the proposed plan it shall not be consummated unless plaintiff withdraws its objection or the court gives its approval to the plan notwithstanding the objection.

(D) If the proposed plan of divestiture is contingent upon the approval of the Board of Governors of the Federal Reserve System or any other federal or state bank regulatory agency, the time period set forth in subsection (A) above shall be tolled from the date of application to the Board or agency until such application is approved or denied.

(E) Should Michigan National regain ownership or control of any property divested pursuant to this Final Judgment, Michigan National shall divest such reacquired property in accordance with the provisions of this Final Judgment within two (2) years from the date of such reacquisition.

V

No officer, director or employee of Michigan National shall at the same time be an officer, director, agent or employee of the purchaser of any stock or assets divested pursuant to this Final Judgment.

VI

Michigan National is enjoined and restrained, for a period of five (5) years from the effective date of this Final Judgment from acquiring all or part of the stock or assets of any commercial bank by merger or any other means within a fifteen (15) mile radius of Grand Rapids or Saginaw, Michigan without the prior consent of plaintiff or if plaintiff does not give its consent, without the approval of the Court. Nothing in this section shall be construed to prohibit, or require said prior consent as to, the creation and acquisition of de novo banking subsidiaries or the reorganization of existing bank subsidiaries or their branches, or the acquisition of a bank or its assets where a state or federal regulatory agency determines that said bank has failed or that an acquisition must be effected immediately to prevent probable failure.

VII

Beginning ninety (90) days after the date of entry of this Final Judgment, and continuing at the end of every six (6) month period during the divestiture period, Michigan National shall furnish a written report to plaintiff setting forth the steps it has taken to accomplish the divestiture required herein.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose:

(A) Any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

United States District Judge.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff v. Michigan National Corp., Michigan National Bank, First National Bank of East Lansing, and E. L. National Bank, Defendants, and James E. Smith, Comptroller of the Currency, Intervenor. (Civil Action No. 4-70667; Filed: June 29, 1976.)

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America, by its attorneys, hereby files this Competitive Impact Statement pursuant to Section 2 of the Act of Congress of December 21, 1974 (15 U.S.C. § 16(b)-(h)), commonly known as the Antitrust Procedures and Penalties Act, relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. *Nature and purpose of the proceeding.* On October 18, 1973, the Board of Governors of the Federal Reserve System approved the acquisition by Michigan National Corporation of four banks in various banking markets in the State of Michigan. Pursuant to the provisions of the Bank Holding Company Act, 12 U.S.C. 1848 et seq., the Department of Justice filed suit within the 30 day pe-

riod required.[1] The decision to file suit was based primarily on the information contained in the applications to the Board and traditional market structure analysis. The three civil antitrust suits charged that the four bank acquisitions contemplated by Michigan National Corporation, a bank holding company, violated Section 7 of the Clayton Act. The three suits challenged the acquisition by Michigan National Corporation of the Valley National Bank of Saginaw, in Saginaw, Michigan;[2] the Central Bank, N.A. and the First National Bank of Wyoming, both in Kent County, Michigan;[3] and the First National Bank of East Lansing, in East Lansing, Michigan.[4]

In each of these three markets[5] Michigan National Bank, a subsidiary of Michigan National Corporation, maintained one or more offices and controlled a substantial amount of deposits. Thus each complaint alleged that the acquisitions would eliminate existing competition and the potential for increased competition between Michigan National Bank and the banks acquired, increase concentration in commercial banking in these markets, and substantially lessen competition generally.

After the suits were filed, defendants filed a number of jurisdictional and procedural motions relating to the timeliness of the government's suits. The District Court granted defendants' motions, dismissing the suits. The government appealed to the Supreme Court, which reversed and remanded the dismissals. During this period the Comptroller of the Currency intervened as a defendant and moved to lift the statutory stays imposed by the Bank Holding Company Act and the Bank Merger Act, which had prevented the acquisitions from taking place pending the outcome of the suits. The District Court granted the motions, lifting the stays, but imposed certain restrictions on the operation of the banks by Michigan National pending completion of the litigation.

Approximately two years after these cases were brought by the government, counsel for defendants advised the Department of Justice that there were significant pre-existing relationships between principals of Michigan National Corporation, its subsidiary Michigan National Bank, and the four banks it wished to acquire. (Michigan National's applications to the Board of Governors of the Federal Reserve System had not indicated that such extensive relationships existed.) These relationships, it was alleged, were substantially similar to the relationships among various Georgia banks which a Federal district court had determined did not violate Section 7 of the Clayton Act. However, since defendants' allegations were then unsupported and the District Court case, *United States* v. *Citizens and Southern Bank, et al.*, was on appeal to the Supreme Court, the Department took no action at that time and determined to pursue discovery and the litigation.

Subsequently the Supreme Court decided *United States* v. *Citizens & Southern National Bank, et al.*, 422 U.S. 86 (1975), holding, in part, that the acquisition by a bank holding company of banks which, although separate corporate entities, were de facto branches created in the face of state anti-branching regulations did not violate Section 7 of the Clayton Act because the proposed acquisitions would extinguish no present or future competition. It now appears that Michigan National Corporation, or individuals associated with it, did in fact form three of the four target banks as de facto branches in areas where de jure branching was not possible under state law; that these three banks were organized by Michigan National Corporation with Michigan National Bank officers and directors as incorporators and original stockholders; that Michigan National Bank employees were designated to become officers of the newly formed banks; and that Michigan National Bank had, since the formation of these three institutions, exercised substantial control over their operations. Michigan National Bank officers and directors and their families, together with the Michigan National Bank Employees' Profit Sharing Trust (hereinafter referred to as "Trust"), owned more than 51 percent of each of the three banks, at the time the government filed these cases. With respect to the fourth bank, Central, which Michigan National Corporation did not form, the Trust and officers and directors (and their families) of the Michigan National Bank had owned, since before July 1, 1966, more than 51 percent of its common stock.

The extent of Michigan National's relationships with the target banks is summarized below:

1. Valley National Bank of Saginaw. Valley National was chartered in 1959 with a board of directors of 10 persons, five of whom were officers and/or advisory directors of the Michigan National Bank. In addition, Michigan National placed 60 percent of the stock with its officers, employees, and customers with a right of first refusal in the Michigan National Bank Employees' Profit Sharing Trust to insure that control of the bank remained in hands "friendly" to Michigan National.

Former Michigan National employees comprised the entire staff of the new bank, and Michigan National Bank furnished data processing, check clearing, and other services for Valley National. Valley National's president sought advice and counsel from Michigan National when confronted by important management decisions at Valley National, and he implemented no significant new policies without first consulting his former superiors at Michigan National. Valley's president attended the regular "annual meetings" of Michigan National Bank's chief executive officers at which the performance of Valley National and other "satellite" banks was reviewed.

When Valley National encountered financial difficulties, Michigan National provided additional capital, purchasing various amounts of capital notes in 1966 and in the early 1970's. When Valley National encountered severe delinquent loan problems, the chief executive officer was removed and a new president and loan officer were taken from Michigan National and placed with Valley National. Finally, Michigan National has continually maintained several advisory directors in common with Valley National, and the secretary of the Michigan National Bank Employees Profit Sharing Trust joined Valley National's board in 1969.

Thus, while Valley did not accept deposits for Michigan National Bank, or hold itself out as having any direct corporate relationship with Michigan National Bank, over 50 percent of the stock of Valley National was held by officers and directors of Michigan National and its Employees Trust at the time of the government's suit. Bankers and sophisticated business customers in the community were fully aware of the relationship between the two.

2. Central Bank, N.A. Central Bank was chartered in Grand Rapids, Michigan in 1934, and as far as can be determined, had no relation to Michigan National until 1961 when the Trust acquired 21 percent of Central's common stock. This minority stock interest grew to a majority in April, 1966 when two major shareholders of Central died and a battle for control between Union Bank and Trust, a Michigan bank, and a group backed by Donald Parsons ended with a bid by Michigan National's Employee Trust above all others. Forbidden by law from holding over 25 percent of the bank's voting stock, the Trust resold it to officers and directors of Michigan National Bank. Significantly, the shares, which were purchased for $110, were resold to Michigan National's officers and directors for $70. The Trust continued to hold 24.9 percent of Central's voting shares. Thus, the Trust and Michigan National officers and directors had owned a controlling interest in Central Bank for approximately ten years, beginning in April, 1966. In addition, the acquisition prevented the Parsons' interests from acquiring Central Bank and avoided the difficulties that accompanied the demise of that financial empire.

3. First National Bank of Wyoming. The Wyoming Bank, which was chartered in 1930, was created in a manner similar to Valley National Bank, except that a broad base of stockholders from the Wyoming community was approached, and Michigan National's influence was not obvious. Officers and directors of the Michigan National Bank, together with persons aligned with it, provided about 53 percent of Wyoming Bank's initial capital. Although the Trust was not an organizing shareholder, the Trust acquired a substantial block of stock soon after the Wyoming Bank was formed. Wyoming Bank's management regularly consulted with the Michigan National Bank on such matters as: the purchase of securities for Wyoming Bank's portfolio; the purchase of new equipment; and contemplated bank services such as over-draft privileges, free checking, and rates on real estate loans. Wyoming Bank's management consulted with the Michigan National Bank before seeking regulatory approval for each of Wyoming's two branches. By 1965, the Trust had acquired 23.7 percent of Wyoming Bank's common stock and 49.9 percent of its preferred stock.

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[1] The Bank Holding Company Act, 12 U.S.C. § 1849(b), provides, in part, that any action brought under the antitrust laws arising out of an acquisition, merger, or consolidation transaction shall be commenced within thirty days after the date of the transaction's approval by the Board of Governors of the Federal Reserve System.

[2] *United States* v. *Michigan National Corp., Michigan National Bank and Valley National Bank of Saginaw*, Civil No. 4–70665 (E.D. Mich., filed Nov. 14, 1973). The relevant geographic market alleged by the plaintiff in this case consisted of the Saginaw, Michigan Standard Metropolitan Statistical Area ("SMSA") and portions thereof, including the City of Saginaw.

[3] *United States* v. *Michigan National Corp., Michigan National Bank, Central Bank, N.A., and First National Bank of Wyoming*, Civil No. 4–70666 (E.D. Mich., filed Nov. 14, 1973). The relevant geographic market alleged by the plaintiff in this case consisted of the Grand Rapids SMSA and portions thereof, including Kent County.

[4] *United States* v. *Michigan National Corp., Michigan National Bank and First National Bank of East Lansing*, Civil No. 4–70667 (E.D. Mich., filed Nov. 14, 1973). The relevant geographic market alleged by the plaintiff in this case consisted of the Lansing-East Lansing SMSA and portions thereof, including Ingham County.

[5] As used in this Competitive Impact Statement, the term "market" or "markets" refers, depending upon the context, to one or more of the specific geographic areas described in footnotes 2–4 supra.

In 1965, the Wyoming Bank suffered overdrafts, delinquent loans, and other irregularities. A new president was installed at Wyoming—the son-in-law of the secretary of the Trust—and the Michigan National Bank detailed the senior loan officer at its Grand Rapids branch to the Wyoming Bank on a full time basis for a period of about one year, with Michigan National Bank's Grand Rapids office continuing to pay the officer's salary.

4. First National Bank of East Lansing. First National was formed in 1955 following an unsuccessful attempt by Michigan National interests to take over the East Lansing State Bank, which was, at the time, the only bank in East Lansing. The new bank's first president and chairman of the board was Michigan National Bank's general counsel, and a substantial Michigan National shareholder. The other original officers were former Michigan National employees who continued to attend the annual meetings at which Michigan National reviewed its performance, and the performance of its satellites. The bank's original staff served First National in various capacities for approximately 20 years. First National's initial loan portfolio consisted almost entirely of transfers from Michigan National. Directors of the Michigan National Bank subscribed to 25 percent of East Lansing Bank's initial stock offering. The Trust acquired 11.25 percent of the bank's common stock in 1958. Although the precise holdings of Michigan National Bank officers, directors, their families and close associates at the time of the chartering of the East Lansing Bank are unknown, this group, together with the Trust, held slightly more than 60 percent of East Lansing Bank's outstanding stock as of July, 1962.

As recently as last year, subsequent to the filing of this litigation, First National's shareholders rejected an offer by East Lansing investors to sell their stock for $11 a share more than the price offered by Michigan National Corporation.

II. *Events Giving Rise to Alleged Violation.* Commercial banks provide a combination of financial services not duplicated by other institutions. Among these services are the acceptance of deposits for safekeeping and convenience in making payments by check, the granting of loans to individuals and businesses, the renting of safety deposit boxes, the sale of cashier's checks and the collection of drafts, bills, and other commercial instruments. Demand deposits are a unique function of commercial banks and fill an essential role in the national economy by creating net additions to the nation's supply of money.

Michigan National Corporation is a multibank holding corporation organized under the laws of the State of Delaware with its principal place of business in Bloomfield Hills, Oakland County, Michigan. It is the third largest commercial banking organization in the State of Michigan. As of December 30, 1972, its five subsidiary banks had total assets of $2.67 billion, total deposits of $2.38 billion, total loans and discounts of $1.75 billion and controlled 9.5 percent of all commercial bank deposits in the State of Michigan.

Michigan National Bank was organized in 1934 and is Michigan National Corporation's "lead" bank. As of December 30, 1972, the Michigan National Bank had total assets of $1.44 billion, total deposits of $1.29 billion, total loans and discounts of $921.4 million and was the fourth largest bank in the State of Michigan, the largest bank outside the Detroit metropolitan area, and the 55th largest bank in the United States. When this litigation was begun, Michigan National Bank operated 29 offices in the State of Michigan.

Historically, Michigan banking law prohibited banks from operating branches over 25 miles from the home office, and the legislation permitting bank holding companies was not passed until the early 1970's. Michigan National, by virtue of a loophole in the banking laws subsequently closed, merged with a number of banks in 1934 to become the only bank in the state with branches in more than one city.

Thus, in addition to its main office and branches in and around Lansing, Michigan, Michigan National operated single branches under "grandfather rights" in Saginaw and Grand Rapids, Michigan, as well as in other Michigan cities. It was, however, prevented from further branching in these cities, and in fact had to close some branches previously existing as a result of a ruling by the Comptroller of the Currency. Thus, when Michigan banking law changed to permit holding companies, Michigan National attempted to formally consolidate its interests in the above banks through holding company acquisitions.

At the time of these acquisitions, all three banking markets were highly concentrated with Michigan National and the target banks enjoying substantial market shares.

In the Saginaw market, as of June 30, 1972, the four largest banking organizations controlled 87 percent of total bank deposits. Michigan National's one branch represented the second largest banking institution with 25.9 percent of total deposits. Valley National, with total assets of $40.3 million and four branches, was the fourth largest bank in the Saginaw market with 6.4 percent of total deposits.

In the Grand Rapids Standard Metropolitan Statistical Area ("SMSA"), the four largest banking organizations controlled approximately 80 percent of total bank deposits. Michigan National's one branch represented the third largest banking organization with approximately 15 percent of total bank deposits. Central Bank, with 9 offices and total deposits of $42.9 million, was the seventh largest bank in the market with approximately 3.2 percent of total bank deposits. The First National Bank of Wyoming, with 3 offices and total deposits of $15.9 million, was the eleventh largest bank in the Grand Rapids SMSA with approximately one percent of total deposits.

In the Lansing SMSA, the four largest commercial banking organizations controlled 76 percent of total commercial bank deposits. Michigan National Bank, with 19 offices, was the largest bank in the Lansing market with 36.1 percent of total deposits. The First National Bank of East Lansing, with three offices and total deposits of $16.5 million, held 1.6 percent of total bank deposits.

Thus, under the traditional market structure analysis, the acquisition of the four target banks by Michigan National Corporation would have eliminated existing competition and the potential for increased competition between Michigan National and the banks acquired and substantially increased concentration in commercial banking and lessened competition generally in the Saginaw, Grand Rapids and Lansing banking markets.

III. *Proposed consent judgment.* The proposed Consent Judgment provides that Michigan National Corporation shall divest, as a going, viable business entity, all of its ownership interest, direct or indirect, in the First National Bank of East Lansing within two years and six months of entry of the Consent Judgment. Also, no officer, director or employee of Michigan National shall at the same time be an officer, director, agent or employee of the purchaser of any stock or assets divested pursuant to the terms of the Consent Judgment. In addition, Michigan National is enjoined from acquiring for a period of five years without the consent of the Department of Justice the stock or assets of any commercial bank within fifteen miles of Grand Rapids or Saginaw, Michigan. The Consent Judgment does not require the prior approval of the Department of Justice as to the creation and acquisition of de novo banking subsidiaries or the reorganization of existing bank subsidiaries or their branches, or the acquisition of a bank or its assets where a state or federal regulatory agency determines that said bank has failed or that an acquisition must be effected immediately to prevent probable failure.

Michigan National Corporation is required to submit to plaintiff for approval the details of any proposed plan of divestiture. If plaintiff objects to the proposed plan it shall not be consummated unless plaintiff withdraws its objection or the Court gives its approval to the plan notwithstanding the objection. If divestiture is not made within said two and one-half year period, Michigan National Corporation is required to spin-off all of its ownership interest in First National Bank of East Lansing to Michigan National Corporation's shareholders.

In conjunction with entry by the Court of this proposed Consent Judgment, it is stipulated by and between the parties that the plaintiff's cases challenging Michigan National Corporation's acquisition of Valley National Bank of Saginaw, Central Bank, N.A. and the First National Bank of Wyoming shall be dismissed with prejudice.

IV. *Remedies Available to Potential Private Plaintiffs.* The Bank Merger Act and the Bank Holding Company Act provide that any suit challenging a bank merger or acquisition under the antitrust laws, except Section 2 of the Sherman Act, must be brought within 30 days of the approval of the transaction by the appropriate bank regulatory agency. No private plaintiff brought a suit within the 30 day period challenging any of the four acquisitions by Michigan National under the antitrust laws. Thus, a private person may now sue only under Section 2 of the Sherman Act.[6] This proposed Consent Judgment does not affect any such right, and such a suit may be brought just as if the proposed Consent Judgment had not been entered.

This Consent Judgment may not be used in private litigation as prima facie evidence, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), that the antitrust laws have been violated.

V. *Procedures Available for Modification of Consent Judgment.* This proposed Consent Judgment is subject to a stipulation between the parties that the United States may withdraw its consent to it at any time within 60 days of the filing of the Consent Judgment with the Court. Any person so desiring may submit written comments relating to the proposed Consent Judgment for consideration by the plaintiff to Mr. Hugh P. Morrison, Jr., United States Department of Justice, Antitrust Division, Washington, D.C. 20530. The Department of Justice will consider all such comments received. Both comments to and responses from the Department of Justice will be published in the Federal Register.

VI. *Alternatives to Proposal Actually Considered by the United States.* The proposed

[6] This assumes that the specific statutes of limitations contained in the Bank Merger Act and the Bank Holding Company Act are not affected by the general tolling provisions of Section 5(b) of the Clayton Act (15 U.S.C. 16(b)).

Consent Judgment provides for the divestiture of First National Bank of East Lansing by Michigan National Corporation. The government will dismiss the other complaints against Michigan National. Thus, in the Lansing market where Michigan National is the largest banking entity, the relief obtained will increase competition by establishing the acquired bank as an independent competitive alternative. As contemplated, the relief will eliminate the pre-existing relationships between Michigan National and the First National Bank of East Lansing, thus creating a more competitive banking market than existed prior to this litigation.

In Saginaw and Grand Rapids, where the acquisitions will be permitted, the injunctive provisions will prevent further anticompetitive acquisitions by Michigan National Corporation for five years. It should be pointed out that in contrast to the dominance exhibited by Michigan National Bank in the Lansing-East Lansing area, where it operates 19 offices, Michigan National operates but one office in each of the Grand Rapids and Saginaw markets.

As alternatives to this Consent Judgment, the Department considered the possibility of proceeding to trial on the merits as to all four acquisitions, or the outright dismissal of all the cases. The Supreme Court's decision in *Citizens & Southern* substantially reduced the likelihood of success by the government. Although a number of differences exist between the facts of *Citizens & Southern* and the facts in these cases, viz., these banks were not held out as *de facto* branches, and Central Bank was not sponsored by Michigan National, the Department determined that the *Citizens & Southern* decision could not be completely distinguished on such facts.

Nevertheless, it was also determined that regardless of the pre-existing relationships, each acquisiton would have some anticompetitive effect. The proposed Consent Judgment therefore provides for new competition in the highly concentrated Lansing market, where Michigan National is the largest banking organization, at the expense of eliminating some competition in Saginaw and Grand Rapids, where injunctive relief against further acquisitions provides protection against future increases in concentration.

There were no materials or documents which the government considered determinative in formulating this proposed Consent Judgment. Therefore, none is filed with this Competitive Impact Statement.

Dated: June 29, 1976.

Jules M. Fried, Francis P. Newell, and Rene A. Torrado, Attorneys for Plaintiff, Antitrust Division.

[FR Doc.76-19852 Filed 7-8-76;8:45 am]

Immigration and Naturalization Service

HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and the Office of Management and Budget Circular A-63 (revised March 27, 1974), and after consultation with OMB, the Attorney General has determined that the establishment of the Hispanic Advisory Committee on Immigration and Naturalization is in the public interest in connection with the performance of duties imposed on the Department of Justice by law.

The Committee will provide an organized channel of communication between the Hispanic community and the Immigration and Naturalization Serivce on the problems and opportunities of the INS as they relate to Hispanics.

Experience has shown that there is a special need for such communication. Major efforts to improve communications between Hispanics and the INS are necessary because the INS, in routinely carrying out its duties, deals with Hispanics more than any other ethnic or racial group in matters of legal and illegal immigration.

Having an established channel of communciation will be helpful to the INS in its efforts to develop programs, techniques and approaches which might yield necessary improvements in the services, opportunities and dissemination of accurate information to Hispanics. To the extent that these efforts are successful, there will be direct and substantial gain to both the INS and the Hispanic community.

The Committee will draw on the knowledge and insight of its members to provide advice on such elements as INS outreach service and community relations programs, the dissemination of accurate information, the review of training and instructional materials for sensitivity purposes, recruitment activities, research, treatment of illegal aliens and Hispanic Americans, legislation and regulations, and generally maximizing the services of the INS to the nation's second largest minority group.

The Committee will function solely as an advisory body, and the scope of its activities, analysis, review, advice, and recommendations will be limited to the areas listed in the above paragraph.

Specifically excluded from the Committee's areas of consideration are all matters pertaining to internal personnel and/or employment policies, procedures, and practices, and all matters affecting working conditions of employees.

Excluded also are internal policy considerations concerning the letting of specific contracts or the conduct of training, except the general advisory activities as set forth above.

Further, the Committee shall be limited so that it does not assume the character of serving as a representative of the interests or concerns of employees in the Service, and so that its activities do not extend to areas in which recognition of interests of one employee or outside group may result in discrimination against or injury to the interests of other employee or outside groups.

The Committee will consist of not less than 15 or more than 21 members appointed by the Commissioner, INS from among a broad spectrum of community leaders, scholars and other appropriate persons. The Committee will meet at least four times a year and report and be responsible to the Commissioner, INS. The Committee will function solely as an advisory board, and in compliance with the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 (revised March 27, 1974). The Committee will continue until December 31, 1977, unless terminated earlier or renewed.

The Charter for the Committee will be filed under the Act, fifteen (15) days after publication of this notice.

Persons interested in commenting on the establishment of the Hispanic Advisory Committee on Immigration and Naturalization are requested to mail their statements in writing on or before July 23, 1976 to: Commissioner, Immigration and Naturalization Service, 425 Eye Street, NW., Suite 7100, Washington, D.C. 20536.

Dated: July 2, 1976.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.76-19796 Filed 7-8-76;8:45 am]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Cancellation of Meeting

This is to provide notice that the meeting of the Juvenile Justice and Delinquency Prevention Task Force of the National Advisory Committee on Criminal Justice Standards and Goals previously scheduled for July 9, 1976 has been cancelled. The meeting was previously announced in the FEDERAL REGISTER on June 24, 1976 and was to have been held at the Airport Park Hotel, 600 Avenue of Champions, Inglewood, California from 8:30 a.m. to 5 p.m.

Cancellation of the meeting is necessitated by the unavailability of key material which was to have been considered at the meeting, a sudden illness in the family of the Task Force Chairperson and the unanticipated inability of several other Task Force members to attend the meeting.

For further information, contact Richard Van Duizend, General-Attorney, National Institute for Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531.

JAY A. BROZOST,
Attorney-Advisor, Office of General Counsel.

[FR Doc.76-20025 Filed 7-7-76;3:17 pm]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

KIOWA, COMANCHE AND APACHE TRIBES

Plan for the Use and Distribution of Judgment Funds

JUNE 25, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of December 27, 1974, 88 Stat. 1771, in satisfaction of the award granted to the Kiowa, Comanche and Apache Indians in Indian Claims Commission Dockets 257 and 259-A. The plan for the distribution of the funds was submitted to the Congress with a letter dated March 18, 1976, and was received (as recorded in the Congressional Record) by the House of Representatives on March 24, 1976, and by the Senate on March 25, 1976. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on June 8, 1976, as provided by section 5 of the 1973 Act, supra.

The plan reads as follows:

The funds appropriated by the Act of December 27, 1974, 88 Stat. 1771, in satisfaction of the award granted to the Kiowa, Comanche and Apache Indians in Dockets 257 and 259-A before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided.

The Kiowa Indian Tribe of Oklahoma, the Comanche Indian Tribe, and The Apache Tribe of Oklahoma shall each bring their membership rolls current as of the effective date of this plan. The rolls shall be prepared under tribal enrollment criteria and procedures of the respective tribes and shall include the names of all persons born on or prior to and living on the effective date of this plan who qualify for membership under such criteria and procedures. Appeals from rejected applicants shall be handled in accordance with 25 CFR 42—Enrollment Appeals.

In the event the Apache Tribe fails to timely prepare its membership roll, the Secretary of the Interior (hereinafter 'Secretary') is authorized to complete the said roll, using enrollment criteria specified in the Apache Tribe's constitution and bylaws and procedures established in rules and regulations published in the FEDERAL REGISTER.

When action has been completed on all enrollment applications with all three tribes and the appeal period has expired on all rejected applications, the Secretary shall divide such funds among the three tribes on the basis of the number of eligible enrollees of each tribe, reserving sufficient shares in an escrow account to pay each appellant.

PER CAPITA ASPECT

The Secretary shall make a per capita distribution of eighty (80) percent of the apportioned share of the funds of each tribe, including all interest and investment income accrued, in a sum as equal as possible, to all persons on the approved membership rolls of the respective tribes.

The Secretary, in arranging for the per capita payments to the enrollees of the tribes, shall hold at interest in an escrow account the apportioned share of the funds of the appellants pending determination of enrollment appeals. The amount of any shares not used to pay successful appellants shall be apportioned among the three tribes on the basis of their respective rolls, corrected to include the names of successful appellants. The apportioned share of the funds of each tribe shall be available for use in the program aspects of its plan.

PROGRAM ASPECTS

Kiowa Tribe of Oklahoma. Twenty (20) percent of the funds apportioned to the Kiowa Tribe, including all interest and investment income accrued, shall be deposited in separate program accounts, in the amounts set forth herein, more or less, and such funds shall be invested pursuant to section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 USC 162a). The investment income accruing to each program account shall first be used in the specific projects and activities within each program element, which shall be detailed in separate program plans and tribal budgets as are proposed by appropriate tribal resolutions of either the Kiowa Council or the Kiowa Tribal Business Committee pursuant to appropriate delegation of authority by the Kiowa Council, and approved by the Secretary, with the principal funds to be maintained intact wherever possible. In the implementation of the plan, appropriate guidelines shall be developed by the Kiowa Tribal Business Committee to govern the orderly administration and management of the over-all plan and each of the program elements, which shall be subject to approval by the Secretary.

The accounts to be established are as follows:

1. Land acquisition and use	$900,000
2. Nursing home or community multi-purpose building	700,000
3. Kiowa burial program	250,000
4. Investments	300,000
5. Tribal credit union	100,000
6. Guaranteed loans	100,000
7. Education	150,000
8. Tribal government	259,000
9. Social services	200,000
10. Tribal legal aid	100,000
Total	3,059,000

Should funds programed, and interest and investment income accruing, in any of the above-cited categories be determined to be in excess of needs, appropriate adjustments from one category to another shall be made in the annual tribal budget, with the approval of the Secretary.

The Kiowa Tribal Business Committee shall hire a Kiowa Tribal Program Director and staff as required to administer the tribal programs under the direction of the committee. The program director shall have annual reports and audit reports on the tribal programs prepared, which shall be reviewed by the Kiowa Tribal Business Committee and the Secretary. The administrative costs for the program director and staff shall not exceed five percent of the total program funds. The administrative costs of the separate program elements shall be budgeted from the respective accounts.

Such staff as required to develop the initial Kiowa plan of operation and budget is authorized, subject to the approval by the Secretary of a tribal budget therefor. There shall be advanced to the tribe such funds from the principal fund and/or interest fund accounts for this purpose. The proper adjustment shall be made at the time the funds are apportioned among the three tribes, with the share of the Kiowa Tribe to be reduced to the extent that the apportioned shares of the Comanche and Apache Tribes reflect the interest and investment income which would have accrued from the time the funds were advanced to the Kiowa Tribe until the funds are restored to the appropriate account from which the funds were removed. The amount of the advanced funds shall be charged against the twenty percent program funds of the Kiowa Tribe's apportioned share of the judgment funds.

Comanche Tribe. Twenty (20) percent of the funds apportioned to the Comanche Tribe, including all interest and investment income accrued, shall be invested either in a private investment program, the terms of which shall be subject to the approval of the Secretary, or invested pursuant to the above mentioned provision in 25 USC 162a. The investment income accrued shall be available for use in programs of social and economic benefits proposed in the tribe's plan of operation and annual tribal budgets, as recommended by the Comanche Tribal Council and approved by the Secretary.

An annual audit report on the tribal programs shall be prepared, and shall be subject to review by the Comanche Tribal Business Committee and the Secretary.

The Comanche Tribal Council may utilize portions of the principal funds in the programs for which investment income is budgeted or in other programs as proposed by the tribe and approved by the Secretary.

Apache Tribe. Twenty (20) percent of the funds apportioned to the Apache Tribe, including all interest and investment income accrued, shall be held and continued to be invested by the Secretary pursuant to the above mentioned provision in 25 USC 162a until such time as a specific program plan for the use of the funds has been developed by the tribe and approved by the Secretary.

GENERAL PROVISIONS

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be placed in individual Indian money (IIM) accounts and handled under 25 CFR 104.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D.

Minors' per capita shares, including all investment income accruing thereto, shall be retained in individually segregated IIM accounts and shall not be disbursed until the minor attains the age of eighteen years, or the minors' shares, including all investment income, will be placed in a private trust as approved by the Secretary. Should it be determined that the funds are to be invested pursuant to a private trust, minors who will have reached the age of eighteen within six months after the establishment of such trust shall have their funds retained in IIM accounts. If the minors' shares are retained in IIM accounts, upon a minor's reaching the age of eighteen, unless the beneficiary is under a legal disability, the beneficiary shall be entitled to withdraw the per capita share and accrued investment thereon as provided in 25 CFR 104.3. If a beneficiary is under a legal disability upon attaining the age of eighteen, the per capita share and accrued investment income thereon shall be handled pursuant to 25 CFR 104.5.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-19880 Filed 7-8-76;8:45 am]

QUARTZ VALLEY RESERVATION, CALIF.

Lucille Johnson Albers

JUNE 25, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Under the California Rancheria Act of August 18, 1958 (72 Stat. 619), as

amended by the Act of August 11, 1964 (78 Stat. 390), Lucille Johnson Albers was included in the Quartz Valley distribution plan as a dependent member of the immediate family of a distributee of that Rancheria. A termination proclamation as to Quartz Valley was published in the FEDERAL REGISTER on January 20, 1967 (32 FR 679). The name of Lucille Albers appears in this publication.

Notice is hereby given that the name of Lucille Johnson Albers erroneously appeared in the 1967 FEDERAL REGISTER publication and her name is henceforth removed from the list of terminated distributees and dependent members of the Quartz Valley Rancheria, and she is restored to a Federal-Indian relationship. She is therefore eligible for all services performed by the Federal Government for Indians because of their status as Indians and is subject to all statutes which affect Indians because of their status as Indians.

This action is in compliance with a judgment rendered in *Lucille Johnson Alberts et al.*, v. *Rogers C. B. Morton* et al., Civil Case No. S-2397-TJM in the United States District Court for the Eastern District of California (June 3, 1975).

Effective date: This notice shall become effective on July 9, 1976.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-19878 Filed 7-8-76;8:45 am]

[Aberdeen Area Office Redelgation Order 2, Amdt. 21]

SUPERINTENDENT, ROSEBUD AGENCY

Delegation of Authority Regarding Land and Homesite Leases

MAY 25, 1976.

This notice is published in exercise of authority by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Aberdeen Area Office Redelegation Order 2 was published on page 8756 of the December 21, 1954, issue of the FEDERAL REGISTER (19 FR 8756) and subsequently amended. It is being further amended by adding a new section 3.138 under the heading "Functions Relating to Lands and Minerals" in Part 3—Authority of Specifically Designated Employees. The new section gives the Superintendent of the Rosebud Agency all of the authority of the Area Director relating to leases of tribal and individually owned trust or restricted land for homesite purposes only to members of the tribe or to tribal housing authorities subject to certain provisions.

The section is added to read as follows:

Sec. 3.138 *Leases for homesite purposes—Rosebud.* The Superintendent of the Rosebud Agency may exercise all of the authority of the Area Director relating to leases of tribal and individually owned trust or restricted lands for homesite purposes only to members of the tribe or to tribal housing authorities: Provided, that all approved leases be submitted to the Aberdeen Area Office for recording in the Aberdeen area title plant. The term of the lease may not exceed 25 years but the lease may include provisions authorizing a renewal or extension for one additional term of not to exceed 25 years.

HARLEY D. ZEPHIER,
Area Director.

Approved: June 25, 1976.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-19881 Filed 7-8-76;8:45 am]

Bureau of Land Management

[NM 27841]

NEW MEXICO

Application

JULY 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Atlantic Richfield Company has applied for a water plant site across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 19 S., R. 34 E.,
Sec. 28, NW¼NE¼.

This water plant site is located on 2.20 acres of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-19906 Filed 7-8-76;8:45 am]

[NM 28373, 28374, 28383, 28384, 28385 and 28386]

NEW MEXICO

Applications

JULY 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has appiled for six 4½-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 29 N., R. 6 W.,
Sec. 17, SW¼NW¼;
Sec. 18, SE¼NE¼ and E½SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, SE¼NE¼;
Sec. 28, NE¼NW¼;
Sec. 30, SW¼NE¼, SE¼NW¼ and N½SE¼;
Sec. 33, NW¼NE¼.
T. 32 N., R. 11 W.,
Sec. 17, NE¼NE¼;
Sec. 21, SE¼SE¼.

These pipelines will convey natural gas across 2.203 miles of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-19907 Filed 7-8-76;8:45 am]

[NM 28220]

NEW MEXICO

Application

JULY 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station site and power line right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 26 S., R. 27 E.,
Sec. 26, S½NE¼ and NW¼SE¼.

The cathodic protection station will occupy .735 acres and the power line will cross .354 miles of national resource land in Eddy County, New Mexico, and will be used in connection with natural gas operations in the area.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-19908 Filed 7-8-76;8:45 am]

[NM 28389]

NEW MEXICO

Application

JULY 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Cities Service Oil Company has applied for a natural gas liquids processing plant site and power line right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 17 S., R. 27 E.,
Sec. 35, S½SW¼.

The site, occupying 11.63 acres of national resource land in Eddy County, New Mexico, will be used for construction and operation of a natural gas liquids processing plant.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-19909 Filed 7-8-76;8:45 am]

[NM 28226]

NEW MEXICO

Application

JULY 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station and power line right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 24 S., R. 5 W.,
Sec. 19, N½NE¼ and NE¼NW¼;
Sec. 20, E½NE¼ and NW¼NE¼.

The cathodic protection station will occupy .553 acres and the power line will cross 1.022 miles of national resource land in Luna County, New Mexico, and will be used in connection with natural gas operations in the area.

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 1420, Las Cruces, New Mexico 88001.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-19910 Filed 7-8-76;8:45 am]

ROSWELL DISTRICT MULTIPLE USE ADVISORY BOARD

Public Meeting

Notice is hereby given that the Roswell District Multiple Use Advisory Board will meet August 12, 1976, at 8:30 a.m. in the District Office conference room at 1717 West Second Street and 1 p.m. in the Berrendo Room, Roswell Inn, 1815 North Main, Roswell, New Mexico.

The purpose of the meeting is a briefing an information meeting concerning Antelope Fencing and Fence Modifications. No recommendation will be asked for.

The agenda items include a field trip leaving the District Office at 8:30 a.m. to view a project area. The 1 p.m. session at the Roswell Inn will cover policies, objectives, livestock operations, wildlife areas and examples of fence modifications.

The meeting will be open to the public. Time will be available for a limited number of brief oral statements by members of the public at the 1 p.m. session. Requests to make oral statements must be presented at least one day prior to the meeting to the official listed below. Written statements should also be presented to the same official.

Further information concerning this meeting may be obtained from James H. O'Connor, District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201, telephone number 622-7670.

Dated: July 2, 1976.

JAMES H. O'CONNOR,
District Manager.

[FR Doc.76-19877 Filed 7-8-76;8:45 am]

[ES 15833; Survey Group 100]

WISCONSIN

Filing of Plat of Survey

JULY 2, 1976.

A plat of dependant resurvey and survey of omitted lands in T. 36 N., R. 8 E., Fourth Principal Meridian, Oneida County, Wisconsin was accepted on December 10, 1975. It will be officially filed in the Eastern States Office, Silver Spring, Maryland as of 10 a.m. on August 13, 1976.

The plat represents a retracement of the boundaries of Section 22 and the reestablishment of the record meander lines and the survey of the present meander lines of Lily Lake and Loon Lake to determine the extent of status of the lands in Section 22 omitted from the original survey.

The new acreage and lottings in Section 22, which are shown below, describe lands omitted from the original survey. They encompass the areas between the original meander lines, which are now recognized as fixed boundary lines, and the present meander lines of Lily Lake and Loon Lake.

They are described as follows:

FOURTH PRINCIPAL MERIDIAN

WISCONSIN

T. 36 N., R. 8 E.,
Section 22: Lot 8 (26.13 acres), Lot 9 (39.78 acres), Lot 10 (48.37 acres), Lot 11 (35.14 acres), Lot 12 (32.47 acres), Lot 13 (17.57 acres), Lot 14 (19.59 acres), Lot 15 (17.53 acres).

The area aggregates 236.58 acres. The land is nearly level to gently rolling, the elevation ranging from about 1580 to 1660 feet, and it contains both upland and lowland areas. The soil in the upland area is sand and gravelly clay loam. This area is forested with red and sugar maple, paper birch, balsam fir, aspen, oak, and scattered clusters of white and Norway pine and hemlock; in the understory, raspberry and blackberry briars, young timber, hazel nut brush and native grasses are found. In the lowland areas, there are peat and poorly-drained muskeg soils, composed entirely of organic matter upon a clay-gravel base, and marsh grasses, shrub and alders are found in the understory. Pure strands of black spruce and tamarack are common in bog sites, as are marsh grasses, shrubs and sphagnum moss in open marsh sites.

Lots 8, 9, 10, 11, 12 and 14 are over 50% upland in character within the meaning of the Act of September 28, 1850. They are, therefore, held to be public land.

For a period of 90 days from August 13, 1976, claimants under the Act of February 27, 1925 (43 Stat. 1013; 43 U.S.C. 994), have a preferred right of application to Lots 8, 9, 10, 11, 12 and 14. Claimants under the Act of August 24, 1954 (68 Stat. 789; 43 U.S.C. 1221-1223), have one year from August 13, 1976 to apply for Lots 8, 9, 10, 11, 12 and 14.

Except for valid existing rights, these lots will not be subject to application, petition, selection, or to any other type of appropriation under any other public land laws, including the mining and mineral leasing laws, until a further order is issued.

Lots 13 and 15 have been determined to be more than 50% swamp in character within the purview of the Swamplands Act of September 28, 1850. Title to these lands inured to the State of Wisconsin as of that date; therefore, they are open only to selection by the State under that Act.

All inquiries relating to these lands should be sent to the Director, Eastern States, Bureau of Land Management,

7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.76-19845 Filed 7-8-76;8:45 am]

Geological Survey

KNOWN GEOTHERMAL RESOURCES AREA

Newberry Caldera, Oregon

Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area effective February 1, 1974.

(6) OREGON

WILLAMETTE MERIDIAN

Newberry Caldera Known Geothermal Resources Area

T. 21 S., R. 12 E.,
Secs. 11, 13 through 15, 21 through 28, 33 through 36, including unsurveyed lake bed.
T. 22 S., R. 12 E.,
Secs. 1 through 4, 9 through 12.
T. 21 S., R. 13 E.,
Secs. 10, 15 through 22, 27 through 34, including unsurveyed lake bed.
T. 22 S., R. 13 E.,
Secs. 3 through 10.

The area described aggregates 31,283.53 acres, more or less.

Dated: May 21, 1976.

HILLARY A. ODEN,
Acting Conservation Manager, Western Region.

[FR Doc.76-19844 Filed 7-8-76;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 July 2, 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 19, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Mobile County

Mobile, *South Lafayette Street Creole Cottages*, 20, 22, and 23 S. Lafayette St.

ALASKA

Nome Division

Nome vicinty, *Lindblom, Erik, Placer Claim*, N of Nome

ARKANSAS

Benton County

Rogers, *Mutual Aid Union Building*, 2nd and Poplar Sts.

Clay County

Success, *Baynham House*, Stephens St.
Success, *Waddle House*, S. Erwin

Columbia County

Spotville vicinity, *Allen, W. H., House*, NW of Spotville off AR 98

Craighead County

Jonesboro, *Bell House*, 303 W. Cherry
Lake City, *Craighead County Courthouse*, Court Square

Crawford County

Van Buren, *Mount Olive United Methodist Church*, Lafayette and Knox Sts.

Franklin County

Charleston, *Franklin County Courthouse, Southern District*, AR 22

Logan County

Paris, *Logan County Courthouse, Eastern District*, Courthouse Square

Monroe County

Clarendon, *Cumberland Presbyterian Church*, 120 Washington St.
Clarendon, *Monroe County Courthouse*, Courthouse Square

Montgomery County

Mt. Ida, *Montgomery County Courthouse*, Court Square

Pulaski County

Cato vicinity, *Frenchman's Mountain Methodist Episcopal Church and Cemetery*, WSW of Cato on Cato Rd.
Little Rock, *Tenenbaum Building*, Rock St. at Arkansas River
Wrightsville vicinity, *Wrightsville Log Cabin*, N of Wrightsville on U.S. 65

CALIFORNIA

San Diego County

Borrego Springs vicinity, *Lower Borrego Valley Archeological District*, SE of Borrego Springs
Coronado, *Oxford Hotel*, 1328 Ynez Pl.

San Francisco County

San Francisco, *Balclutha*, Pier 41 East
San Francisco, *Mills Building and Tower*, 220 Montgomery St. and 220 Bush St.

GEORGIA

Richmond County

Augusta, *Meadow Garden*, 1230 Nelson St.

Thomas County

Thomasville vicinity, *Millpond Plantation*, S of Thomasville on Pine Tree Blvd.

ILLINOIS

Hancock County

Warsaw, *Warsaw Historic District*, roughly bounded by the Mississippi River, Marion and 11th Sts.

Henderson County

Gladstone vicinity, *South Henderson Church and Cemetery*, E of Gladstone

Knox County

Galesburg, *Galesburg Historic District*, roughly bounded by Berrien, Clark, Pearl, and Sanborn

Sangamon County

Springfield, *Executive Mansion*, Jackson and 4th Sts.

Shelby County

Shelbyville, *Shelbyville Historic District*, roughly bounded by the railroad tracts, Will, N. 8th, and S. 6th Sts.

KENTUCKY

Fayette County

Lexington vicinity, *Shady Side*, 4 mi. E of Lexington on U.S. 68

Harrison County

Cynthiana vicinity, *Poplar Hill*, E of Cynthiana on KY 32/36

Jefferson County

Anchorage, *Hite-Foree Log House*, 12401 Lucas Lane
Louisville, *Central Colored School*, 542 W. Kentucky St.

MICHIGAN

Keweenaw County

Islae Royale National Park, *Minong Mine Historic District*, McCargoe Cove

MISSISSIPPI

Hinds County

Jackson, *Edwards Hotel*, Capitol and Mill St.

NEW YORK

Dutchess County

Poughkeepsie, *Poughkeepsie Railroad Station*, Main St.

OKLAHOMA

Comanche County

Elgin vicinity, *Penateka*, 3.5 mi. W of Elgin on U.S. 277

TEXAS

Hill County

Hillsboro vicinity, *McKenzie Site*, SW of Hillsboro

WASHINGTON

Franklin County

Clyde vicinity, *Windust Caves Archeological District*, W of Clyde at Snake River (also in Wala Wala Co.)
Pasco vicinity, *Tri-Cities Archeological District*, W of Pasco off U.S. 12
Washtucna vicinity, *Palouse Canyon Archeological* District, E of Washtucna

TRUST TERRITORY OF THE PACIFIC ISLANDS

Mariana Islands District

Saipan, *Banzai Cliff*, Banadero, Magpi area
Saipan, *Suicide Cliff*, Banadero, Magpi area

Marshall Islands District

Likiep Atoll, *deBrum House*, Likiep Island
Majuro Atoll, *Marshall Islands War Memorial Park*, Kalap Island

Palau District

Babelthuap Island, *Bai Ra Irrai*, Airai
Babelthuap Island, *Ked Ra Ngchemiangel*, Aimeliik
Babelthuap Island, *Meteu 'L Klechem*, Melekeok
Babelthuap Island, *Odalmelech*, Ngermelech, Melekeok
Babelthuap Island, *Ongeluluul*, Uchuladokoe, Melekeok

Ponape District

Eastern Caroline Islands, *Chief Agriculturist House*, Kolonia
Eastern Caroline Islands, *German Cemetery*, Kolonia
Eastern Caroline Islands, *Japanese Artillery Road and Pohndolap Area*, Sokehs
Eastern Caroline Islands, *Japanese Elementary School for Ponapean Children*, Kolonia
Eastern Caroline Islands, *Japanese Hydro-Electric Power Plant (German Experimental Forestry Station Site)*, Kolonia

Ponape District

Eastern Caroline Islands, *Japanese Shrine*, Kolonia
Eastern Caroline Islands, *Sokehs Mass Grave Site*, Kolonia

Truk District

Dublon Island, *Japanese Army Headquarters*, Roro Village
Moen Island, *St. Xavier Academy*, Winipi
Moen Island, *Tonnachau Mountain*, Iras
Moen Island, *Tonotan Guns and Caves*, Nantaku Village
Moen Island, *Wiichen Men's Meetinghouse*, Peniesene Village
Moen Island vicinity, *Truk Lagoon Underwater Fleet*

Yap District

Balebat, *Rull Men's Meetinghouse*, Rull
Colonia, *Spanish Fort Foundation*
Colonia vicinity, *O'Keefe's Island*

[FR Doc.76-19847 Filed 7-8-76;8:45 am]

[Order 77, Amendment 6]

REGIONAL DIRECTORS

Delegation of Authority

Order No. 77, approved February 27, 1973 and published in the FEDERAL REGISTER of March 22, 1973 (38 FR 7478), as amended, set forth in Section 2 certain limitations on redelegations of authority. This amendment changes paragraph (2) of Section 2 to read as follows:

Section 2, *Redelegation.* * * *

(2) In the regional offices, procurement and contracting authority may be redelegated without limitation to the Associate Regional Director, Administration, and the Chief, Division of Contracting and Property Management, and not to exceed $200,000 to other contracting and property management personnel. Authority to contract for supplies, equipment, and services, including construction, may be redelegated by the Regional Directors to Superintendents and heads of offices not to exceed $500,000. Any redelegations of this authority shall be in accordance with the requirements in Federal Procurement Regulation 1-1.404 and Interior Procurement Regulation 14-1.404. The limitations in this subsection (2) of Section 2 apply only to open market or nonmandatory sources of supply. Employees and officers who are otherwise authorized may continue to issue orders to GSA centers and sources under established Federal Supply Schedules or contracts.

(205 DM, as amended; 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: June 30, 1976.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.76-19846 Filed 7-8-76;8:45 am]

Office of the Secretary

[INT FES 76-36]

FOUR CORNERS POWERPLANT AND NAVAJO MINE, NEW MEXICO, PROPOSED MODIFICATIONS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Statement on the proposed modifications to the Four Corners Powerplant and Navajo Mine. The plant and mine are located in San Juan County, New Mexico. The environmental statement concerns the air pollution and water control systems of the powerplant and a proposed addition of 3,224 acres to the present lease of the Navajo Mine.

Copies are available for inspection at the following locations:

Office of the Assistant to the Commissioner—Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 Telephone (202) 343-4991
Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225 Telephone (303) 234-3006
Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147 Telephone (801) 588-5592
Project Construction Engineer, P.O. Box 28, 1006 Municipal Drive, Farmington, New Mexico 87401. Telephone (505) 325-1794.

Single copies of the draft statements may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: July 6, 1976.

RONALD G. COLEMAN,
Assistant Secretary of the Interior.

[FR Doc.76-19860 Filed 7-8-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

FEDERAL CROP INSURANCE CORPORATION

Organization, Functions, and Delegations of Authority

The notice of Organization, Functions, and Delegations of Authority of the Federal Crop Insurance Corporation appearing in 40 FR 52424-52425 is superseded and the following is substituted therefor:

SUBPART A—ORGANIZATION

Sec.
1. Creation.
2. Stock.
3. Management.
4. Board of Directors.
5. Offices of the Corporation.
6. Availability of information and records.

SUBPART B—FUNCTIONS AND PROCEDURES

7. Crops insured.

SUBPART C—DELEGATIONS OF AUTHORITY

8. Delegations of authority affecting crop insurance contracts.

SUBPART A—ORGANIZATION

Sec. 1. *Creation.* The Federal Crop Insurance Corporation was created February 16, 1938, by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and is an agency within the U.S. Department of Agriculture.

Sec. 2. *Stock.* All capital stock of the Federal Crop Insurance Corporation is owned by the United States.

Sec. 3. *Management.* The Management of the Federal Crop Insurance Corporation is vested in the Board of Directors, subject to the general supervision of the Secretary of Agriculture. The Manager of the Corporation is its chief executive officer, and he is appointed by and holds office at the pleasure of the Secretary of Agriculture. Under the general supervision of the Board, the Manager is responsible for the general direction and supervision of all activities of the Corporation.

Sec. 4. *Board of Directors.* The Federal Crop Insurance Act provides that the Board of Directors shall consist of the Manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the insurance business who are not otherwise employed by the Government. The Board is appointed by and holds office at the pleasure of the Secretary of Agriculture.

Sec. 5. *Offices of the Corporation.* The principal office of the Federal Crop Insurance Corporation is composed of the Office of the Manager and seven division and staff offices. The Office of the Manager and other components of the principal office are located at Washington, D.C. 20250, in the South Agriculture Building, except that the National Service Office and the Actuarial Division are located at 8930 Ward Parkway, Kansas City, Missouri 64141.

(i) *Office of the Manager.* The Office of the Manager is composed of the Manager and his immediate staff, including a Deputy Manager. Within established policies and regulations, the Manager is responsible for the executive direction, coordination, and control of the Corporation's programs and activities, the determination of goals and objectives, and the approval of plans, methods and procedures proposed or used.

(i) *Research and Development Staff.* The Research and Development Staff collaborates with the Office of the Manager in devising and developing research studies on insured and uninsured crops and counties, the effects of changing climatological conditions and technological developments, and new insurance concepts and territories. It researches and develops proposed insurance programs, forms and related procedures. It collaborates with other agencies, commodity groups, handlers, and processors on proposed projects and research related to new crop insurance programs. It prepares and issues specific and periodic reports and coordinates material for the Board of Directors. It is also responsible for contract development and revision and preparation of insurance regulations and FEDERAL REGISTER notices. It participates in the preparation of legislative proposals and reports. It prepares the Annual Report to Congress.

(2) *Actuarial Division.* The Actuarial Division, which is located at 8930 Ward Parkway, Kansas City, Missouri 64141, formulates and advises management on actuarial/underwriting policies of the Corporation; establishes and revises insurance coverages and rates for crops insured by county; develops actuarial/underwriting formulas and techniques for measuring insurance risks; devises methods for accumulating statistical data for actuarial analyses; develops and issues actuarial/underwriting procedures, instructions and forms; develops production cost by crops and counties and restricts coverage to the cost of production; and directs four regional underwriting offices. The four regional underwriting offices and states comprising the regions are:

(i) *North Central Regional Underwriting Office, Room* 106, U.S. Post Office and Courthouse, Springfield, Illinois 62701—Serving Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Pennsylvania (Erie County), Wisconsin, and New York.

(ii) *Southeast Regional Underwriting Office,* Room M–116, U.S. Post Office and Federal Building, 401 North Patterson Street, Valdosta, Georgia 31601—Serving Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania Counties except Erie County, South Carolina, Tennessee, and Virginia.

(iii) *Southwest Regional Underwriting Office,* 50th & N. Pennsylvania, Suite 1410, 50 Penn Place, Oklahoma City, Oklahoma 73118—Serving Arizona, California, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas.

(iv) *Northwest Regional Underwriting Office,* 2602 First Avenue, North, Room 219, Billings, Montana 59103—Serving Idaho, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wyoming, and Utah.

(3) *National Service Office.* The National Service Office is located at 8930 Ward Parkway, Kansas City, Missouri 64141. This office performs the accounting functions of the Corporation, including administrative and program cost accounts through use of automatic data processing, performs contract servicing and audit functions, develops statistical information and prepares statistical and financial reports; processes claims and computes and schedules indemnities for payment; and serves as the central supply and distribution center for forms and procedures.

(4) *Operations Division.* This office formulates and recommends policy and advises management on the development of operations programs, directs a coordinated Marketing and Contract Service program, including all phases of FCIC's sales, claims, loss adjustment, public relations, and field servicing activities. The two staffs and functions which they perform within established policies and regulations and subject to the direction of the Director, Operations Division, are as follows:

(i) *Contract Service Staff.* This staff plans and coordinates all Crop Insurance Contract Service activities, including developing programs, issuing procedures and instructions, and training personnel. It recommends policies, devises and installs systems, methods, procedures, instructions, forms, and techniques assuring consistent and equitable adjustment of losses and processing of claims for insured crops and inspection and/or review of applications or acreage reports involving high liability, transfers of interests, unit agreements or unusual or controversial claims. It develops and implements recruiting, training, supervision, career development and incentive programs, standards, and performance appraisal methods and techniques for loss adjusters. It advises and assists Regional Directors and Contract Service Branch Chiefs with plans, problems, training and recruiting. It serves as a support group in assisting the Director, Operations Division, in carrying out his supervisory functions. It also reviews and recommends proposed contract changes.

(ii) *Marketing Staff.* This staff develops overall marketing promotion and business retention plans, commodity sales plans, product lines, product mix, product quotas, and collection procedure. It reviews and recommends proposed contract changes. It develops overall sales training programs, methods, and techniques. It develops sales aids and promotional materials. It develops uniform reporting systems and sales performance evaluation techniques. It prepares procedures, instructions, and forms required. It devlops sales incentive systems, qualification standards, and performance appraisal methods and techniques for sales personnel. It works with private insurance groups, communications media, other governmental and nongovernmental agencies, farm organizations, and business groups to promote better understanding and acceptance of the purpose and value of crop insurance. It advises and assists Regional Directors and Marketing Branch Chiefs with plans, problems, training, and recruiting. It also serves as Washington representative to close large and complex sales and to stimulate sales campaigns. It maintains continuous review of sales, programs, and activities procedures. It serves as a support group in assisting the Director, Operations Division, in carrying out his supervisory functions.

(iii) *Regional Offices.* There are 14 Regional Offices serving the states in which crop insurance is being offered. Each Regional Office is under the supervision of a Regional Director who is responsible for the general administration of the loss adjustment, claims, servicing programs, sales and collections in his assigned territory, recruiting and training personnel, advising management and recommending contract and other changes. The Regional Director conducts his activities through a Contract Service Branch, a Marketing Branch, and a Support Operations Branch. Claims specialists and assistants supervise and coordinate the loss adjustment and service work of fieldmen under the Contract Service Branch. District and area sales supervisors coordinate the sales and collection work of fieldmen in a specified group of counties under the Marketing Branch. Offices for the county are under the Support Operations Branch. Regional Offices with the territories which they serve are as follows:

North Dakota: Room 234, Federal Building, 220 East Rosser Avenue, Bismarck, North Dakota 58501.

Texas, Oklahoma, New Mexico: USDA Building, College Station, Texas 77840.

Georgia, Florida, South Carolina, and the following Alabama counties: Baldwin, Barbour, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Pike: Room 303, 240 Stoneridge Drive, One Greystone West Building, Columbia, South Carolina 29210.

Iowa and the following Missouri counties: Adair, Andrew, Atchison, Audrain, Boone, Buchanan, Caldwell, Callaway, Carroll, Cass, Chariton, Clark, Clinton, Cooper, Daviess, DeKalb, Franklin, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Monroe, Montgomery, Nodaway, Pettis, Pike, Platte, Ralls, Randolph, Ray, St. Charles, Saline, Scotland, Shelby, Sullivan, Worth: 509 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Arizona and the following California counties: Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Joaquin, Stanislaus, Tulare: Room 4110, Federal Building, U.S. Courthouse, 1130 "O" Street, Fresno, California 93721.

Mississippi, Arkansas, Louisiana, and the following Alabama counties: Blount, Cherokee, Chilton, Colbert, Cullman, Dallas, DeKalb, Etowah, Hale, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall, Morgan, Pickens, Shelby, Tuscaloosa: Room 610 Milner Building, 200 South Lamar Street, Jackson, Mississippi 39201.

Montana and the following Wyoming counties: Big Horn, Park, Washakie: 2602 First Avenue, North, Billings, Montana 59103.

Nebraska, South Dakota, and the following Wyoming counties: Goshen, Laramie, Platte: Room 443, Federal Building, U.S. Courthouse, 100 Centennial Mall, Lincoln, Nebraska 68508.

Kansas, Colorado, and the following Missouri counties: Barton, Bates, Dade, Jasper, Lawrence, Vernon: 2601 Anderson Avenue, Manhattan, Kansas 66502.

Tennessee, Kentucky, the following Missouri counties: Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, Stoddard; and the following Virginia counties: Lee, Russell, Scott, Smyth, Washington: U.S. Courthouse, Room 508, Nashville, Tennessee 37203.

North Carolina, Delaware, Maryland, the following Pennsylvania counties: Adams, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York; and the following Virginia counties: Amelia, Appomattox, Brunswick, Campbell, Charlotte, Cumberland, Dinwiddie, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenberg, Nansemond, Nottoway, Patrick, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, Sussex: Room 612, Federal Office Building, 310 New Bern Avenue, Raleigh, North Carolina 27601.

Illinois, Michigan, Ohio, Indiana, New York, and Erie County in Pennsylvania: Atkinson Square West, Suite 1501, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

Washington, Oregon, Idaho, Utah, and Modoc County in California: Room 369, U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington 99201.

Minnesota and Wisconsin: Room 222, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, Minnesota 55101

(a) *Office for the County.* Field offices serving one or more counties are established to administer the crop insurance program at the local level. Most of these offices are staffed by regular employees of the Corporation. These offices are charged with the responsibility of servicing crop insurance contracts. They receive, process and transmit applications for insurance, contract changes, acreage reports, premiums, notices of loss and notices of cancellation, and related forms to Regional and National Service Offices as required. Some counties are handled by agents under contract with the Corporation to only sell the insurance and in others to both sell and service the insurance. The county actuarial table, which shows the premium rates and coverages available and the insurable acreage in the county, is on file in the office for the county and available for public inspection. Changes in insurance contracts to be effective for a coming crop year are also filed in the office for the county and are available for public inspection. Forms which are required to be used in connection with crop insurance contracts may be obtained at the office for the county upon request. The location of the office serving any county may be obtained from the Regional Office.

(5) *Administrative Management Division.* This division formulates and recommends policy and advises management on the development of administrative programs. It directs a coordinated Budget, Finance, Administrative Services, and Personnel program. It plans, directs, and coordinates the fiscal, budget and accounting activities of the Corporation with respect to both capital and administrative funds. It plans, directs, performs and coordinates procurement, space, communications, records, and paperwork management functions. It plans, directs, performs, and coordinates personnel functions, including organization and manpower planning, recruiting, staffing, placement and utilization, position classification, employee development, Equal Employment Opportunity, employee and labor relations, safety, health, and disciplinary actions.

Sec. 6. *Availability of information and records.* Any person desiring information with respect to crop insurance may request such information from the office for his county, from the Regional Director for his State, or from the Manager, Federal Crop Insurance Corporation, United States Department of Agriculture, Washington, D.C. 20250. Records of the Corporation, including those maintained in the field offices, are currently available for examination in accordance with the rules issued by the Secretary of Agriculture (7 CFR 1.1 et seq.) and the Corporation (7 CFR Part 412).

SUBPART B—FUNCTIONS AND PROCEDURES

Sec. 7. *Crops insured.* (a) The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.) authorizes the Corporation to insure crops against unavoidable losses for the purpose of determining the most practical plan, terms and conditions of insurance for agricultural commodities. Crop insurance may be offered in each year in not to exceed 150 counties in addition to the number of counties in which such insurance was offered in the preceding year. Insurance may be offered each year on not more than three agricultural commodities in addition to those previously insured, except that other agricultural commodities may be included in combined crop insurance (insurance on two or more agricultural commodities under one contract with a producer). Insurance within the limitation set forth above is now offered on wheat, cotton, flax, corn, tobacco, dry beans, citrus, soybeans, barley, peaches, grain sorghum, oats, rice, raisins, peanuts, peas, apples, tomatoes, sunflowers, sugar beets, sugarcane, grapes, and combined crops.

(b) Regulations governing current insurance programs may be found in the FEDERAL REGISTER and in Title 7, Code of Federal Regulations, Parts 401 through 404, 406, and 408 through 413.

SUBPART C—DELEGATIONS OF AUTHORITY

Sec. 8. *Delegations of authority affecting crop insurance contracts.* The authority delegated by this section to act on behalf of the Corporation in matters affecting crop insurance contracts shall be exercised in accordance with established policies and procedures and subject to the supervision and direction of the Manager. This delegation of authority shall not preclude the Manager from exercising the same authority whenever he deems it necessary under the circumstances.

(a) *Delegations to Regional Directors.* Each Regional Director, in the state or states served by his office, is authorized to: Reject applications for crop insurance; cancel crop insurance contracts in accordance with their terms (but the voidance of a contract for the misrepresentation or fraud of an insured is reserved to the Manager of the Corporation); accept or reject proposed agreements with insureds for the division of insured acreage in a county into two or more insurance units, where a crop insurance contract so provides; approve or reject a transfer of interest under an insurance contract; recommend approval or rejection of claims in accordance with administrative procedure; determine the insured acreage and interest or declare the insured acreage to be zero where the insured fails to timely file an acreage report or files an acreage report which is found to be erroneous; and determine when replanting of an insured crop is practical.

(b) *Delegations to Fieldmen.* The fieldman (known as "Adjuster") assigned to make an inspection of insured acreage, after notice of loss and a request by the insured for consent to put such acreage to another use, is authorized to give such consent in writing on behalf of the Corporation in accordance with the policy and the applicable endorsement and loss adjustment procedure.

(c) *Delegation to Director, National Service Office.* The Director of the National Service Office is authorized to accept applications for insurance, changes in elections, and contract reinstatements; to process, suspend, approve or reject claims for indemnity, and to adjust, cancel, or terminate or suspend collection action with respect to claims for premiums under Pub. L. 518 (12 U.S.C. 1150 and 1151) and the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953).

Approved by the Board of Directors on May 12, 1976.

PETER F. COLE,
Secretary,
Federal Crop Insurance Corporation.

Approved: June 7, 1976.

JOHN A. KNEBEL,
Acting Secretary.

[FR Doc.76-19862 Filed 7-8-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[Department organization order 10-3 Amendment 1]

ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Authority and Functions

This order effective July 1, 1976 amends the material appearing at 41 FR 24202 of June 15, 1976.

Department Organization Order 10-3, dated May 19, 1976, is hereby amended as shown below. The purpose of this amendment is to delegate to the Assistant Secretary for Domestic and International Business certain authorities relating to export administration and materials allocation recently conferred upon the Secretary by Executive Orders 11879, 11902, 11907 and 11912.

SECTION 5. Delegation of authority. a. Subparagraph .01p. is revised to read as follows:

p. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended, and extended by the Equal Export Opportunity Act (Public Law 94-412, 86 Stat. 644), and the Export Administration Act Amendments of 1974 (Public Law 93-500, 88 stat. 1552) and the authority under those Acts delegated to the Secretary of Commerce by Executive Order 11533 of June 4, 1970, as amended by Executive Order 11907 of March 1, 1976, and as continued in effect by Executive Orders 11683 of August 29, 1972, 11798 of August 14, 1974, and 11818 of November 5, 1974, except that the following power, authority, and discretion shall be reserved to the Secretary:

b. New subparagraphs 5.01w., 5.01x., and 5.01y. are added to read as follows:

w. Section 2 of Executive Order 11902 of February 2, 1976, relating to the submission of the Department's views to the Nuclear Regulatory Commission through the Secretary of State regarding issuance of licenses for nuclear exports.

x. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the

Secretary under Executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water.

y. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) conferred on the Secretary under Executive Order 11912 of April 13, 1976 relating to: (1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and, (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-19788 Filed 7-8-76;8:45 am]

[Order No. 46-1 (Amendment 1)]

BUREAU OF EAST-WEST TRADE

Organization and Functions

This order effective July 2, 1976, supplements the material appearing at 40 FR 59764 of December 30, 1975.

DIBA Organization and Function Order 46-1, dated November 17, 1975, is hereby amended to delegate authority to the Deputy Assistant Secretary for East-West Trade, as follows:

Section 2.01 g. is added:

g. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) conferred on the Secretary under Executive Order 11912 of April 13, 1976 relating to—(1) export restrictions of coal, petroleum products, natural gas, or petro-chemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and, (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program.

ALAN POLANSKY,
Acting Assistant Secretary for Domestic and International Business.

[FR Doc.76-19789 Filed 7-8-76;8:45 am]

[Order No. 46-2 (Amendment 2)]

BUREAU OF EAST-WEST TRADE

Organization and Functions

This order effective July 2, 1976, amends the material appearing at 41 FR 11592 of March 19, 1976, and supplements the material appearing at 40 FR 59761 of December 30, 1975.

DIBA Organization and Function Order 46-2, dated November 17, 1975, as amended, is hereby further amended to delegate certain authorities to the Director, Office of Export Administration, to incorporate the functions of the Exporters' Services Staff into the Office of the Director, OEA and to reflect the transfer of the control intelligence function from BIC to the Compliance Division, OEA:

1. Section 3. Delegations of authority. Subsection 3.08 is added to confer the following authority upon the Director, Office of Export Administration:

.08 Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) conferred on the Secretary under Executive Order 11912 of April 13, 1976 relating to—(1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of materials or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and, (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program.

2. Section 8.01 is amended to read, as follows:

.01 *The Office of the Director* includes: The *Director* who shall plan and direct the formulation and execution of policies and programs of the Office in implementation of the Export Administration Act of 1969, as amended; the *Deputy Director* who shall assist in the direction of the Office and perform the functions of the Director in his absence; and the *Operating Committee (OC) Chairman*, who shall direct the OC, the Commerce Department's interagency senior staff level working committee through which information, advice and policy positions from other departments and agencies concerned with controls over exports are sought and obtained by the Department. The OC is an integral part of the interagency committee structure addressing policy issues associated with export controls and includes the Advisory Committee on Export Policy (ACEP—at the Assistant Secretary level) and the Export Administration Review Board (EARB—at the Cabinet level). The Office of the Deputy Assistant Secretary for East-West Trade is responsible for providing the Executive Secretary function to the ACEP and the EARB. The Chairman of the OC shall serve in this capacity. The Director or his designees shall administer and, in conjunction with the Department's Office of the General Counsel, enforce the export control regulations and programs required to carry out Departmental responsibilities under the Export Administration Act of 1969, as amended. The Office shall represent the Department on committees dealing with East-West exchanges. The *Exporters' Services Staff* shall conduct public contact activities including responding to inquiries from exporters. The Director shall supervise and direct the following organizational components:

3. Section 8.03 is amended to read, as follows:

.03 The *Operations Division* shall process license applications; develop internal operating procedures; issue U.S. import certificates; prepare analytical and statistical reports on export control activities; develop and publish export control regulations and procedures as well as instructions for Foreign Service Officers; provide staff support to the Export Administration Technical Advisory Committees; carry out Bureau emergency readiness and planning functions; collect and disseminate statistics on requests made to U.S. exporters to cooperate in restrictive trade practices or boycotts; and prepare the semi-annual report of the Secretary of Commerce on Export Administration to the President and the Congress and prepare all other OEA publications and reports.

4. Section 8.04 is amended to read as follows:

.04 The *Compliance Division* shall ensure compliance with the export administration regulations, develop intelligence information regarding areas of possible export administration violations, investigate suspected violations, prepare cases on violations for referral to the Hearing Commissioner through the Office of the General Counsel or to the Office of the General Counsel for other legal guidance or action; promote compliance with export administration clearance regulations; develop and coordinate methods and systems to reduce paperwork and simplify export administration clearance procedures; maintain liaison with the Bureau of Customs, U.S. Postal Service, and other Government and private organizations on export administration compliance and facilitation matters; and collect intelligence data on overseas firms and individuals in order to identify and evaluate their suitability and reliability as recipients of U.S. products under the Export Administration Regulations.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

Approved:

ALAN POLANSKY,
Acting Assistant Secretary for Domestic and International Business.

[FR Doc.76-19790 Filed 7-8-76;8:45 am]

MEDICAL UNIVERSITY OF S. CAROLINA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00156-33-46040. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the study of surface and internal membranes of the protozoan *Entamoeba histolytica* with special interest in the formation of phagocytic vacuoles by surface membranes and the transport of pagocytosed substances to the interior of the cell for digestion. Another research project concerns the study of the effects of the antibiotics lincomycin and clindamycin on large intestinal mucosal epithelium, in which histological changes, as seen in 1 μ thick sections of plastic-embedded intestinal mucosal tissue viewed with the light microscope, will be compared with ultrastructural

alterations in the same areas. The article will also be used in teaching a course entitled, "Techniques and Theory in Biological Electron Microscopy" which will cover the theoretical aspects of electron microscopy, applied techniques in specimen preparation and instruction in the operation and use of the electron microscope. In another course entitled "Ultrastructure of Organisms Parasitic to Man" the article will be used by graduate students in their research projects.

Comments: No comments have been received with respect to this application. A letter was received from Adam David Company dated October 22, 1975 which did not address itself to the points required by 15 CFR 301.9(c), viz. it did not comment on the equivalency of the domestic instrument or the specifications claimed pertinent.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 15, 1975).

Reasons: The foreign article is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The article provides 7 Angstroms point to point resolution, an accelerating voltage of 60 Kilovolts (KV), and low distortion magnifications from 140–60,000X (Magnifications of 140 to 1000X are within the normal, light microscopic range). Thus the article covers the range of light and electron microscopy. The most closely comparable domestic instrument available at the time the article was ordered was Adam David Company's (AD) Model EMU–4C, a more complex instrument (designed for the use of an experienced operator) which provides low distortion magnification at 500X and higher. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 4, 1976 that the best low magnification capabilities available is pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that domestic instruments did not have equivalent low magnification when the article was ordered. Furthermore, we note that AD's Model PA–1 was in a development stage at the time the article was ordered. In this regard, it is noted that a prototype of the PA–1 was first shown by AD in November, 1974. Neither the Department of Commerce nor its consultants have been able to determine or verify the capabilities of the PA–1 as of the date of this decision. Thus, the Department does not have a sufficient basis for ruling that AD was able to supply the PA–1 within a normal delivery time at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76–19835 Filed 7–8–76;8:45 am]

SUNY—STONY BROOK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00339. Applicant: State University of New York, Stony Brook, N.Y. 11794. Article: Model 400 Angular Distribution Electron Spectrometer (ADES 400). Manufacturer: VG Scientific Ltd., United Kingdom. Intended use of article: The article is intended to be used to study the electron properties of solids and their surfaces. Experiments will be performed on Noble metals (Cu, Ag, Au), transition metals (Ni, Pd, Pt) and semiconductors (Ge, GaAs *** etc.). These experiments will involve the measurement of the kinetic energy distributions of electrons emitted from the surfaces at arbitrary polar and azimuthal angles. X-ray and ultraviolet photon sources and an electron beam source will be used to excite the electrons at the surface. The article will also be used in the course Physics 580, Special Research Projects by graduate students pursuing original experimental research for the Ph.D. in Solid-State Physics. The objectives of this course are to teach the students the experimental techniques of electron spectroscopy applied to surface physics and chemistry problems.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a angular distribution electron spectrometer providing a resolution capability of 0.3 electron volts for kinetic energies up to 2.5 kilovolts, angular rotation of the energy analyzer with respect to ultraviolet, X-ray, and electron beam sources, and ultrahigh vacuum less than 10^{-10} torr.

The National Bureau of Standards (NBS) advises in its memorandum dated June 10, 1976 that (1) the capabilities of the article described above are pertinent to the applicant's intended purposes, (2) NBS knows of no comparable domestic instrument which matches the pertinent specifications and (3) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76–19827 Filed 7–8–76;8:45 am]

UNIVERSITY OF AKRON, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before July 29, 1976.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00448. Applicant: The University of Akron, 302 E. Buchtel Avenue, Akron, Ohio 44325. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of Article: The article is intended to be used for the following research:

(1) A study of the mitotic systems in the algal class xanthophyceas.

(2) A cytohistological study of the Zonation oft he apical meristem of *Podophyllum peltatum.*

(3) A study of the effects of low levels of mercuric compounds on the immunological systems of mammals.

(4) A study of the mitotic systems of selected human protozoan parasites.

In addition, the article is intended to be used for educational purposes in the course, Principles of Electron Microscopy which is designed for upper undergraduates and graduates who have not had a previous background in the principles of microsectioning. Application received by Commisioner of Customs: June 21, 1976.

Docket number: 76–00449. Applicant: University of Nebraska Medical Center, 4215 Emile Street, Omaha, Nebraska 68105. Article: Assorted clamps for a custom-made animal holder and a special resistance meter for microelectrodes. Manufacturer: Narishigi Scientific Instruments, Japan. Intended use of article: The clamps are intended to be used with existing equipment to support electrodes and electrode carrier and the ohm meter will be used in fabricating the electrodes during investigation of electrical signals from nerve cells in the brain of animals. Experiments are to be conducted to determine how limb-position sense is derived and encoded by sensory receptors. Application received by Commissioner of Customs: June 21, 1976.

Docket number: 76–00450. Applicant: Scripps Clinic and Research Foundation, 10666 N. Torrey Pines Road, La Jolla, California 92037. Article: Electron Microscope, Model HU–12A. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for biomedical research that includes cancer research, immunopathological diseases, and cytological and molecular abnormalities. Specific research projects will include the following:

(i) Renal diseases: ultrastructural localization and distribution of antigens, antibodies, antigen-antibody complexes and components of complement in human and experimental immunologic renal disease.

(ii) Pulmonary, renal and vascular diseases: site of action of mediators that induce inflammation; molecular rearrangements of basement membranes, of fibrinogen and fibrin, platelets.

(iii) Membrane structure, organization and chemical composition, as determined by immunochemical ultrastructural methods, i.e., ferritin-labeled and peroxidase labeled antibodies specific for membrane components.

(iv) Viral organization, structure and relationship to membrane structure.

(v) Cancer research: an ultrastructural study of tumor cells, transformed cells and their interaction with host effector elements and antibodies.

(vi) Complement: a morphologic examination of the components of complement, singly and assembled, in fluid phase and at attach points of membranes. Application received by Commissioner of Customs: June 21, 1976.

Docket number: 76–00451. Applicant: Wayne State University, Detroit, Michigan 48202. Article: Fourier Transformation Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX–60. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to support a broad range of research programs which will require nmr spectra exhibiting resonances from carbon-13, hydrogen and fluorine nuclei. The materials studied will be derived from research programs in organic, inorganic and biochemical areas. Individual research projects which will involve use of this instrument include the following:

a. Structural and synthetic studies of pharmacologically active sesquiterpenes.

b. Structural studies on synthetically useful organometallic reagents including organocuprates and organosilanes.

c. Transition metal complexes of macrocyclic ligands—structural and kinetic studies.

d. Stereochemical assignments to cyclic sulfides, sulfoxides, sulfilimines (iminosulfuranes), sulfoximines and sulfonium salts.

e. Environment of the active site of adrenodoxin.

f. Intramolecular 1, 3-dipolar cycloadditions.

g. Cyclopropylcarbinyl carbonium ions.

h. Relaxation times (^{13}C) in unsaturated main group organometallic compounds.

i. Organometallic compounds with fluxional structures.

j. Conformation and exchange of trifluoromethane sulfenamides.

k. Stereochemistry and rotational barriers in imides and related compounds.

l. Conjugation in acylfluorides.

m. Coordination of alkali metal cations with enolate anions and ionophores.

n. Structure of synthetic and natural carbohydrates.

o. Fluorine containing pharmacologically active compounds.

Application received by Commissioner of Customs: June 22, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–19826 Filed 7–8–76;8:45 am]

UNIVERSITY OF KANSAS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00331. Applicant: University of Kansas, School of Architecture & Urban Design, 114 Marvin Hall, Lawrence, Kansas 66045. Article: MK IV Modelscope, Connector for Camera lens, and lens adaptor for Pentax 35 mm camera. Manufacturer: Specified Ltd., United Kingdom. Intended use of article: The article is intended to be used to view and to photograph interiors of building models for use in teaching building design.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of viewing interior spaces of architectural models, in such a manner that full size representations can be simulated. The National Bureau of Standards (NBS) advises in its memorandum dated June 21, 1976 that the capability described above is pertinent to the applicant's intended educational use. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–19833 Filed 7–8–76;8:45 am]

UNIVERSITY OF MIAMI—ROSENSTIEL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00344. Applicant: University of Miami—Rosenstiel School of Marine & Atm Science, 4600 Rickenbacker Causeway, Miami, Fla. 33149. Article: Flow Vibrating Densimeter, Model 01D. Manufacturer: Sodev, Inc., Canada. Intended use of article: The article is intended to be used for measurement of the density of seawater and other natural waters as well as aqueous salt solutions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a flow mode which allows for a short sample-measurement time (about 2 minutes). The National Bureau of Standards (NBS) advises in its memorandum dated June 11, 1976 that the capability of the article described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign

article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-19830 Filed 7-8-76;8:45 am]

UNIVERSITY OF WISCONSIN-MADISON, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 987). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Imports Programs, Washington, D.C. 20230, on or before July 29, 1976.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00437. Applicant: University of Wisconsin-Madison, Dept. of Chemistry, 500 Lincoln Drive, Madison, Wisconsin 53706. Article: Fourier Transform Nuclear Magnetic Resonance Spectrometer, Model JNM/FX60 and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to provide broad support for a substantial number of research programs in which carbon-13 and proton nuclear magnetic resonance spectra are aids of major significance. The coverage of these programs extends over a wide range of areas of organic, inorganic, and bio-organic interest, including in particular the following:

Metal-carbene complexes.

Structure and bonding in inorganic compounds, particularly metal carbonyls.

Chemistry of metalloboranes, organogallium compounds, etc.

Carbonium ion rearrangements, chiral shift reagents.

Hydrazine-hydrazinium ion equilibra, molecular rearrangements.

Binding of Pyriodoxal 5'-Phosphate to enzymes.

Stereochemical studies of organometalloid compounds.

Complexes of metals with isocyanides.

Identification and synthesis of theoretically significant molecules and natural products.

Organosphosphorus intermediates.

Organometallic compounds, especially of Group IV elements; structure, chemical bonding, and reaction mechanisms of organosilcon compounds; new aromatic species: oxocarbons; perhalogenated cyclic compounds.

Bio-organic chemistry.

Mechanistic and exploratory organic photochemistry.

Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00438. Applicant: Brookhaven National Laboratory, Upton, Long Island, N.Y. 11973. Article: High Resolution scanning attachment for JEM 100C microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: The articles are accessories to an existing electron microscope which will be used for chemical and physical characterization of metals, alloys and superconductors. The materials to be studied will include crystalline and noncrystalline solids comprising various metals, alloys and superconductors. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00439. Applicant: University of Notre Dame du Lac, Notre Dame, IN 46556. Article: Electron Microscope, Model JEM 100C/SEG/BSR with eucentric goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of crystalline and non-crystalline solids including metal alloys, minerals and ceramics and polymers. Experiments to be conducted will include characterization of phase distributions and various planar and other defect structures which influence mechanical, electrical and magnetic properties; elevated temperature observation of phase transformations and other microstructural changes. The article will also be used for educational purposes in the course, MET 602. Electron Microscopy and Diffraction to familiarize students with techniques of use and for interpretation in electron microscopy and the range of applications for transmission electron microscopy and electron diffraction. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00440. Applicant: The University of Texas Health Science Center at Houston, Medical School, Dept. of Purchasing, P.O. Box 20036, Houston, Texas 77025. Article: Ultramicrotome, Model Om U3 with AO Stereoscopic Microscope and accessories. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used in preparing ultrathin frozen sections and freeze dried material from experimental animals for experiments involving localization of adrenergic neurons and CNS myein proteins. In addition, the article will be used for instruction of medical students and biomedical sciences graduate students. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00441. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, Illinois 60439. Article: Thermoanalyzer 2 and DTA amplifier. Manufacturer: Precision Instruments, Ltd., Switzerland. Intended use of article: The article is intended to be used to develop data of value to the breeder reactor program. More specifically investigation of a variety of reactions (synthesis, decomposition, phase changes, melting etc.) by measuring weight change and heat effects in small-scale samples of actinide compounds. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00442. Applicant: Washington University School of Medicine, Dept. of Physiology and Biophysics, 4566 Scott Avenue, St. Louis, Missouri 63110. Article: Rotating Anode X-Ray Diffraction Generator, Model GX 20 and complete set of spares and accessories. Manufacturer: Marconi-Elliott Avionics Ltd., United Kingdom. Intended use of article: The article is intended to be used in studies of single crystals of large protein molecules by x-ray diffraction methods in order to learn their molecular structures and how they function in the body. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00443. Applicant: Howard University, Dept. of Anatomy, 520 W Street, NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research programs concerned with morphology of cell systems at the tissue and macromolecular levels which include the following:

(1) Investigation of the ultrastructural morphology of lymphatic capillaries during the normal and the in flammatory states with special attention to the lymphatic anchoring filaments that serve to attach these vessels to the adjoining connective tissues areas.

(2) Studies on the precise nature in which these filaments are bound to the lymphatic endothelial plasma membrane.

(3) Studies of histochemical identification of substances associated with the cell surfaces of lymphatic endothelial cells at the ultrastructural level in an attempt to characterize the chemical nature of the substance involved in the binding of lymphatic anchoring filaments to the cell surface.

(4) Studies on the organization of the descending pathways and their target cells in the spinal cord of the Teger lizard. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00444. Applicant: The University Hospital and Clinics, 800 N.E. 13th Street, P.O. Box 25606, Oklahoma City, Oklahoma 73125. Article: Linear Accelerator. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used to treat patients with cancer; the objective being to destroy the cancerous tissues and restore normal body function. In addition, the article will be used for educational purposes as

on the job training as well as part of specific academic courses in:

(1) Radiation Therapy Residency Programs.

(2) Radiation Therapy Technology Programs.

(3) Radiological Physics Graduate Programs.

Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00445. Applicant: Veterans Administration Hospital, American Lake, Tacoma, WA 98493. Article: Microtome, Universal Cut-All, Spare Parts and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to prepare undemineralized human bone biopsies for quantitative histological measurements. Several experimental groups are to be evaluated in order to determine the pathology of bone diseases and to evaluate the efficacy of specific therapeutic programs in controlled studies. Renal bone disease, primarily osteoporosis, and vitamin D deficiency are scheduled for study. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00446. Applicant: The Medical College of Pennsylvania, 3300 Henry Avenue, Philadelphia, Pa. 19129. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used in biological studies of human and animal urinary bladder and lung cancers. The material to be investigated include cultured cells from human and animal bladder cancers, from lung tumors induced in laboratory animals by environmental carcinogens, and from surgical specimens resected from patients for diagnostic purposes. Cultured mammalian cells and pieces of human or animal tumors will be fixed, embedded in Epon and, when cured, be subjected to thick and thin sectioning. The article will also be used for the training of residents and students in the techniques and interpretation of ultrastructure for investigative and hospital pathology. Application received by Commissioner of Customs: June 15, 1976.

Docket number: 76-00447. Applicant: University of Rhode Island, Graduate School of Oceanography, Kingston, R.I. 02881. Article: Three spectrometer scanning electron microprobe system, Model JXA-50. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in geologic research which will include the following:

(1) Studies on the partitioning of minor and major elements between basaltic melts and crystals.

(2) Mineralogic Petrologic studies of basaltic rocks from the mid-ocean ridges.

(3) Study of minor element concentrations in calcareous skeletons of marine microorganisms.

In addition, the article will be used for the following educational purposes:

(1) Graduate petrological laboratory course dealing with the utilization and applications of the electron microprobe to petrologic, geologic and oceanographic problems.

(2) Electron microprobe analyses of earth material conducted by graduate students, in conjunction with their PhD and M.S. thesis research requirements.

(3) Use of teaching materials and information acquired in several courses including Petrology of the Oceanic Crust OCG-645 and Geochemistry OCG-630.

Application received by Commissioner of Customs: June 15, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-19832 Filed 7-8-76;8:45 am]

VIRGINIA INSTITUTE OF MARINE SCIENCE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00386. Applicant: Virginia Institute of Marine Science, Route 17, Gloucester Point, Virginia 23062. Article: Turbidity Monitor Console consisting of two electronic consoles (modules). Manufacturer: Parteck Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine the extent, thickness and rate of movement of the fluid mud which is detrimental to ecology. The unit will be deployed both for time-series measurements and for vertical profiles near the bed.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer of the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

We are advised by the National Oceanic and Atmospheric Administration (NOAA) in its memorandum dated June 22, 1976 that it knows of no domestically manufactured equipment of equivalent scientific value to the article for its intended purposes.

The Department of Commerce knows of no similar accessories being manufactured in the United States, interchangeable with, or readily adaptable to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-19829 Filed 7-8-76;8:45 am]

WASHINGTON STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00272. Applicant: Washington State University, Division of Purchasing, Pullman, WA 99163. Article: Induced polarization transmitter, receiver, System. Manufacturer: Sintrex Inc., Canada. Intended use of article: The article is intended to be used in the course, C.E. 524 Geophysical Engineering to train students in the use of geophysics as a method of subsurface investigation in engineering and geology.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 15 kilowatt high power system for a highest possible induced polarization source allowing the greatest possible depth in studies of crustal materials. The National Bureau of Standards advises in its memorandum dated June 10, 1976 that (1) the capability of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic high power induced polarization source of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc. 76-19828 Filed 7-8-76;8:45 am]

WESTINGHOUSE HANFORD CO.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00372. Applicant: Westinghouse Hanford Company, P.O. Box 1970, Richland, Washington 99352. Article: Automatic Sparking Ion Source Flange Assembly to fit existing JMS-01-B Mass Spectrometer and Glove Box. Manufacturer: JEOL Japan. Intended use of article: The article is intended to be used to control the high voltage spark on the spark source mass spectrograph which is used for the analysis of many different sample types.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The article is an accessory for an existing mass spectrometer to be used in obtaining measurements of low melting point samples. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The National Bureau of Standards (NBS) advises in its memorandum dated June 15, 1976 that it knows of no comparable domestically manufactured instrument which can be applied to the applicant's intended use.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeabe with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-19831 Filed 7-8-76;8:45 am]

YALE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00219-33-46040. Applicant: Yale University, Purchasing Department, 20 Ashmun Street, New Haven, Connecticut 06520. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the investigation of the fine structure of the nervous system including neurons, myelinated and unmyelinated nerve fibers, glial cells, ependyma synapses and blood vessels. Particular emphasis will be given to high resolution studies of cell junctions, myelin lamellae and cell membranes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with an eucentric goniometer stage and had a guaranteed resolution of 5Å. At the time the foreign article was ordered the most closely comparable domestic instrument was the Model EMU-4C available from the Adam David Company. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 17, 1976 that the eucentric goniometer stage of the article is pertinent to the applicant's intended research. HEW further advises that the EMU-4C does not have a scientifically equivalent eucentric goniometer stage. We, therefore, find that EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-19834 Filed 7-8-76;8:45 am]

Economic Development Administration

ROSIA SHOE CORP.

Petition for Determination of Eligibility

A petition by Rosia Shoe Corporation, Sonman Road, Portage, Pennsylvania 15946, a producer of women's footwear, was accepted for filing on July 2, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-19904 Filed 7-8-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N-0373]

DIAMOND SHAMROCK CHEMICAL CO. ET AL.

Penicillin-Streptomycin-Vitamin Soluble Powder; Opportunity for a Hearing

The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (hereinafter, the Director) is providing an opportunity for a hearing on a proposal to withdraw approval of new animal drug applications for penicillin, streptomycin, vitamin soluble powders. Holders of approvals and other interested persons may file written appearances by August 9, 1976.

The Commissioner announced, in the FEDERAL REGISTER of July 22, 1970 (35 FR 11706, DESI 0063NV; 35 FR 11707, DESI 0122NV), the conclusions of the Food and Drug Administration (FDA) and the National Academy of Sciences—National Research Council (the Academy), Drug Efficacy Study Group, relating to certain penicillin, streptomycin, vitamin combination drugs for use in animal drinking water.

The Academy classified Whitmoyer A-V 25, FloxAid BF and FloxAid AWP as probably not effective for their intended use, and the FDA concurred in its findings. The Academy stated in part:

1. Substantial evidence was not presented to establish that each ingredient

designated as active makes a contribution to the total effect claimed for the drug combination.

2. The disease claims for streptomycin must be restricted to diseases involving the gastro-intestinal tract because of the chemical and pharmacological properties of streptomycin sulfate.

3. Each disease claim should be properly qualified as appropriate for use in (name of disease) caused by pathogens sensitive to penicillin and streptomycin. If the disease cannot be so qualified, the claim must be dropped.

4. Claims made "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control."

5. The manufacturer's label should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail. As a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water.

In the FEDERAL REGISTER of August 22, 1970 (35 FR 13484, DESI 0037NV) and in the FEDERAL REGISTER of August 25, 1970 (35 FR 13538, DESI 0151NV), similar announcements were published pertaining to analogous penicillin, streptomycin, vitamin combination products.

These announcements informed all interested persons that the products named must be the subject of approved new animal drug applications, and 6 months were provided in which to submit substantial evidence of efficacy for the products named.

No interested persons have submitted any data purporting to show substantial evidence based upon adequate and well-controlled investigations that the drug combination named above will have the effect it is purported or represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof.

The following companies hold or have held effective applications for certification of products either evaluated by the Academy in the aforementioned announcements, or they have marketed products of similar composition and are therefore affected by this notice. Each entry lists the new animal drug application number assigned to the product:

NADA 65-303; Nopstress with Penicillin and Streptomycin; NADA 65-323; AV-25 with Vitamins. Diamond Shamrock Chemical Co., Diamond Shamrock Corp., Harrison, NJ 07029.

NADA 65-296; FloxAid 50 and FloxAid 128; NADA 65-308, NADA 65-309; NADA 65-310, NADA 65-311, NADA 65-312, NADA 65-370, NADA 65-371, NADA 65-372, NADA 65-373; Penicillin-Streptomycin Vitamin Mixtures. Merck Chemical Division, Merck and Co., Inc., Rahway, NJ 07065.

NADA 65-104; VSP Concentrate Extra. Anchor Serum Co., Philips-Roxane, Inc., St. Joseph, MO 64502.

NADA 65-298; Medic Aid Soluble. Salsbury Laboratories, Charles City, IA 50616.

NADA 65-376; Vita-Lizer SP; NADA 65-377; Vita-Lizer SP 4. Vineland Laboratories, Inc., Vineland, NJ 08360.

NADA 65-295; Whitmoyer A-V 25. Whitmoyer Laboratories, Inc., Subsidiary of Rohm & Haas Co., Myerstown, PA 17067.

Section 108(b)(2) of Pub. L. 90-399 (82 Stat. 353) provides that any approval, prior to the effective date of the Animal Drug Amendments of 1968, of a new animal drug through approval of a new drug application, master file, antibiotic regulation, or food additive regulation continues in effect until withdrawn. Many such approvals were made long ago and may never have been used by the holder of the approval. Consequently, the current files of the FDA may be incomplete and may fail to reflect the existence of some approvals. While the act requires revocation of antibiotic monographs that do not conform to statutory requirements, there can never be assurance that all prior approvals have been noted. The burden of coming forward with proof of an unnamed approval in such circumstances is therefore properly placed on the holder so as to permit definitive revocation or amendment of the regulations.

The Director knows of no approvals affected by this proposal other than those named herein. Any person who intends to assert or rely on such an approval that is not listed in this notice shall submit proof of its existence within the period allowed by this notice for opportunity to request a hearing. The failure of any person holding such an approval to submit proof of its existence within that period shall constitute a waiver of any right to assert or rely on it. In the event hat proof of the existence of such an approval is presented, this notice shall also constitute a notice of opportunity for hearing with respect to that approval pursuant to the same requirements as for the approvals named in this notice.

Section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) requires that a drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. In respect to fixed combination drugs, § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)) requires that each 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 requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, the requirement of effectiveness also includes the requirement that the dosage of each component is such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy.

No data have been submitted to demonstrate the effectiveness of these fixed combination products compared with the effectiveness of the individual ingredients, or to demonstrate that they are otherwise in accord with the requirements for fixed combination drugs as set forth in § 514.1(b)(8) and this notice.

On the basis of all the data and information available to him, the Director is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act and § 514.1(b)(8), demonstrating the effectiveness of these combination drug products.

Therefore, notice is given to the holders of the approvals of the products listed above and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act and under section 108(b) of Pub. L. 90-399 withdrawing approval of the products listed above because new information before him about the drug products, evaluated together with the evidence available to him at the time of the approval of the products, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, in that there is a lack of evidence that these products are effective as fixed combinations. Should a hearing in this matter be requested, a final action upon this notice will be taken by the Commissioner.

In addition to the grounds for the proposed withdrawal of the approvals, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with the provisions of section 512 of the act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (21 CFR Part 510), the holders of approvals for the drug products named above and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approvals of the products should not be withdrawn and the applicable monographs and related regulations amended or revoked in accordance with this proposed withdrawal of approval, and an opportunity to raise, for administrative determination, all issues related to the legal status of the drug products named above. Any other interested person may also submit comments on this notice within the time and pursuant to the requirements specified in this notice.

The holder of an approval and any other person subject to this notice shall file on or before August 9, 1976, a written appearance electing whether to avail himself of the opportunity for a hearing, or not to avail himself of the opportunity for a hearing. Such written appearance shall give the reason why the approval should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational

data in support of the opposition to the Director's proposal.

Such analysis shall include all protocols and underlying raw data and shall be submitted in accordance with the requirements of § 314.200(c)(2) and (d) (21 CFR 314.200(c)(2) and (d)), which are hereby made applicable to this notice by reference. Wherever in § 314.200 (d) reference is made to the requirements of § 300.50 (21 CFR 300.50, formerly 21 CFR 3.86), that reference shall be deemed, for the purposes of this notice, to be a reference to the requirements for combination drug products as expressed in § 514.1(b)(8) and this notice.

The failure of the holder of an approval or any other person subject to this notice to file timely written appearance and request for hearing as required by § 514.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug products and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If a hearing is requested and justified by any holder's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable. If it clearly appears from the data submitted and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the drug products and revocation or amendment of the underlying monographs (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing, and the applicable regulations will be immediately revoked or amended consistent with such determination without further opportunity for objection or hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

Published elsewhere in this issue of the FEDERAL REGISTER is a proposal to revoke § 540.174b *Penicillin-streptomycin powder; penicillin-dihydrostreptomycin powder* (21 CFR 540.174b). That proposal supersedes the proposal that was published in the FEDERAL REGISTER of January 10, 1973 (38 FR 1219).

The Director has carefully considered the inflation impact of the proposed notice of opportunity for hearing and no major inflation impact has been found, as defined in Executive Order 11821, OMB circular A–107, and Guidelines issued by the Department of Health, Education, and Welfare. A copy of the FDA inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 409, 507, 512, 701, 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 348, 357, 360b, 371)) and the Animal Drug Amendments of 1968 (sec. 108(b), 82 Stat. 353) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: July 1, 1976.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.76–19842 Filed 7–8–76;8:45 am]

[Docket No. 76N–0289]

METHADONE

Proposed Withdrawal of New Drug Applications; Opportunity for Hearing

The Food and Drug Administration is giving notice of an opportunity for hearing on a proposal to withdraw approval of certain new drug applications for methadone, unless within 30 days of this publication, holders submit supplemental NDA's pursuant to current amendments of methadone regulations.

In a notice published in the FEDERAL REGISTER of December 15, 1972 (37 FR 26807), the Commissioner of Food and Drugs proposed to withdraw new drug applications for methadone, and offered an opportunity for hearing on the proposal. The notice stated that there was a lack of substantial evidence that methadone is safe and effective under the conditions of use then prevailing. The notice stated that upon submission and approval of supplemental NDA's meeting the requirements of §§ 310.304(b) and 310.505 (21 CFR 310.304(b) and 310.505, formerly 21 CFR 130.48(b) and 130.44 respectively), the Commissioner would rescind the notice of opportunity for hearing for that applicant.

Parts of §§ 310.304(b) and 310.505 were subsequently declared invalid by a judgment of the United States District Court for the District of Columbia in *American Pharmaceutical Association* v. *Weinberger*, 377 F. Supp. 824 (1974). The District Court's judgment is set forth in its entirety and the attendant court proceedings are more fully described in the preamble to the final regulation amending §§ 310.304(b) and 310.505, published elsewhere in this issue of the FEDERAL REGISTER.

The District Court's judgment also invalidated the December 15, 1972 notice of proposed withdrawal of approval of new drug applications for methadone and opportunity for hearing to the extent that it: (a) Alleged a lack of substantial evidence of safety and effectiveness of methadone for the then-existing conditions of use by reason of the failure of the conditions of use prescribed, recommended, and suggested in the labeling of the drugs covered by such new drug applications to conform to the invalidated provisions of §§ 310.304(b) and 310.505; and (b) invited the submission of supplemental new drug applications conforming to such provisions. In addition, the judgment invalidated all orders of the Commissioner approving supplemental new drug applications for methadone to the extent that the supplemental new drug applications conform to the invalidated provisions of §§ 310.304(b) and 310.505.

The effect of the District Court's order is to invalidate the December 15 notice only insofar as it alleged lack of substantial evidence of safety and effectiveness of the specified methadone products for failure of their NDA's to conform with the invalidated provisions of §§ 310.304(b) and 310.505, and invited submission of supplemental NDA's conforming with such provisions. The Commissioner's orders approving supplemental NDA's submitted pursuant to the notice were, in turn, invalidated only to the extent that the supplemental NDA's conform with such provisions. In all other respects, the notice, responsive supplemental NDA's, and orders approving such supplemental NDA's, are unaffected.

No supplemental NDA was received in response to the December 15, 1972 notice for the following NDA:

Methadone HCl Tablets, Injectable; by Merck, Sharp & Dohme, West Point, PA 19486. (NDA 6305).

Since no person filed a written appearance electing to avail himself of the opportunity for hearing on the proposed withdrawal of this application, its approval must be, and hereby is, withdrawn.

Holders of the following NDA's notified the agency that they elected to withdraw the NDA's:

1. Methadone HCl Injectable, Tablets, Elixir; by Parke, Davis & Co., Joseph Campau Avenue, At the River, Detroit, MI 48232. (NDA 6310).

2. Methadone HCl Tablets, Injectable; by The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002. (NDA 6311).

3. Methadone HCl Ampuls; by S. E. Massengill Co., 527 Fifth Street, Bristol, TN 37620. (NDA 6345).

4. Methadone HCl Tablets, Injectable; by Wm. S. Merrell Co., Division Richardson-Merrell Inc., 110 East Amity Road, Cincinnati, OH 45215. (NDA 6370).

5. Methadone (Amidone) HCl Tablets, Elixir, Injectable; by S. F. Durst & Co., Inc., 5317 North Third Street, Philadelphia, PA 19120. (NDA 6504).

Two companies submitted supplemental NDA's in response to the December 15 notice:

1. Methadone (Dolophine) HCl Tablets, Injectable, Suppository; by Eli Lilly & Co., Box 618, Indianapolis, IN 46206. (NDA 6134).

2. Methadone HCl Tablets; by Mallinckrodt Chemical Works, 3600 North Second Street, Box 5439, St. Louis, MO 63160. (NDA 6383).

The notice of opportunity for hearing was considered rescinded as to these applications, and they are currently approved. Because of the District Court's judgment, these approvals are invalid to the extent that the NDA's to which they relate conform with those provisions of the regulations issued on December 15, 1972, that were invalidated by the District Court.

Accordingly, the Commissioner is proposing to withdraw approval of these new drug applications and all amendments and supplements thereto unless, within 30 days of publication of this notice in the FEDERAL REGISTER, the holders of these and any other currently approved NDA's for methadone submit supplemental new drug applications requesting approval for the manufacture and distribution of methadone under §§ 310.304(b) and 310.505, as amended, to conform with the District Court's judgment. Upon submission and approval of any such supplement, the Commissioner will rescind this notice of opportunity for hearing for that applicant.

The principal change that the amended regulations require in supplemental new drug applications for methadone relates to labeling. The Commissioner will permit existing stocks of methadone to bear the labeling specified in currently approved new drug applications, and will permit future shipments to be made using such labeling until October 7, 1976. Any limitation on the shipment to, or the receipt or dispensing by, any duly licensed pharmacy of methadone for analgesic use shall be disregarded.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)) and under the authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: July 6, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-19958 Filed 7-8-76;8:45 am]

[Docket No. 76N-0248; DESI 2282]

SODIUM AMINOHIPPURATE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 2282) published in the FEDERAL REGISTER of August 6, 1971 (36 FR 14507), the Food and Drug Administration announced its conclusions that the drug product described below is effective for use in the measurement of kidney function and possibly effective for estimation of cardiac output. In response to that notice the possibly effective indication was deleted from the labeling of the drug product. No person has submitted any data in support of the possibly effective indication and such indication is now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for hearing concerning the possibly effective indication which now lacks substantial evidence of effectiveness, and states the conditions for marketing such drug for the indications classified as effective. Persons who wish to request a hearing may do so on or before August 9, 1976.

NDA 5–619; Sodium Aminohippurate Injection; Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, PA 19486.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug product.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below and lacks substantial evidence of effectiveness for all its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows: For estimation of effective renal plasma flow and for the measurement of the functional capacity of the renal tubular secretory mechanism.

3. *Marketing status.* a. Marketing of such drug product which is now the subject of an approved or effective new drug application may be continued provided that, on or before September 7, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for

hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107 (c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before August 9, 1976, a written notice of appearance and request for hearing, and (2) on or before September 7, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 2282, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD–160), Rm. 18B–08, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the hearing of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31).

Dated: June 28, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–19841 Filed 7–8–76;8:45 am]

Office of Child Support Enforcement

AUDIT AND PENALTY REQUIREMENTS UNDER THE SOCIAL SECURITY ACT

Proposed Implementation

Notice is hereby given that the Director, Office of Child Support Enforcement, intends to propose regulations to implement several sections of the Social Security Act added by Pub. L. 93–647. The sections relate to a requirement for an annual audit of each State's child support program and a possible penalty of 5 percent of a State's AFDC reimbursement. This notice presents the statutory requirements, discusses possible approaches to implementing the provisions, and invites comments and suggestions from all interested States, organizations and individuals on how the requirements should be interpreted and implemented through regulations.

Section 452(a)(4) of the Act requires that, not less often than annually, the Office of Child Support Enforcement must

> * * * conduct a complete audit of the program established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part. * * *

Section 403(h) of the Act provides as follows:

> (h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).

Finally, section 404(d) of the Act provides as follows:

> (d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a)(27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

The statute seems to require a determination of whether a State's child support program meets the various requirements of title IV–D and is effective. Questions arise concerning the definition of an effective program, whether every requirement of title IV–D should be audited against, how many political subdivisions within the State should be audited, and how many individual child support cases should be audited. Possible interpretations of "effective program" range from measuring success in locating absent parents, establishing paternity and securing support to merely examining whether the State is complying with the requirements of title IV–D. The definition could focus on cost effectiveness or on the number of people served. The definition could also change with time—the standards for an effective program might be less demanding at the beginning of the program than after several years of operation.

In determining compliance with the requirements of title IV–D, we believe the statute requires, at a minimum, a review of the requirements imposed by section 454 and by reference, sections 456 and 457 of the Act. The audit could also include a review of the requirements of

section 458. In designing the audit methodology, it will be necessary to establish a representative number of counties and IV–D cases within each State.

Finally, in assessing a penalty against a State that fails the audit, we believe the statute requires a 5 percent reduction in the State's AFDC reimbursement for the entire year being audited. In the first annual audit, this reduction would be for the period of January 1, 1977 to September 30, 1977. The second and following audits would be for the period October 1 to September 30 of each year.

In preparing proposed regulations, the Office will give consideration to written comments, suggestions, and recommendations on the interpretation and implementation of the sections of law discussed herein. Such comments should be addressed to the Director, Office of Child Support Enforcement, Department of Health, Education, and Welfare, P.O. Box 22366, Washington, D.C. 20013, and received on or before August 9, 1976.

Such comments will not be acknowledged, but will be available for public inspection in Room 5223 of the Department's offices at 330 C Street, SW., Washington, D.C., beginning approximately two weeks after publication of this notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone (202) 245–0950).

This invitation to submit suggestions is being issued for the purpose of obtaining the broadest possible participation prior to drafting proposed regulations. Any such proposals developed by the Office will be published in the regular manner as a notice of proposed rule making with a period for comment by all interested parties.

Dated: July 2, 1976.

ROBERT FULTON,
Director, Office of Child Support Enforcement.

[FR Doc.76–19886 Filed 7–8–76;8:45 am]

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92–463, that the next meeting of the Special Committee on Rural Women of the Advisory Council on Women's Educational Programs will be held from 9 a.m. to 5 p.m. August 2 and from 10 a.m. to 4 p.m. August 3, 1976, at Delta College, Stockton, California.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93–380, section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meeting of the Special Committee on Rural Women will be open to the public. The agenda for the meeting will include (1) a public consultation session on educational equity for rural girls and women in California, from 9 a.m. to 5 p.m. on August 2 and from 10 a.m. to 3 p.m. on August 3; (2) a Committee discussion of the information gathered at the consultation session from 3 p.m. to 4 p.m. on August 3.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C. on July 6, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76–19893 Filed 7–8–76;8:45 am]

NATIONAL ADVISORY COUNCIL FOR CAREER EDUCATION

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the meeting of the National Advisory Council for Career Education will be held on July 27 and 28, 1975 from 9 a.m. to 4 p.m. each, at the Howard Johnson's Motor Lodge, Washington National Airport, 2650 Jefferson Davis Highway, Arlington, Virginia 22202.

The National Advisory Council for Career Education is established under section 406 of the Education Amendments of 1974, Pub. L. 93–380 (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of section 406 of the Education Amendments of 1974 and carry out such advisory functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in section 406. The Council with the assistance of the Commissioner conducted a survey and assessment of the current status of career education programs, projects, curricula and materials in the United States and submitted to Congress a report on such survey.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Tuesday, July 27, 1976

"Next Steps in Career Education . . . (continued)".

Report of the Education Commission of the States.

Commissioner's National Conference on Career Education, November 7–10, 1976, Houston, Texas.

Wednesday, July 28, 1976

Report from the Director of Career Education.

Presentation from the National Endowment for Humanities.

Subcommittee Reports.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of Career Education, located in Room 3100, 7th and D Streets, SW., Washington, D.C. 20202)

Signed at Washington, D.C. this 24th day of June, 1976.

JOHN LINDIA,
Delegate, National Advisory Council for Career Education.

[FR Doc.76–19785 Filed 7–8–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463 that a meeting of the Continuing Education Policy Committee of the National Advisory Council on Extension and Continuing Education will be held on August 2, 1976, from 9:30 a.m. to 1 p.m. in the Council office at 425 13th Street, NW., Suite 529, Washington, D.C.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Continuing Education Policy Committee will be open to the public, but because of the limited space available in the Council office, anyone wishing to attend the meeting should inform the Council's staff office (376–8888) no later than July 26, 1976. The purpose of the meeting is to have members of the Committee meet with selected representatives of labor and management organizations to help the Council plan for a national invitational conference on continuing education and work. All records of Council proceedings are available for public inspection at the Council's office, located in Suite 529, 425

Thirteenth Street, NW., Washington, D.C.

Dated: July 2, 1976.

JAMES A. TURMAN,
Executive Director.

[FR Doc.76-19836 Filed 7-8-76;8:45 am]

TALENT SEARCH, UPWARD BOUND, AND SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

Extended Closing Date for Receipt of Applications

Notice is hereby given that the U.S. Commissioner of Education has extended the June 30, 1976 closing date for receipt of applications for funds under the Talent Search, Upward Bound, and Special Services for Disadvantaged Students Programs which was previously published in the FEDERAL REGISTER on May 14, 1976, to July 19, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: (1) For National Demonstration proposals for Talent Search, Upward Bound, or Special Services for Disadvantaged Students projects to the U.S. Office of Education, Grants and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.482 (Special Services for Disadvantaged Students), 13.488 (Talent Search), or 13.492 (Upward Bound).

(2) Proposals for Talent Search, Upward Bound, and/or Special Services for Disadvantaged Students projects must be submitted to the Application Control Center at the Regional Office of the Office of Education serving the area in which the applicant is located. The addresses of the Regional Offices are as follows: Applicants in the following States should send their application to Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Office of Education, Region I, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

Applicants in the following States should send their applications to Region II—New York, New Jersey, Puerto Rico, and Virgin Islands.

Office of Education, Region II, Federal Building, 26 Federal Plaza, New York, New York 10007.

Applicants in the following States should send their applications to Region III—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Office of Education, Region III, 3536 Market Street, New Gateway Building, Philadelphia, Pennsylvania 19101.

Applicants in the following States should send their applications to Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Office of Education, Region IV, Peachtree-Seventh Building, 50 7th Street, NE., Atlanta, Georgia 30323.

Applicants in the following States should send their applications to Region V—Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin.

Office of Education, Region V, 300 S. Wacker Drive, Chicago, Illinois 60606.

Applicants in the following States should send their applications to Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Office of Education, Region VI, 1200 Main Tower Building, Dallas, Texas 75202.

Applicants in the following States should send their applications to Region VII—Iowa, Kansas, Missouri, and Nebraska.

Office of Education, Region VII, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106.

Applicants in the following States should send their applications to Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Office of Education, Region VIII, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80202.

Applicants in the following States should send their applications to Region IX—Arizona, California, Hawaii, Nevada, Guam, and Trust Territories.

Office of Education, Region IX, Federal Office Building, 50 Fulton Street, San Francisco, California 94102.

Applicants in the following States should send their applications to Region X—Alaska, Idaho, Oregon, and Washington.

Office of Education, Region X, Arcade Building, 1321 Second Avenue, Seattle, Washington 98101.

An application sent by mail will be considered to be received on time by the appropriate Application Control Center cited above if:

(1) The application was sent by registered or certified mail not later than July 14, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mailrooms in Washington, D.C., for National Demonstration proposals, or the mailroom of the appropriate Regional Office of Education for Talent Search, Upward Bound, and Special Services for Disadvantaged Students proposals. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education, including the Regional Office of Education.

B. *Hand-delivered applications.* An application to be hand-delivered must be taken to the appropriate Regional Office of Education Application Control Center. An application for a National Demonstration project to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the appropriate Regional Office of Education or from the Division of Student Support and Veterans Programs, Room 4662, 7th and D Streets, SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to these programs include the Office of Education General Provisions Regulations (45 CFR 100a), and the interim regulations for Upward Bound (45 CFR 155), and the final regulations for Special Services for Disadvantaged Students (45 CFR 157), and Talent Search (45 CFR 159) published in the FEDERAL REGISTER on May 14, 1976.

(20 U.S.C. 1070d–1070d–1)

(Catalog of Federal Domestic Assistance Programs, Numbers 13.482 Special Services for Disadvantaged Students, 13.488 Talent Search and 13.492 Upward Bound.)

Dated: July 7, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76-20095 Filed 7-8-76;9:34 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket 76-9]

BAYONNE BRIDGE, GEORGE WASHINGTON BRIDGE, GOETHALS BRIDGE, AND OUTERBRIDGE CROSSING TOLLS

Procedural Dates

In view of the then pending procedural dates, a telegram was sent by the undersigned to the parties on June 28, 1976, advising that the motion of the New York Port Authority (NYPA) for extended procedural dates had been granted. This notice confirms and modifies that action.

Answers in support of the motion of the NYPA were received from Senator Linda Winikow, Congressman John M. Murphy, Citizens for Clean Air, Inc., Institute for Public Transportation, Mrs. Julia F. Lamb, City of New York, Automobile Club of New York, Inc., Environmental Protection Agency, and Public Counsel. No answers in opposition were received.

Upon consideration of the motion and answers thereto, an extension of time was granted by the undersigned in the telegram of June 28, 1976 which indicated, inter alia, that the public hearing would commence on October 25, 1976. However, inasmuch as October 25, 1976 is a legal holiday and the probability

that the public hearing will continue into the following week, including the National Election Day, November 2, 1976, it is now ordered that public hearing will commence in New York City on November 3, 1976. Accordingly, the following procedural dates are established:

Exchange of Affidavits, Direct Exhibits and Written Testimony, no later than August 30, 1976.

Exchange of Rebuttal Exhibits and Written Testimony, if any, and Request for Cross-Examination of Affiants, no later than October 4, 1976.

Public Hearing, Statements of Position, November 3, 1976.

In view of the above, the time for filing petitions for leave to intervene was extended to July 30, 1976.

Also, the telegram of June 28, 1976, requires that the NYPA submit its answer to the Interrogatories propounded by Public Counsel no later than July 19, 1976.

Dated this 1st day of July 1976.

JOHN E. FAULK,
Administrative Law Judge.

[FR Doc.76-19855 Filed 7-8-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29450; Order 76-6-173]

DOMESTIC PASSENGER-FARE INCREASE

Order of Investigation and Suspension

Correction

In FR Doc. 76-19107 appearing at page 27109 in the issue of Thursday, July 1, 1976, the following should be inserted as the first paragraph of the document:

"Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of June, 1976."

[Order 76-7-10; Docket 26838]

FLYING TIGER LINE INC.

Priority Reserved Air Freight Rates Investigation: Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of July, 1976.

By tariff revisions[1] issued June 7 and marked to become effective July 7, 1976, The Flying Tiger Line Inc. (Tiger) proposes publishing priority rates on a point-to-point basis instead of its present method of constructing them by rule, which provides for a 30 percent premium for all rates.[2] The point-to-point rates for general commodity priority service would remain at a 30 percent premium above the normal general commodity rate level. However, priority specific commodity rates at a 30 percent premium would be continued as point-to-point rates only for those specific commodities which had been transported by Tiger in priority service within the last four months.

Although Tiger proposes a number of specific commodity priority rates, the carrier in its justification expresses its opposition to publishing any such rates. Tiger asserts that maintaining priority rates for specific commodity movements at no more than a 30 percent premium is discriminatory and illogical for the following reasons, *inter alia:* (1) in the instance where the priority specific commodity rate undercuts the regular general commodity rate, the general commodity shipper is being discriminated against because he is receiving poorer service at higher rates; (2) this undercutting eliminates the primary rationale for specific commodity discounts, *i.e.*, to fill space that could not be sold at general commodity rates; and (3) both "the staff and the carriers" have advocated reduced carrier dependence on discount rates. By limiting the number of priority specific commodity rates, Tiger contends that it will remain in compliance with Board requirements for express service, yet save approximately $40,000 in annual tariff publishing costs based on a cost per additional page of $1,800. The carrier anticipates that 1976 annual revenue from priority rates will amount to $400,000.

The proposed rates and charges come within the scope of *Priority Reserved Air Freight Rates Investigation* (*PRAFRI*), Docket 26838, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

Tiger's proposed application of general commodity priority rates to specific commodity shipments would result in numerous instances where the premium exceeds 30 percent, ranging as high as 400 percent. Such premiums may have substantial adverse impact upon specific commodity shippers who now have the option of paying only a 30 percent premium for priority service. We do not believe that Tiger has given priority specific commodity rates a sufficient test in its four-month survey. The standard that Tiger uses to limit priority specific commodity rates is arbitrary and may on certain occasions require that a specific commodity shipper, needing or desiring priority service, pay rates that may be excessive.

The whole matter of the nature of the expedited service to be offered by the carriers has arisen in the wake of the *Express Service Investigation*, Docket 22388, which was decided by Order 73-12-36, dated December 7, 1973. Only since that time have individual carriers proposed their own priority services. The investigation in *PRAFRI* is in its preliminary stages and will deal more fully with the issues raised by Tiger. *PRAFRI* provides the proper forum in which the Board will fully resolve the necessary characteristics of direct carrier priority service provisions.

The proper place for the publication of priority freight rates is with the balance of a carrier's rates. Though point-to-point rates may in certain instances be little used and appear wasteful, there are good reasons for requiring their publication. If such rates are determined by rule, an infrequent, unsophisticated shipper may not be aware of their existence. Moreover, experience demonstrates that, over periods of time, rules of this nature become increasingly complex and confusing, as exceptions and conditions are engrafted upon them. Thus, savings in tariff publication costs become outweighed by the costs to the shipping public of using the tariff.

In view of the foregoing and all other relevant circumstances, the Board will suspend all priority rates in markets where any shipment would be subject to a premium of greater than 30 percent for priority service. We have previously suspended carrier proposals for priority service which would apply premiums in excess of the otherwise applicable rate by more than 30 percent[3] and have dismissed a complaint against a failure to apply a premium of 30 percent of the general commodity rate to specific commodity rates.[4] This action is taken without prejudging the issue as it will finally be resolved in *PRAFRI*.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a), 403, 404 and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A hereto are suspended, and their use deferred to and including October 4, 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

2. Copies of this order will be filed with the tariff and served upon The Flying Tiger Line Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Acting Secretary.

APPENDIX A.—TARIFF C.A.B. NO. 169, ISSUED BY AIRLINE TARIFF PUBLISHING COMPANY, AGENT

1. All priority air freight general commodity (GCX) and specific commodity

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 169.

[2] Priority service contains the following principal features:

1. Priority air freight will be boarded ahead of all other freight;

2. Subject to advance confirmation, a shipper may reserve online space on a specific flight; and

3. Transportation is guaranteed aboard the confirmed flight, subject to a refund of the premium if the shipment is not transported as stipulated.

[3] Order 76-2-108, February 27, 1976; Order 75-12-98, December 19, 1975; Order 75-12-28, December 5, 1975; Order 75-9-82, September 23, 1975; and previous related orders.

[4] See Order 75-5-34, adopted May 8, 1975, in which the Board dismissed Tiger's complaint against a proposal by United, which applied a 30 percent priority premium on specific as well as general commodities.

(SCX) rates *from* the point in Column A *to* the point(s) in Column B on the pages in Paragraph 2.

Col. A	Col. B
BOS	CHI, LAX, SFO
CHI	LAX, NYC, PDX, SFO
CLE	SFO
DET	LAX, SFO
BDL	SEA
LAX	BOS, CHI, CLE, DET, NYC, PHL, SYR
NYC	DET, LAX, PDX, SFO
PHL	LAX, SFO, SEA
PDX	BOS, BUF, CHI, CLE, DET, NYC, PHL, SEA
SFO	BGM, BOS, BUF, CHI, CLE, DET, BDL, MKE, NYC, SYR
SEA	BOS, BUF, CHI, CLE, DET, BDL, LAX, MKE, NYC, PHL, SYR

2. Pages which contain rates and charges suspended in Paragraph 1 above:

46th Revised Page 618–A
46th Revised Page 618–B
15th Revised Page 618–C
15th Revised Page 618–D
45th Revised Page 619
45th Revised Page 620
38th and 39th Revised Pages 620–A
38th and 39th Revised Pages 620–B
60th and 61st Revised Pages 621
60th and 61st Revised Pages 622
34th and 35th Revised Pages 622–B
56th and 57th Revised Pages 623
56th Revised Page 624
37th Revised Page 624–A
37th Revised Page 624–B
12th Revised Page 624–C
12th Revised Page 624–D
51st Revised Page 625
51st Revised Page 626
48th Revised Page 626–A
48th Revised Page 626–B
9th Revised Page 626–C
9th Revised Page 626–D
64th Revised Page 627
64th Revised Page 628
43rd Revised Page 628–A
43rd Revised Page 628–B
52nd Revised Page 629
52nd Revised Page 630
21st Revised Page 630–A

3. All rates on the following pages which are reissues of rates suspended on the pages above:

40th Revised Page 620–A
40th Revised Page 620–B
62nd Revised Page 621
62nd Revised Page 622
36th Revised Page 622–B
58th Revised Page 623
57th and 58th Revised Pages 624
52nd Revised Page 625
44th Revised Page 628–A
44th Revised Page 628–B
53rd Revised Page 629
53rd Revised Page 630

4. The provisions on 34th Revised Page 622–A insofar as they cancel matter held in effect as a result of the suspension herein.

EXPLANATION OF ABREVIATIONS USED IN APPENDIX A

BGM—Binghamton
BOS—Boston
BUF—Buffalo
CHI—Chicago
CLE—Cleveland
DET—Detroit
BDL—Hartford
LAX—Los Angeles
MKE—Milwaukee
NYC—New York/Newark
PHL—Philadelphia
PDX—Portland, Ore.
SFO—San Francisco/Oakland
SEA—Seattle/Tacoma
SYR—Syracuse

[FR Doc.76–19889 Filed 7–8–76;8:45 am]

[Docket 27573 Agreement C.A.B. 25902; Order 76–6–159]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Correction

In FR Doc. 76–19106 appearing on page 27110 in the issue of Thursday, July 1, 1976, the following should be inserted as the first paragraph of the document:

"Issued under delegated authority June 24, 1976."

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting; Correction

Due to a typographical error, the wrong date appeared in the notice of the Federal Employees Pay Council meeting published in the FEDERAL REGISTER of June 29, 1976 (41 FR 26741). The meeting will be on Tuesday, July 20, 1976, rather than July 30. As previously announced, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.76–19499 Filed 7–8–76;8:45 am]

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Tuesday, July 27, 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(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.76–19897 Filed 7–8–76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TOWELS PRODUCED OR MANUFACTURED IN PAKISTAN

Permitting Entry

JULY 8, 1976.

On December 29, 1975, there was published in the FEDERAL REGISTER (40 FR 59613), a letter dated December 19, 1975 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported to the United States during the twelve-month period beginning on January 1, 1976. As set forth in that letter, the levels of restraint are subject to adjustment according to the terms of the Bilateral Cotton Textile Agreement of May 6, 1975, between the Governments of the United States and Pakistan.

Pursuant to Paragraph 13 of the bilateral agreement, the Government of the United States has agreed to divide into two parts the charges for shipments in Category 31 (other than shop towels), which exceeded the level of restraint for the previous agreement year, permitting 1.5 million units of the excess amount to be charged to the level of restraint applicable to Category 31 (other than shop towels) during the agreement year beginning on January 1, 1977.

Accordingly, there is published below a letter of July 8, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs implementing this action.

Effective date: July 12, 1976.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

JULY 8, 1976.

DEAR MR. COMMISSIONER: On December 19, 1975, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1976 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels of restraint. The Chairman

further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 13 of the Bilateral Cotton Textile Agreement of May 6, 1975, between the Governments of the United States and Pakistan, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed, effective on July 12, 1976, to permit entry of 1.5 million units of cotton textile products in Category 31 (other than shop towels),[2] even though the level of restraint will be exceeded. Shipments in Category 31 (other than shop towels), entered on and after the effective date of this directive will be charged to the level of restraint established for the agreement period beginning on January 1, 1977.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-20118 Filed 7-8-76;10:02 am]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

Notice is given that a meeting of the National Advisory Committee for the Flammable Fabrics Act will be held on Tuesday, July 27, 1976 and Wednesday July 28, 1976 in the 6th Floor Conference Room, Consumer Product Safety Commission, 1750 K Street, NW., Washington, D.C.

The National Advisory Committee provides advice and recommendations on the Commission's proposals and plans for reducing the frequency and severity of burn injuries involving flammable fabrics.

This meeting will be devoted primarily to a review and discussion of the role of the advisory committee. Additional items to be covered include an orientation of the new members, review and comment by members on the presentation done by the Bureau of Information and Education at the last meeting and a discussion of proposed regulation on applications by States for exemption from preemption on provisions of the Flammable Fabrics Act as amended by the CPSC Improvements Act of 1976.

Persons wishing to make oral or written presentations to the National Advisory Committee should notify the Secretary at least five days in advance of the meeting.

The meeting is open to the public, however, space is limited. Further information concerning this meeting and specific agenda topics may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202) 634-7700.

Dated: July 6, 1976.

SHELDON D. BUTTS,
Acting Secretary.

[FR Doc.76-19883 Filed 7-8-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from June 28 through July 2, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availablitiy. (August 23, 1976) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Evans Notch Plan, White Mountain National Forest, Maine and New Hampshire, June 30: The land use plan for the 51,000 acre Evans Notch Unit of the White Mountain National Forest includes timber sales producing over 5.4 million board feet per year, additional O.R.V. areas, ski area expansion, construction of 47 miles of timber access roads, and land acquisition efforts aimed primarily at 7,800 acres. Additional wilderness study and commercial activity for semi-precious gems are not recommended. Adverse impacts will result from timber harvest and road construction. (ELR Order No. 60971.)

Final

Snake River Basin Land Use Plan, Summit County, Colo., June 28: The statement consists of a proposal to update the existing Multiple Use Management Guide and intensify management actions for lands in the Snake River Basin, Arapaho National Forest, Summit County. The basin contains approximately 58,240 acres. Adverse effects include temporary disturbance of big game populations, reduction in the present level of air quality, and the reduction of land classified for timber production by 710 acres. Comments made by: DOI, EPA, State and local agencies, individuals. (ELR Order No. 60944.)

Elkhorn Planning Unit, Helena National Forest, Jefferson and Broadwater Counties, Mont., June 28: Proposed is the implementation of a revised multiple use plan for the 95,000 acre Elkhorn Planning unit of the Helena National Forest. Planning is designed to a Level 2 intensity for such values as timber harvest, grazing, wildlife habitat, and recreation. The unit contains 30,000 acres of inventoried roadless acres, of which 20,000 would remain undeveloped. Comments made by: EPA, State agencies, organizations, industries, and individuals. (ELR Order No. 60950.)

SOIL CONSERVATION SERVICE

Draft

Dunloup Creek Watershed, Fayette and Raleigh Counties, W.Va., June 29: Proposed is a project for watershed protection and flood prevention consisting of the installation of conservation land treatment measures on 2,396 acres of land and modification of 18,976 linear feet of the Dunloup Creek stream channel. Project construction will result in the alteration or loss of stream channel and wildlife habitat, and will require the relocation of four persons from a tenant-occupied dwelling. Wildlife habitat will be temporarily disturbed or permanently altered on about 50 acres by project installation, and fences, sewer lines and buildings will be moved. (ELR Order No. 60965.)

Final

Mill Branch Watershed Project, Bacon County, Ga., June 29: Proposed is a project for watershed protection, flood prevention, and agricultural and forestry water management in Bacon County, Georgia. Approximately 7 acres of cropland and 44 acres of forest land will be replaced with project channels. Forest land wildlife habitat on 211 acres will be degraded by clearing rights-of-way. Comments made by: COE, HEW, DOI, DOT, EPA, State and regional agencies. (ELR Order No. 60966.)

Bailey-Cox-Newtson Watershed, Starke County, Ind., June 28: Proposed is the Bailey-Cox-Newtson Project for watershed protection, flood prevention, and drainage. Project plans include channel work and construction of water control structures and one pumping station. Conservation land measures will be installed on 8,250 acres to adequately treat the land for use within its capabilities. Adverse effects include destruction of vegetation on banks and channel bottom. Noise, air, and water pollution will be increased during construction. Comments made by: COE, HEW, DOT, EPA, State, and regional agencies. (ELR Order No. 60951.)

Little River Watershed, Decatur County, Iowa, July 1: Proposed is a project for watershed protection, flood control, municipal and industrial water supply, and fish and wildlife development in Decatur County, Iowa. The project consists of 4,830 acres of land treatment measures; 6 single-purpose flood pre-

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of May 6, 1975, between the Governments of the United States and Pakistan which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] All T.S.U.S.A. Numbers in Category 31 except T.S.U.S.A. Number 366.2740.

vention structures; and 1 multiple-purpose structure for flood prevention, municipal and industrial water supply, fish and wildlife water, and fish and wildlife development. Adverse effects include the permanent inundation of 950 acres, and the displacement of 2 families. Comments made by: USA, DOC, HEW, DOI, DOT, EPA, AHP, State agencies. (ELR Order No. 60976.)

Big Pipe Creek Watershed, Carroll County, Maryland, June 29: Proposed is a watershed protection and flood prevention project located in Carroll County, Maryland. The project will consist of land treatment measures on 26,687 acres and structural measures. One multiple purpose structure with floodwater, municipal water supply, and recreation storage is included. Basic recreation facilities are also included. The project will result in the inundation of 4.3 miles of warm water stream fishery and seasonally flooded woodlands. Project implementation will cause displacement of 10 families and 3 associated farm operations. Comments made by: USA, DOC, DOI, USCG, EPA, State agencies. (ELR Order No. 60960.)

Long Branch Watershed, several counties in Nevada, July 1: The proposed Long Branch Watershed Project consists of land treatment measures, 12 floodwater retarding structures, 12 grade stabilization structures, and one multiple purpose floodwater retarding recreation structure with recreation facilities. Adverse effects include loss of agricultural production on 377 acres, inundation of 26 miles of stream channel, loss of 97 acres of woodland and 219 acres of existing wildlife habitat, and the relocation of one farm family. Comments made by: AHP, USA, DOC, HEW, DOI, DOT, EPA, USDA, State agencies. (ELR Order No. 60977.

Goose Creek Watershed Project, Lincoln County, Wash., June 29: The proposed action consists of a project for watershed protection, flood prevention, and recreation in Lincoln County, Washington. Project plans include conservation land treatment plus a multipurpose flood control and recreation structure, work on 750 feet of channel through the town of Wilbur, and flood control for the town of Creston. Land use will be altered on 465 acres, 10.5 acres of wetland will be eliminated, and displacement of 3 farmsteads and 7 persons will occur. Comments made by: DOI, DOT, EPA, AHP, USA, State and local Agencies. (ELR Order No. 60959.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202–693–6795.

Draft

Savannah River Navigation Project Below Augusta, Georgia and South Carolina, June 28: Proposed is the continued operation and maintenance of the authorized navigation channel 9 feet deep and 90 feet wide extending from the upper end of Savannah Harbor to Augusta, Georgia, including the Savannah Bluff Lock and Dam. Maintenance consists of channel dredging accompanied by snagging, pile dikes, revetments, and river cutoffs as required. Adverse effects include localized temporary increases in turbidity, destruction of benthic organisms, and the possible loss of some fish habitat. (Savannah District.) (ELR Order No. 60955.)

Guam Harbors and Rivers, Flood Control, Guam, June 28: The proposed plan of improvement is a combination of levee and channel improvements with pumping facilities for localized drainage near the Saylor Street river crossing. The plan consists of 1,750 feet of channelization between Saylor Street and Agana Bay, 4,900 feet of levees upstream of Saylor Street, a 360-acre flowage easement within the Agana Swamp, and a pumping plant near the left bank levee at Saylor Street. Adverse effects are related to the structural features of the plan. The replacement of existing riverbed by a lined channel would result in adverse effects to the estuarine habitat near the mouth. (Honolulu District.) (ELR Order No. 60948.)

Muskingum River Basin Flood Control System, Holmes and Richland Counties, Ohio, June 28: Proposed is the continuation of the present operation and management of the Muskingum River Flood Control System of 16 lakes and two local flood protection levees located on the Muskingum River and its tributaries, Ohio. The original 14 lakes were constructed in the 1930's, with the two remaining lakes completed in 1960 and 1971. The two levee projects were completed in 1951 and 1960. Continued operation and management of the system will have minimal adverse effects of the hydraulic behavior of the present river system. (Huntington District.) (ELR Order No. 60946.)

Bull Run Local Flood Protection, Lycoming County, Pa., July 2: The proposed project provides for the utilization of the proposed Williamsport Beltway highway to double as a levee for flood protection in Loyalsock Township, Pennsylvania. The subject project will provide commercial, industrial, and residential development subject to flooding during high waters and directly affected by flooding during the 1972 flood. Adverse effects include soil erosion and sedimentation. (Baltimore District.) (ELR Order No. 60981.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of Assistant Administrator, E–201, ERDA, Washington, D.C. 20545, 301–973–4241.

Draft

Idaho National Engineering Lab, Waste Management, Idaho, June 28: This statement presents a summary description of the waste management operation at the Idaho National Engineering Laboratory, (INEL) and proposes the continuance of these operations. Described in the statement are (1) a description of the separate operational and support areas; (2) information related to each waste system; (3) an analysis of the impact upon the environment from the radiological and non-radiological releases; and (4) the alternatives available to the ongoing INEL waste management program. Approximately 210 acres of desert land are committed to waste storage activities. Only minor effects to terrestrial or aquatic life have been observed. (ELR Order No. 60954.)

Final

Light Water Breeder Reactor, June 30: The statement concerns the continued development of Light Water Breeder Reactor technology, which has been underway since 1965. An essential part of this development is the operation of the LWBR Core in the Shippingport Atomic Power Station in Beaver County, Pennsylvania to develop and test the technical feasibility of a breeder reactor concept and confirm the workability of its individual systems and components as part of the overall reactor system. Although the plant is designed to contain the release of fission products, the potential for accidental exposure still exists. (5 volumes.) Comments made by: USDA, DOC, HEW, DOI, DOT, EPA, NASA, NRC, NSF, TVA, States, industrial, environmental, other groups, and individuals. (ELR Order No. 60974.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202–343–4161.

Draft

U.S. Courthouse, Madison, Dane County, Wisc., July 1: Proposed is the construction of a U.S. Courthouse in Madison, the County seat of Dane County and state capital of Wisconsin. This proposed building will house the U.S. Courts including the U.S. Attorney and U.S. Marsh l, the Justice Department, and the General Service Administration. The building will contain approximate totals of 59,475 gross square feet and 35,000 occupiable square feet of space and have about 91 employees when fully staffed. Adverse effects are limited to those associated with ordinary activities. (ELR Order No. 60978.)

DEPARTMENT OF HEW

Contact: Mr. Charles Custard, Acting Director, Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Room 3718 HEW-North, Washington, D.C. 20202, 202–963–4456.

Final

National Institutes of Health, Bethesda, Revised Master Plan, Montgomery County, Md., July 2: Proposed is the full expansion of biomedical programs and support activities at the National Institutes of Health, Bethesda Reservation. Program expansion will require construction of new facilities and an increase in the Reservation work force which will create change in the surrounding community and region. This plan recommends a maximum expansion of the work force by 41 percent to 15,000 and the net addition of 32 percent to floor area. Relatively minor changes in all environmental systems, natural, human, and technological, are anticipated. Comments made by: AHP, USDA, EPA, NCPC, State and local agencies. (ELR Order No. 60982.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, SW., Washington, D.C. 20410, 202–755–6308.

Section 104(h)

Final

Santa Barbara East Side Storm Drain and Rehabilitation, Santa Barbara County, Calif., June 29: The city of Santa Barbara is presently applying for HUD Block Grant funding. If granted, these funds will be used for three major "projects" which are as follows: East side storm drain project, interior and exterior rehabilitation of existing dwellings, and preparation of architectural plans for restoration of a portion of the Santa Barbara Presidio. All three of these projects are located within the five census tracts containing a large majority of low-income households in the city. Comments made by: EPA, State groups and individuals. (ELR Order No. 60963.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

NATIONAL PARK SERVICE

Final

Glacier National Park Master Plan, Montana, June 29: The statement refers to a proposed master plan for the Glacier National Park. The plan is intended to set programs to maintain the present serene wilderness and semi-wilderness nature of the Park, while providing an outstanding experience for both the general vacationer and the wilderness enthusiast. Adverse effects will be from visitor use impact. Comments made by:

USDA, DOI, DOT, EPA, FPC, AHP, IBC. (ELR Order No. 60958.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard Chais, Supervisory Attorney Advisor for the Environmental Staff, Room 2370, 12th St. and Constitution Ave., NW, 202-343-2086.

Final

Mascony Transport and Ferry Service, Inc., New York and Connecticut, June 28: Mascony Transport and Ferry Service, Inc., seeks authority to operate as a common carrier by water, in self-propelled vessels, transporting passengers and automobiles with passengers, tractors, trailers and trucks, loaded and empty, between the ports of New London, Connecticut, and Greenport, Long Island, New York. Accomplishment of this action will result in adding a substantial volume of traffic to the streets in downtown Greenport during times when traffic levels already exceed design level capacity. Comments made by EPA, DOI, USCG, State and local agencies and transport companies. (ELR Order No. 60975.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rersche, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Final

Sterling Power Project Unit 1, Cayuga County, N.Y., June 28: Proposed is the construction of the Sterling Power Project Unit 1 located in Cayuga County, New York. The plant will employ a pressurized-water reactor to produce a warranted output of 3425 MWt. A steam turbine generator will use this heat to provide 1150 MWe (net) of electrical power capacity. The exhaust steam, will be cooled by a once-through flow of water obtained from and discharged to Lake Ontario. Project implementation will require a total of about 2600 acres, and the displacement of 80 permanent and 70 summer residences. Comments made by: AHP, USDA, COE, DOC, FPC, HUD, EPA, ERDA, DOI, State and local agencies. (ELR Order No. 60945.)

Supplement

Barnwell Nuclear Fuel Plant (S-1), Barnwell County, S.C., June 29: The proposed actions are continuation of construction permit CPCSF-4 for the Separations Facility at the Barnwell Nuclear Fuel Plant and issuance of an operating license to that facility. The BNFP will process spent fuel from light water reactors to recover unused uranium and plutonium and to segregate radioactive wastes for their ultimate disposal. The plant will require 80 acres on the 1706 acre site. Cooling water drawn from the Tuscaloosa aquifer will be discharged to Lower Three Runs Creek containing small amounts of chemicals from the BNFP. (ELR Order No. 60962.)

Skagit Nuclear Power Project, Units 1,2 (S-1), Skagit County, Wash., July 2: This statement is a supplement to a final EIS filed with CEQ June 4, 1975. The proposed action is the issuance of construction permits to the Puget Sound Power and Light Co., Pacific Power and Light Co., Washington Water Power Co., and the Portland General Electric Co. for the construction of Skagit Nuclear Power Project Units 1 and 2. Each unit will employ a boiling-water nuclear reactor with a maximum expected thermal power level of 4100 MWt. At the 3800 MWt level initially to be licensed, the net electrical capacity of each unit will be 1288 MWe. Approximately 1750 acres of forested and agricultural land will be removed from harvesting. (ELR Order No. 60980.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Interstate 10, 91st Ave. to Junction Interstate 10, Maricopa County, Ariz., June 29: Proposed is the construction of a 25 mile segment of I-10 and the consideration of operational uses of the existing I-10 right-of-way corridor in Phoenix. Seven alternatives are considered. The construction would require up to 1,099 acres of land and the displacement of 880 housing units and 80 businesses. Several alternatives could affect historic or archaeological sites, parks, recreation, and publicly owned open spaces. Noise levels will increase. (ELR Order No. 60961.)

Chinden-Broadway Corridor, Boise, Ada County, Idaho, June 29: The proposed highway improvement involves construction of a new arterial facility running parallel and south of U.S. Highway 30 from Chinden Boulevard on the west to Broadway Avenue on the east. The primary purpose of the proposed improvement is to provide supplemental capacity for local use of U.S. 30 along the 2.8 mile project length. Change in land use along the route depends upon alternative chosen. (Region 10.) (ELR Order No. 60967.)

Carbondale Railroad Relocation Demonstration, Jackson County, Ill., June 28: The City of Carbondale, Illinois has been selected as a Railroad Demonstration site by the U.S. Congress in the Federal Aid Highway Act of 1973. This statement compares the effects and environmental impacts of various actions designed to alleviate the problems associated with railroad-highway conflicts in Carbondale. The actions investigated include railroad relocations, grade separations, signal and warning service improvements, and no action. Adverse effects include those associated with construction. (Region 5.) (ELR Order No. 60952.)

Eldorado St. (U.S. 36) and Jasper Intersection, Macon County, Ill., July 2: The proposed action consists of participation with Federal funds in the reconstruction of the intersection of Eldorado Street (U.S. Route 36) and Jasper Street in the City of Decatur, Illinois. Adverse effects include the relocation of three to four businesses and one to three households. Right-of-way acquisition varies subject to the alternate chosen. (Region 5). (ELR Order No. 60979.)

U.S. 54 Improvements Wichita, Sedgwick County, Kans., June 29: Proposed is the improvement of 4.1 miles of existing U.S. 54 highway to freeway standards, from Hoover Road to Topeka Avenue, all in the City of Wichita. The improvement of U.S. 54 will consist of right-of-way acquisition with full control of access, grading, surfacing, bridges, fencing, lighting, signalization, and landscaping. Adverse effects include the removal of 64 homes and approximately 22 businesses. Approximately 50 acres of land will be taken from private use for highway right-of-way. (Region 7). (ELR Order No. 60956.)

Inner Loop, U.S. 54 to Interstate 35W, Wichita, Sedgwick County, Kans., June 29: Proposed is the construction of a freeway with termini at U.S. 54 in the vicinity of Seneca Avenue and at Ninth Street at I-35W in the City of Wichita, Kansas. The project would provide a combination 4 to 6 lane, full control access facility with a design speed of 55 mph. Adverse effects include the acquisition of 87 to 98 acres for right-of-way. From 381 to 540 dwelling units and from 69 to 76 businesses will be relocated. (Region 7). (ELR Order No. 60957.)

Interstate 35E, South Junction Interstate 35 to Junction T.H. 110, Dakota County, Minn., June 28: Proposed is the building of 13 miles of a four to six lane freeway, designated I-35E, on new alignment through northwestern Dakota County, Minnesota. The proposed action would begin at its interchange with I-35 in Burnsville, pass through the cities of Apple Valley and Eagan, and terminate near its interchange with T.H. 110 in Mendota Heights. Adverse effects include the displacement of 20 to 25 existing homes and 250 to 270 acres of farm land. (Region 5). (ELR Order No. 60930.)

Abbott Drive, Omaha, Iowa and Nebraska, June 30: The statement concerns the improvement of a 1.3 mile segment of Abbott Drive from a point approximately 1,000 feet north of the North abutment of the viaduct over the Union Pacific Railroad yards to Avenue "G" (Nebraska-Iowa Line) in Omaha, Nebraska and Carter Lake, Iowa. The improvement will provide two additional lanes, a raised median, and left turn lanes. The project will require the acquisition of 6.4 acres of right-of-way and the removal of 185 trees. (ELR Order No. 60972.)

State Route 5 Southeasterly to State Route 82, Warren Bypass, Trumbull County Ohio, June 28: The proposed action will consist of the construction of the final section of the northern loop of the Warren circumferential bypass. This 2.77 mile extension of the Warren Outerbelt will be a four lane limited access freeway facility with a right-of-way width of 250 to 300 feet. Adverse effects of construction include the splitting of the associated field and young forest habitats from the stream and wetland habitats. (Region 5). ELR Order No. 60947.)

Coast Highway (U.S. 101), South Unit, Clatsop County Oreg., June 30: Proposed is the construction of a modern, limited-controlled access highway on the South Unit, Astoria-Camp Rilea Section, Oregon Coast Highway (U.S. 101). Three alternatives are being considered with project length varying from 2.8 to 3.2 miles. Subject to the alternate chosen, between 5 and 7 families will be displaced. (Region 10). (ELR Order No. 60970.)

Final

U.S. 30, Caldwell-Nampa Boulevard, Canyon County Idaho, June 28: The proposed project is an improvement of U.S. Highway 30 between the cities of Caldwell and Nampa, known locally as Caldwell/Nampa Boulevard. The study area runs 5.7 miles from Wilson Drain to Phyllis Canal. Adverse effects include disruption of traffic circulation an increased noise, air, and water pollution, all direct results of construction. Right-of-way acquisition will total 14.88 acres. Comments made by: EPA, USDA, DOI, State and local agencies. (ELR Order No. 60949.)

Interstate 495 and Relocated State Route 140, Massachusetts, June 30: The proposed improvement is an extension of Massachusetts S.R. 25 westward from an interchange with S.R. 24 in Bridgewater to Route I-95 in the Foxborough/Mansfield area. The 6-lane highway, designated I-495, runs for 14.3 miles and includes 6 interchanges. Also proposed is the relocation of Route 140 from its interchange with Route I-95 in Foxborough to an interchange with proposed Route 25, south of Mansfield's town center. Alternative A (first of 2) would displace 58 residences and 2 businesses and would commit 4.0% of the total Great Woods area to highway use. Comments made by: DOI, HEW, HUD, USDA, EPA, GSA, TREA, USCG. (ELR Order No. 60973.)

Interstate 25, Sandoval and Santa Fe Counties, N.M., June 29: The statement describes six continuous highway reconstruction proposals beginning south of Algodines and ex-

tending 21.5 miles to a point 0.4 miles north of the top of La Bajada Hills. Adverse impacts include the temporary effects of construction disruption, and the taking of 876 acres for right-of-way, including some Indian reservation lands. Comments made by: EPA, HEW, USDA, COE, DOI, State agencies and local groups. (ELR Order No. 60964.)

Supplement

Dahlonega Connector (State Route 400 Extension) (S-1), Forsyth, Dawson, and Lumpkin Counties Ga., June 28: The statement concerns Georgia Projects APD-056-1(7) and APD-056-2(1), Forsyth-Dawson-Lumpkin Counties which are concurrent project proposed to be the extension on new location of S.R. 400. This project will extend from S.R. 306 in Forsyth County 19 miles northeasterly to S.R. 60 in Lumpkin County about 3 miles south of Dahlonega, Georgia. This route will consist of four lanes on about 300 feet of right-of-way. Adverse effects include the displacement of 17 residences. (Region 4). (ELR Order No. 60953.)

U.S. POSTAL SERVICE

Contact: Emerson Smith, Director, Office of Buildings Analysis and Design, Real Estate and Buildings Department, U.S. Postal Service, Washington, D.C. 20260, 202-245-4242.

Draft

South Cicero Ave. Post Office Relocation, Chicago, Cook County Ill., June 30: Proposed is the relocation of the postal processing operation of the South Suburban Facility, presently located in leased facilities at 7401 South Cicero Avenue in Chicago, to a 39.28 acre site at 7500 Roosevelt Road in Forest Park. Adverse impacts include additional runoff as a result of increased paved surface, increased traffic in the area, and the potential for racial conflict as a result of the relocation of minority facilities to new residences in the western suburbs of Chicago. (ELR Order No. 60969.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-19913 Filed 7-8-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 576-3]

REGULATION OF FUEL AND FUEL ADDITIVES

Lifting of Suspension of Enforcement of Regulation Additives in Gasoline

On December 6, 1973, the Environmental Protection Agency published regulations requiring a reduction in the amount of lead additives in gasoline. Under the regulations, the initial reduction level was to become effective beginning January 1, 1975. On December 20, 1974, the U.S. Court of Appeals for the District of Columbia set aside the regulations. For this reason, enforcement of the promulgated regulations was suspended by EPA. Notice of the suspension was published on February 20, 1975.

On March 17, 1975, the Court granted the Agency's petition for rehearing of the case en banc, and at the same time, vacated the prior judgment and opinions. The Court's decision to vacate the prior judgment served to reinstate the regulations. Nevertheless, because of the uncertainties raised by the litigation, EPA decided to suspend enforcement of the regulations until after a final decision by the Court following rehearing. On March 19, 1976, the Court issued its judgment upholding the regulations.

Subsequently, a petition for certiorari was filed with the U.S. Supreme Court. Due to the uncertainty of this appeal, EPA continued the suspension of enforcement of the promulgated lead reduction schedule. Notice of the continued suspension was published on April 1, 1976. The quarterly lead usage reporting requirement which the regulations impose on refiners and lead additive manufacturers was brought into effect under this notice. Although no particular lead level was required, reports for the April-June quarter must be submitted by July 15, 1976.

On June 14, 1976, the U.S. Supreme Court denied the petition for certiorari.

ENFORCEMENT OF LEAD REDUCTION SCHEDULE

Information available to the Agency indicates that the lead levels for all gasoline is in the range of 1.4 to 1.9 g/gal. Because of the extraordinary demand for gasoline (unleaded and leaded) currently being experienced, it appears that diversion of high octane blending components for unleaded gasoline will result in an increasing lead content in regular and premium grades. With the possibility that immediate resumption of enforcement of the lead schedule will cause gasoline shortages this summer, I am, by this notice, resuming enforcement of the 1.4 g/gal requirement on October 1, 1976. Refiners covered by this schedule will be required to meet the 1.4 gram per gallon average lead level for the October through December quarter. The Agency intends to enforce average lead levels for subsequent calendar quarters in accordance with the promulgated schedule, unless information provided in response to this notice demonstrates conclusively that compliance with that schedule would be technologically infeasible or would result in unreasonable economic impacts.

REPORTING UNDER 40 CFR 80.20(a)(3) AND 80.25

The first quarterly reports under these regulations were required to be submitted by July 15, 1976, for the April through June quarter. Reports for the July through September quarter and subsequent calendar quarters must be submitted within 15 days from the last day of the quarter in accordance with the promulgated reporting requirements.

ADDITIONAL INFORMATION

Because of the uncertainties caused by the legal challenge to the lead phase-down rule and the changes in the nation's crude and gasoline supply situation, it is not entirely clear that the impact of the time schedule contained in these regulations will be the same as anticipated when these rules were first promulgated. This may be especially true in the case of small refiners.

For this reason, I am hereby providing opportunity for the industry and all other interested persons to submit for Agency consideration prior to July 31, 1976, any information, data, or arguments concerning the enforcement of the phase-down schedule set forth in the Regulations. For the industry, this information must contain:

(1) A recent (1-3 years) history of lead levels, octane numbers, and relative volumes for each grade of motor gasoline manufactured at each refinery, including seasonal effects on the foregoing.

(2) A recent (1-3 years) history by refinery of purchases, sales, exchanges, and intra-company transfers at each refinery of gasoline components (report volumes on the same basis as (1) above).

(3) A recent history of the disposition of gasoline boiling range materials to products other than motor gasoline, e.g., aviation gasoline, aromatics. (Report volumes on the same basis as (1) above).

(4) For each reformer in each refinery, curves of historical and projected annual octane-volumes versus reformer severity (reformate octane number). The projected curve should reflect the use of the most effective catalyst that could be used in each reformer without major revisions. The volume units used here should be the same as used in (1) above. Also indicate severities planned for the period July 1, 1976, through December 31, 1977.

(5) Provide information about the effects of known future petrochemical operations, e.g., more aromatics sales, receipts of pyrolysis gasoline.

(6) Information regarding octane improving facilities under construction or about to start construction—start-up date, size, octane improving capability (on net basis if existing smaller units are to be retired), and other relevant information.

(7) Information about octane improving facilities planned, foreseen, or under study—start-up date, size, octane improving capability (on net basis if existing smaller units are to be retired). Indicate start-up date which would have been or will be needed to conform to EPA's lead phase-down schedule (40 CFR 80.20). If this date cannot be met, explain why.

(8) For each refinery, a forecast through 1980 of clear and as-shipped octanes and relative volumes for each grade of motor gasoline manufactured, including unleaded. During the period July 1, 1976, through December 31, 1977, to what extent, if any, would unleaded gasoline manufacture need to be curtailed to enable compliance with the lead phase-down schedule.

(9) Other relevant gasoline blending information, e.g., octane blending anomalies, known future crude oil quality changes and/or gas liquids availability.

The information listed above will be specifically required before the Agency will consider any submissions requesting relief from the promulgated phase-down schedule. Information obtained will be treated insofar as its confidentiality is

concerned, in accordance with provisions of 40 CFR Part 2. Submissions should be mailed to the Director, Mobile Source Enforcement Division (EN–340), E.P.A., 401 M Street, SW., Washington, D.C. 20460.

Dated: July 2, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

[FR Doc.76–19787 Filed 7–8–76;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and Section 311 (p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01011---	Aktieselskabet det Oatasiatiske Kompagni: *Busuanga.*
01017---	Westfal-Larsen & Co. A/S: *Haukanger.*
01088---	Schulte & Bruns, Ringstrasse 2: *Susanne Schutte.*
01123---	Hemisphere Transportation Corp.: *Maryland Getty.*
01150---	Chevron Transport Corp.: *Chevron Transporter.*
01230---	Skibs A/S Oil Tank: *Bellami.*
01321---	Compagnia Italiana Transoceanica: *Transoceanica Giovanna.*
01323---	Manchester Liners Ltd.: *Fortuna, Asian Reward, Asian Renown, Manchester Quest.*
01330---	Shell Tankers (U.K.) Ltd.: *Melania, Mysella.*
01449---	The Cairn Line of Steamships Ltd: *Cairntraders, Cairnranger.*
01786---	Ilissus Marine Corp.: *Leonidas Voyazides.*
01841---	Chas. Kurz & Co. Inc.: *Fort Fetterman.*
01854---	Southern Towing Co.: *STC–2003.*
01920---	Messrs. Svend Foyn Brunn: *Pepe.*
01935---	Partnership Between Steamship Company Svendborg Ltd., and Steamship Company of 1912 Ltd.: *Magleby Maersk.*
02041---	Dalmor Pzedsiebiorstwo Polowow Dalekomorskich I Uslug Tybackich: *Tunek.*
02175---	Okeania S.A.: *Australis.*
02199---	Atlantic Richfield Co.: *Atlantic Prestige, Gary.*
02236---	H. V. Compania Naviera S.A. Panama: *Nicolaos Kontaras.*
02242---	Dal Deutsche Afrika-Linien G.m.b.H. & Co.: *Woermann Sankuru.*
02253---	Aktieselskabet Ocean: *Dagrun.*
02475---	Houston Barge Line, Inc.: *Hasco 1600, GWG 104.*
02508---	Montezuma Compania Armadora S.A.: *Theomitor III.*
02583---	Pacific Inland Navigation Co. Inc.: *Barge 536, 552, 550, 538, 535, 507, 506, Western Marketer.*
02721---	Healy Tibbitts Construction Co.: *HT–5.*
02727---	Societe Maritime Des Petroles BP: *Cheverny.*
02982---	The Shipping Corp. of India, Ltd.: *Sankara, Gandhi.*
03087---	Atlantic Far East Lines Inc.: *Oriental Banker.*
03276---	Universe Tankships, Inc.: *Ore Transport*
03300---	Construction Aggegates Corp.: *Chimera.*
03329---	Hudson Waterways Corp.: *Transpanama.*
03447---	K.K. Kyokuyo: *Kyo Maru No. 1, Kyo Maru No. 10, Kyokuyo Maru No. 3, Kyo Maru No. 11, Kyo Maru No. 27.*
03467---	Nichiro Gyogyo K.K.: *Seisho Maru No. 10.*
03505---	Showa Yusen K.K.: *Gloria Maru.*
03627---	Igert (A Corp.): *Roman, Maggie Mary.*
03636---	Smith-Rice Co.: *Scow 2, Scow 1.*
03690---	The Harbor Tug and Barge Co.: *H–26, H–25, H–24.*
03866---	M. Smits: *Dita Smits.*
03971---	Korea Shipping Corp.: *Young Il.*
04098---	Houghland Barge Line, Inc.: *Frances M. Hougland, Jackson Purchase, Jayne Hougland, Jim Hougland, Walter G. Hougland, RWH–43, JGH–33, Pennyrile, WGH–21, WGH–10, WGH–47.*
04275---	Intercounty Construction Corp.: *Steel Barge 211.*
04280---	Berwind Lines Inc.: *Manati.*
04281---	Puerto Rico Lighterage Company: *Luquillo, St. Croix.*
04424---	International Navigation Corp.: *White River.*
04488---	Fukuju Kigyo Kabushiki Kaisha: *Fukuyoshi Maru.*
04640---	McAllister Lighterage Line, Inc.: *Steel Deep Boat No. 285, Steel Deck Barge SSC 1.*
04811---	Golarfreeze, Inc.: *Golar Freeze.*
04812---	Golarfrost, Inc.: *Golar Frost.*
05089---	H. F. Eimskipafelag Islands: *Laxfoss.*
05271---	Compania Chilena de Navegacion Interoceanica: *Allipen.*
05328---	Carlyle Shipping Co. S.A.: *Lydda.*
05437---	Dow Chemical Co.: *FT–22, FT–20.*
05547---	Compania Pyrgos de Navegacion S.A.: *Stolt Fuji.*
05645---	National Sea Products, Inc.: *Surge, Tide.*
05918---	CIA General de Pesquerias y Frigorificos, S.A.: *Rio Ason.*
06435---	Dampskibsaktieselskabet Den Norse Afrika-OG Australielinie, Wilhelmsens Dampskibsaktieselskab A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI: *Taurus, Tugela, Turandot.*
06578---	Van Nievelt, Goudriaan & Co. BV: *Subra.*
06875---	Jackes Shipping Ltd.: *Canadian Hunter, Canadian Mariner, Canadian Leader.*
07016---	Riverland Barge Company Inc.: *MV 254.*
07019---	Allied Shipping International Corp.: *Golden Eagle.*
07292---	Hinode Kisen Co., Ltd.: *Hinode Maru No. 25.*
07374---	Ocean Tramping Company Ltd.: *Sinyeh, Baiyen.*
07650---	Southwestern Liquid Carriers S.A.: *Moises.*
07711---	AB Vasa Shipping OY: *Frances.*
07811---	Campbell Industries and San Diego Marine Construction Corp.: *Victoria.*
07915---	Sherman Shipping Corp.: *Sherman.*
07943---	Skips A/S Solhav & Co.: *Solek.*
08066---	Joarev Shipping Co.: *Dekesan.*
08071---	Anglo Nordic Bulkships (Management) Ltd.: *Nordic Runner.*
08090---	Senatobia Compania de Navegacion: *Lady Rita.*
08176---	Esso Italiana SPA: *Esso Venezia, Esso Roma.*
08222---	Rail & Water Terminal (Quebec) Inc.: *Aigle D'Ocean, Guard Mavoline.*
08576---	Cretanor Maritime Company Ltd.: *Cretan Harmony.*
08960---	Midigirl Shipping Corp. of Monrovia: *Midigirl.*
09033---	Mopas A/S: *Go-Nega.*
09137---	Arne Teigens Rederei A/S: *Ryttersund.*
09294---	Anaqua Corp. of Panama: *Anaqua.*
09390---	Seacoast Products, Inc.: *Fat-Chance.*
09392---	Bay Rock Vessels, Inc.: *Barge S716.*
09520---	Pedro A. Villalon: *Bernice M.*
09650---	Ogden Platte Transport, Inc.: *Platte.*
10148---	Mano-Maritime & Co.: *Carmela.*
10241---	Petrola Engineering International S.A.: *Petrola XXIX.*
10250---	Discovery Cruises K/S by Discovery Cruises A/S *World Discoverer.*
10370---	Liberian Wisteria Transports, Inc.: *World Ambassador.*
10487---	Swire Northern Offshore Corp.: *Pacific Explorer.*
11065---	C & M Shipping Co., S.A.: *Rio Challenger.*
11092---	Wan Tun Maritime Co., S.A.: *Benetnash.*
11235---	TTT Shipping Services, Inc.: *El Taino.*

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–19892 Filed 7–8–76;8:45 am]

FEDERAL POWER COMMISSION

SUPPLY-TECHNICAL ADVISORY TASK FORCE-REGULATORY ASPECTS OF SUBSTITUTE GAS (DRAFTING COMMITTEE)

Meeting

Conference Room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426; July 27, 1976, 9 a.m. Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, National Gas Survey.

1. Call to Order—Mr. William J. McCabe.
2. Introductory Remarks—Mr. Earl V. Fisher, Texas Eastern Transmission Corporation, Houston, Texas.
3. Draft Review of Report to Task Force—Mr. Earl V. Fisher.
4. Other Business.
5. Adjournment—Mr. William J. McCabe.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–20096 Filed 7–8–76;9:33 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 25]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending June 19, 1976

ACTIONS OF THE BOARD

Regulation D and Q amendments, intended to provide greater flexibility to banks in adding to their capital structure, amendments will become effective July 26, 1976.

The Board has issued an interpretation regarding the ability of a member bank to include certain automated payments in the account "cash items in process of collection".

Standby letters of credit, letter to Chairman Proxmire, Senate Committee on Banking, Housing and Urban Affairs, in response to request for material regarding standby letters of credit and related instruments issued by commercial banks.

Reserves, the Board has considered the question of *de novo* member banks and has determined that it is appropriate to extend transitional relief in the form of waiver of penalties for reserve requirement deficiencies to such banks, based on a declining percentage of total required reserves over a 24-month period in accordance with the specified schedule.

Report on bill H.R. 13955, letter to Chairman Rees, Subcommittee on International Trade, Investment, and Monetary Policy, in response to request for Board's comments on an amendment which may be proposed to H.R. 13955.

Trans Texas Bancorporation, Inc., El Paso, Texas, extension of time to November 1, 1976, within which to acquire Chamizal National Bank, El Paso, Texas, and to open the bank for business.[1]

Arkansas Bank & Trust Company, Hot Springs, Arkansas, to make an additional investment in bank premises.[1]

Fifth Third Bank, Cincinnati, Ohio, extension of time to January 8, 1977, within which to establish a branch at Hamilton and Goodman Avenues, North College Hill, Ohio.[1]

Chase Manhattan Overseas Banking Corporation, New York, New York, extension of time within which to complete its additional investment in Chase and Bank of Ireland (International) Ltd., Dublin, Ireland.[1]

Chase Manhattan Bank, N.A., New York, New York, extension of time within which to acquire additional shares of Banco del Comercio, Bogota, Colombia.[1]

First National Bank of Coalport, Coalport, Pennsylvania, proposed merger with United States National Bank in Johnstown, Johnstown, Pennsylvania; report to the Comptroller of the Currency on competitive factors.[1]

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.

Genesee Federal Savings and Loan Association, Town of Irondequoit, New York, proposed merger with The New York Bank for Savings, New York, New York; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Guaranty Bank, Canby, Oregon, proposed merger with Bank of Oregon, Woodburn, Oregon; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

State Savings Bank of Fenton, Fenton, Michigan, extension of time to July 21, 1976, within which to withdraw from membership in Federal Reserve System.

TO ESTABLISH A DOMESTIC BRANCH PURSUANT TO SECTION 9 OF THE FEDERAL RESERVE ACT

Approved

Manufacturers and Traders Trust Company, Buffalo, New York. Branch to be established at 2400 Seneca Street, West Seneca.[2]

European-American Bank and Trust Company, New York, New York. Branch to be established at 61–49 188th Street, Fresh Meadows, Borough of Queens.[2]

The Onsted State Bank, Onsted, Michigan. Branch to be established out-of-town at 202 Hyde Road, unincorporated village of Clark Lake, Columbia Township, Jackson County.[2]

Harbor Springs State Bank, Harbor Springs, Michigan. Branch to be established at the northeast corner of the intersection of Pleasantview Road and M–131, Little Traverse Township, Emmet County.[2]

* * * * *

INTERNATIONAL INVESTMENT 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

Citibank, National Association, New York, New York: to continue to hold the shares of Far East Bank Limited, Hong Kong, now that the latter holds all the shares of a nominee company, Far East Bank Nominees Limited, Hong Kong, without the requisite prior consent of the Board of Governors.

* * * * *

TO FORM A BANK HOLDING COMPANY PURSUANT TO SECTION 3(A)(1) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Fiduciary Investment Company of New Jersey, Newark, New Jersey, for approval to acquire 50.2 percent or more of the voting shares of Security National Bank of New Jersey, Newark, New Jersey.

Mountain Grove Bancshares, Inc., Mountain Grove, Missouri, for approval to acquire 90.83 per cent of the voting shares of Mountain Grove National Bank, Mountain Grove, Missouri.[2]

Tioga Bank Holding Company, Tioga, North Dakota, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The Bank of Tioga, Tioga, North Dakota.

El Dorado Bancshares, Inc., Prairie Village, Kansas, for approval to acquire 98 per cent or more of the voting shares of Citizens State Bank of El Dorado, El Dorado, Kansas.

Denied

Nebraska Banco, Inc., Ord, Nebraska, for approval to acquire 100 per cent of the voting shares of Nebraska State Bank, Ord, Nebraska. The section 4(c)(8) application for permission to acquire all of the assets of Pierce Agency, Inc., Ord, Nebraska, hereby becomes moot.

Withdrawn

Pioneer Bancorp, Inc., Northbrook, Illinois, for approval to acquire 99.7 per cent of the voting shares of Pioneer Bank & Trust Company, Chicago, Illinois.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(3) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Florida Bankshares, Inc., Hollywood, Florida, for approval to acquire 23.8 per cent of the voting shares of First National Bank of Sebring, Sebring, Florida.

American Affiliates, Inc., South Bend, Indiana, for approval to retain 3.83 percent of the voting shares of American National Bank and Trust Company of South Bend, South Bend, Indiana, and to acquire an additional 3.74 per cent of the voting shares of Bank.

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(c)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

Delayed

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 (6/18/76)[3]

Permitted

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance; if this proposal is effected, Nationwide Financial Corporation of California will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrower's disability; and individual physical damage insurance on personal property subject to security agreements (including liability only when such insurance is sold as part of an insurance package on such property); further, in regard to the sale of credit related insurance, Nationwide Financial Corporation of California will not offer insurance counseling) from 934 S. Euclid Avenue, Anaheim, California to 1022 North Tustin Avenue, Orange, California, through its subsidiary, Nationwide Financial Corporation of California (6/17/76)[3]

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a mortgage company; acting as insurance agency in connection with credit life and disability insurance and mortgage redemption insurance which is directly related to the extension of credit or provision of other financial services by Carruth Mortgage Corporation) at 10001 Lake Forest Boulevard, New Orleans, Louisiana, through its wholly-owned subsidiary, Carruth Mortgage Corporation (6/17/76)[3]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, and/or mortgage redemption insurance which insurance is directly related to an extension of credit by Mellon National Corporation, its subsidiaries, or affiliates; specifically such insurance will be associated with extensions of credit made by the various branch offices of Mellon Bank, N.A., at Mellon Bank Building, Mellon Square, Pittsburgh, Pennsylvania) at 6400 Steubenville Pike, Robinson Township, McKees Rocks, Pennsylvania, through a wholly-owned subsidiary, Laurel Insurance Agency, Inc. (6/18/76) [3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to relocate *de novo* activities (mortgage banking, including the making, acquiring, and servicing for its own account or the accounts of others, loans and other extensions of credit) from 4300 Stevens Creek Boulevard, Suite 275, San Jose, California to The Sherman Building, Suite 10, 3031 Tisch Way, San Jose, California, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (6/13/76) [3]

Washington Bancshares, Inc., Spokane, Washington, notification of intent to engage in activities (making or acquiring, for its own account or for the account of others, loans or other extensions of credit secured by real estate mortgages or deeds of trust and the servicing of such loans, and such other activities as are incidental to the operations of a mortgage company including, but not limited to; acting as agent or broker for the sale of mortgage redemption life and disability insurance and casualty insurance to be issued in connection with making or acquiring such loans and servicing as an escrow or closing agent in connection with the closing of real estate transactions financed by it) at One Lake Bellevue, Bellevue, Washington, through its subsidiary, Bancshares Mortgage Company, substantially all of the assets of Bankwest Mortgage Company (6/17/76) [3]

APPLICATIONS RECEIVED

TO ESTABLISH AN OVERSEAS BRANCH OF A MEMBER BANK PURSUANT TO SECTION 25 OF THE FEDERAL RESERVE ACT

Bank of America, National Trust and Savings Association, San Francisco, California: branch—Island of Jersey in the Channel Islands:

* * * * *

TO FORM A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(1) OF THE BANK HOLDING COMPANY ACT OF 1956

The Berlin City Bank, Berlin, New Hampshire, for approval to retain 50.33 per cent of the voting shares of The White Mountain Trust Comany, Goreham, New Hampshire.

Banco de Santander, Santander, Spain, for approval to acquire through the direct acquisition of voting shares of First National Bank of Puerto Rico, San Juan (P.O. Hato Rey), Puerto Rico.

Community Bancshares, Inc., Forest Green, Missouri, for approval to acquire 80 per cent or more of the voting shares of The Merchants and Farmers Bank of Salisbury, Salisbury, Missouri, formerly The Farmers Bank of Forest Green, Forest Green, Missouri.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(c)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

Schroders Incorporated, New York, New York, notification of intent to engage in *de novo* activities (acting as investment and financial adviser to persons with respect to their investments in oil and gas interests and assisting in the financing of such investments) in Houston, Texas, through a subsidiary, Oil Financing & Investment Company, Inc. (5/7/76) [3]

Union Commerce Corporation, Cleveland, Ohio, notification of intent to engage in *de novo* activities (leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will be to compensate the lessor for not less than the lessor's full investment in the property; making or acquiring, for its own account or the account of others, loans and other extensions of credit primarily to finance the acquisition of personal property and equipment; such loans would include, but not be limited to, the financing of time sales contracts, conditional sales agreements, installment purchase loans, and secured term loans) at 6065 Rosewell Road, N.E., Suite 304, Atlanta, Georgia, through its wholly-owned subsidiary, Union Commerce Leasing Corporation, Cleveland, Ohio (6/18/76) [3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in *de novo* activities (making secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of Maryland which property is subject to the lien of one or more prior encumbrances or other leasehold interest; and acting as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extensions of credit) at Fallston Building, Room 202, 1710A Harford Road, Fallston, Maryland, through its subsidiary, Union Home Loan Corporation (6/14/76) [3]

The Terrebonne Corporation, Houma, Louisiana, notification of intent to engage in *de novo* activities (acting as insurance agent or broker in offices at which The Terrebonne Corporation or its subsidiaries are otherwise engaged in business or in an affice adjacent thereto with respect to the following types of insurance: any insurance for the holding company and its subsidiaries; or any insurance, including life insurance, that is directly related to an extension of credit by Terrebonne Bank & Trust Company, a wholly owned subsidiary corporation of The Terrebonne Corporation; or is directly related to the provision of other financial services by Terrebonne Bank & Trust Company or is otherwise sold as a matter of convenience to the purchaser so long as the premium income from such sales does not constitute a significant portion of the aggregate insurance premium income of the holding company from insurance sold pursuant to this subdivision) at 720 East Main Street, Houma, Louisiana, through a subsidiary, Terre Agency, Inc. (6/14/76) [3]

Jan-Mar Corp., Coleraine, Minnesota, for permission to retain its general insurnace business, d.b.a. First National Agency at Coleraine, Minnesota. (selling of fire, auto, casualty, life, accident and health insurance, and also the selling of all types of surety bonds in a community of less than 5,000)

D. H. Baldwin Company, Cincinnati, Ohio, for approval to acquire the shares of Empire Savings Building and Loan Association and its subsidiaries. (operation of a federally insured savings and loan association; insurance sales which Applicant believes to be permissible under the Board's Regulation Y; and land development)

Community Bancshares, Inc., Forest Green, Missouri, for approval to engage in the sale of credit life and credit accident and health insurance d.b.a. Miller and Associates, Forest Green, Missouri.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(C)(12) OF THE BANK HOLDING COMPANY ACT OF 1956

Sterling Precision Corporation, West Palm Beach, Florida, notification of intent to acquire the outstanding stock of Thorne Automotive Company, Pawtucket, Rhode Island, an automotive replacement parts distributor. (6/14/76) [3]

REPORTS RECEIVED

CURRENT REPORT FILED PURSUANT TO SECTION 13 OF THE SECURITIES EXCHANGE ACT

The Sylvania Savings Bank Company, Sylvania, Ohio.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, June 29, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19808 Filed 7-8-76;8:45 am]

BANCOKLAHOMA CORP.

Order Approving Acquisition of Shares of BancOklahoma Life, Inc.

BancOklahoma Corp., Tulsa, Oklahoma, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (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 shares of BancOklahoma Life, Inc. ("Company"), Tulsa, Oklahoma, a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's lending subsidiaries in the State of Oklahoma. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 14597). 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 section 4(c)(8) of the Act.

Applicant, the fourth largest banking organization in Oklahoma, controls one subsidiary bank, Bank of Oklahoma, N. A., Tulsa, Oklahoma, with deposits of approximately $526.6 million, representing approximately 5.5 percent of the total deposits in commercial banks in the State.[1]

[1] All banking data are as of June 30, 1975.

Initially, Company will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance previously underwritten by an unaffiliated insurance company in connection with extensions of credit by Applicant's subsidiary bank. Since Applicant proposes to engage in this activity de novo, consummation of the transaction would not have any significant adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of credit life underwriting to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a)(10) n. 7)

Applicant has stated that following consummation of the acquisition, Company will offer at reduced permiums the several types of credit insurance policies that it will reinsure. Company will offer decreasing term credit life insurance on installment loans and level term credit life insurance on single payment loans at premium rates 9 percent below the statutory maximum allowable rates in Oklahoma. Applicant also proposes that Company will offer a 6 percent reduction on the premium rate its subsidiary bank charges for credit accident and health insurance. Further, Applicant will increase the maximum credit life insurance coverage per individual for most age groups by fifty percent and increase the maximum term of credit accident and health insurance coverage from 36 to 60 months. Accordingly, the Board finds that Applicant's proposed premium rate reductions and increases in policy coverage are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval 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 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 Kansas City pursuant to authority hereby delegated.

By order of the Board of Governors,[2] effective June 28, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19809 Filed 7-8-76;8:45 am]

BERLIN CITY BANK

Formation of Bank Holding Co.

The Berlin City Bank, Berlin, New Hampshire, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through retention of 50.3 percent of the voting shares of White Mountain Trust Company, Gorham, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. 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 no later than July 29, 1976.

Board of Governors of the Federal Reserve System, June 29, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19810 Filed 7-8-76;8:45 am]

CHARTER CLARENDON BANCORPORATION, INC.

Formation of Bank Holding Co.

Charter Clarendon Bancorporation, Inc., Northfield, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Bank of Clarendon Hills, Clarendon Hills, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. 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 no later than July 30, 1976.

Board of Governors of the Federal Reserve System, June 30, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19811 Filed 7-8-76;8:45 am]

D. H. BALDWIN CO.

Order Approving Joint Venture Participation in FMC-Baldwin Leasing Co.

D. H. Baldwin Company, Cincinnati, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c)(8) of the Act (12 CFR 225.4(b)(2)), to engage in a joint venture through its subsidiary, The Baldwin Company, with FMC Finance Corporation, a subsidiary of FMC Corporation, Chicago, Illinois ("FMC"). The joint venture is to be known as FMC-Baldwin Leasing Company, Chicago, Illinois ("Company"). Company would engage de novo in the activities of leasing personal property on a full payout basis. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)).

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 10453 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments[1] received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls 12 banks with aggregate deposits of approximately $554 million,[2] representing 7.6 percent of the total deposits in commercial banks in Colorado, and is the fifth largest banking organization in the State. Applicant also controls several nonbanking subsidiaries engaged in underwriting life and casualty insurance, operating a savings and loan association,[3] performing com-

[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Jackson, Partee and Lilly. Absent and not voting: Governor Coldwell.

[1] As originally proposed, Applicant declared that, if the subject application were approved, Company would not engage in leasing activities within Colorado. The United States Department of Justice commented on the application stating that this provision appeared to be a territorial allocation arrangement, a form of behavior that the courts have repeatedly condemned as a per se offense under the Sherman Act. Upon being advised of the Justice Department's comments, Applicant amended its application by removing this provision. Accordingly, the Justice Department currently has no objection on antitrust grounds to the proposed transaction.

[2] All banking data are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1976.

[3] Currently pending before the Board is an application by Applicant to retain shares of its subsidiary, Empire Savings, Building and Loan Association, Denver, Colorado (see 41 FR 26276 (1976)).

mercial mortgage and leasing activities, and manufacturing and marketing musical instruments and electronic components.

FMC and its subsidiaries are engaged in the manufacture and sale of many types of industrial equipment, including mining, agricultural, food processing, petroleum, and marine and rail transportation equipment.

Applicant proposes to acquire a 20 percent equity participation in Company,[4] which will engage de novo in the activities of originating full pay-out leveraged leases on personal property.[5] It is anticipated that most, if not all, of such leases will be writen for equipment manufactured by FMC and its subsidiaries. Company will engage in such leasing activities from an office in Chicago, Illinois; however, it appears that the relevant geographic market for these activities is the nation, particularly in that the market for products manufactured by FMC and to be leased by Company is nationwide. Applicant's subsidiary, Baldwin Finance Company, engages in leasing personal property on a full pay-out basis. In addition, Applicant's subsidiary banks originate installment sales contracts relating to personal property, which may serve as substitutes for the types of leases that Company will originate. FMC Finance Corporation also originates installment sales contracts. However, in relation to the $100 billion of estimated total equipment lease obligations outstanding nationwide, the volume of obligations originated by Applicant and FMC in 1975 is not considered substantial. Thus, it does not appear that consummation of the proposal would eliminate a substantial amount of existing competition.

On the other hand, formation of Company would provide an additional and convenient source of financing the acquisition of certain personal property, especially for equipment manufactured by FMC and its subsidiaries. Furthermore, there is no evidence in the record indicating that consummation of the subject proposal would result in any undue concentration of resources, unfair competition, conflicts of interest or any other adverse effects.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to (1) Applicant's commitment to treat Company as a subsidiary; (2) the compliance of Applicant and Company with the conditions set forth in § 225.4(c) of Regulation Y; and (3) 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 Kansas City.

By order of the Board of Governors,[6] effective June 30, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19812 Filed 7-8-76;8:45 am]

[4] Although Applicant is providing a 20 per cent equity participation in Company, it will be a general partner in the management of Company. Applicant has agreed to report Company as its subsidiary for purposes of the Bank Holding Company Act, and to comply with all limitations and prohibitions that are applicable under the Act to such a subsidiary. Accordingly, the Board's approval action herein is based upon Applicant's commitments and is conditioned upon Applicant's compliance therewith.

[5] It is contemplated that funds will be lent to Company, on a nonrecourse basis (i.e., neither Company, nor its equity participants, Applicant and FMC, will be liable for this debt), from unaffiliated financial institutions. A trustee will be designated to receive rentals and to disburse those funds to the equity and debt participants in particular lease trusts.

[6] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

FIRST ARKANSAS BANKSTOCK CORP.

Order for Hearing

First Arkansas Bankstock Corporation ("FABCO"), Little Rock, Arkansas, has filed a petition, dated December 16, 1975, requesting the Board of Governors of the Federal Reserve System to make a determination pursuant to the provisions of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 et seq.), and the Board's Regulation Y (12 CFR 225), that FABCO presently exercises a controlling influence over the management and policies of United Banks of Arkansas, Inc. ("United"), a registered bank holding company; and that through United, FABCO exercises a controlling influence over the management and policies of the First National Bank in Mena ("Bank"), Mena, Arkansas. FABCO further requests that the Board determine that FABCO has continuously exercised a controlling influence over United and Bank since prior to December 31, 1970, the effective date of the 1970 Amendments to the Bank Holding Company Act.

Notice of FABCO's petition was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 827). In that notice the Board invited interested persons to file written comments and/or request a hearing with respect to FABCO's requested determination. Subsequently, written submissions were filed by FABCO and certain other interested parties. FABCO did not request a hearing. Mr. William J. Bowen, on behalf of Commercial National Bank of Little Rock and certain other Arkansas banks, filed a request for an informal hearing. However, Mr. Bowen's request was not timely.

Although a formal evidentiary hearing has not been requested, the Board has examined the submissions of FABCO and Mr. Bowen, as well as other information available to the Board, and has concluded that there are unresolved substantive issues of fact with regard to the relationship between FABCO and United, and through United, between FABCO and Bank, which can best be resolved by a proceeding conducted pursuant to the Board's Rules of Practice for Formal Hearings (12 CFR Part 263).

Accordingly, *it is hereby ordered*, That a public hearing with respect to this matter be held before Philip J. LaMacchia, former Administrative Law Judge, now retired, at such time and place as he shall designate subsequent to a prehearing conference. This hearing shall be conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263).

It is further ordered, That the basic issues to be considered at said hearing are:

(1) Whether FABCO directly or indirectly exercises a controlling influence over the management and policies of Bank, and if so, at what point in time did such a controlling influence commence;

(2) Whether FABCO has, at any time, directly or indirectly or acting through one or more other persons owned, controlled, or had power to vote 25 per centum or more of any class of voting securities of Bank; and

(3) Whether FABCO has, at any time, controlled Bank through control in any manner of the election of a majority of the directors of Bank.

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before August 9, 1976, a written request containing a statement of the nature of the petitioner's interest in the proceedings, the extent of the participation desired, and a summary of the matters concerning which the petitioner desires to give testimony or submit evidence. Requests to participate in the proceedings will be submitted to Judge LaMacchia for his determination, and persons submitting them will be notified of his decision. Submission of the names and identities of possible witnesses can be made to Judge LaMacchia at such time as the date for the hearing has been determined.

By order of the Board of Governors, effective July 1, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-19813 Filed 7-8-76;8:45 am]

FIRST FREEPORT CORP.

Order Approving Acquisition of Bank

First Freeport Corporation, Freeport, Texas, a bank holding company within the meaning of the Bank Holding Com-

pany Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3) to acquire all of the voting shares (less directors' qualifying shares" of Chemical National Bank, Clute, Texas ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted on behalf of three Texas banks: The Lake Jackson Bank of Lake Jackson, Lake Jackson, Brazosport Bank of Texas, Freeport, and First State Bank, Clute (hereinafter referred to as "Protestants"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 212th largest banking organization in Texas, controls one bank with aggregate deposits of $35.9 million, representing approximately .8 of one per cent of the total commercial bank deposits in the State.[1] Since Bank is a proposed new bank, its acquisition by Applicant would neither eliminate any existing competition nor immediately increase Applicant's share of commercial bank deposits.

Bank is to be located in Clute, Texas, and will compete in the Freeport banking market (the relevant banking market).[2] Applicant's subsidiary bank, First Freeport National Bank, located 8.3 miles northwest of Bank, is the largest of twelve banks operating in the market and holds approximately 19.8 percent of market deposits, while Protestants Lake Jackson Bank and Brazosport Bank are the second and third largest banks in the market accounting for 12.2 and 11.9 percent of market deposits, respectively. Since Bank is a proposed new bank, its acquisition by Applicant would not eliminate any existing or potential competition. In addition, there is no evidence to indicate that Applicant's proposal is an attempt to preempt a site before there is a need for a bank. On the basis of the above and other facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial condition and managerial resources and future prospects of Applicant and its subsidiary bank are regarded as satisfactory. Bank has no operating financial history; however, it will be opened with adquate capital and its prospects as a subsidiary of Applicant appear satisfactory. Accordingly, considerations relating to the banking factors are consistent with approval. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application since Bank will be capable of offering a full complement of banking services to its customers.

During the course of its consideration of this application, the Board has considered the comments submitted on behalf of Protestants. Protestants have advanced several arguments relating to the Board's jurisdiction to consider the subject application. In brief, Protestants assert that the Board's jurisdiction does not exist since Bank is merely a proposed bank rather than an operating institution. Further, the Comptroller of the Currency was not authorized to condition his granting of Bank's charter on the acquisition of Bank by Applicant. Both of Protestants' contentions have been rejected by the courts. "Gravois Bank v. Board of Governors," 478 F. 2d 546, (8th Cir. 1973); see "Whitney National Bank v. Bank of New Orleans & Trust Co.", 379 U.S. 411 (1965). Accordingly, the Board finds these arguments to be without merit.[3]

Protestants also contend that affiliation of Applicant with Bank would contravene Texas law prohibiting branch banking (TEX. CONTS. Art. XVI Section 16). The Board has stated that a State's restrictive branch banking laws are not automatically applicable to bank holding company operations. In a given case the Board examines the facts to determine whether a particular acquisition of a bank holding company would constitute an illegal branch under State law. If the Board determines that a violation of State law would result, it is required to disapprove the transaction. "Whitney National Bank v. Bank of New Orleans," 323 F. 2d 290 (D.C. Cir. 1963), rev'd on other grounds, 379 U.S. 411 (1965); Gravois Bank, v. Board of Governors," 478 f. 2d 546 (8th cir. 1973).

The Board notes that the Office of the Comptroller of the Currency has granted preliminary approval for the charter of Bank, following a hearing, apparently concluding that Bank would not be an illegal branch under Texas law. The facts of record in this case indicate that Bank will be a separate corporation, with its own capital stock and a loan limit based on such capital stock; that Bank's operations will be conducted primarily by its own officers; that Bank's board of directors will be generally separate from the boards of Applicant and of Freeport Bank and will exercise independent judgment with respect to the management of Bank; that Bank's officers and employees will not directly perform any services for customers of Freeport Bank other than those services that would be provided for customers of other area banks, such as check cashing, and the same is true of Freeport Bank's officers and employees with regard to customers of Bank; that Bank's customers will be able to deposit and withdraw their funds only with respect to accounts in Bank and will not be able to effect a deposit or withdrawal from Bank at Freeport Bank; and the same is true of Freeport Bank's customers who will likewise not be able to effect a deposit or withdrawal from Freeport Bank at Bank; that Bank and Freeport Bank will be advertised as being members of the same bank holding company system but that they will not be identified as united institutions; that Bank will maintain its own books of account, use its own stationery and issue its own distinctive checks and forms; and that Bank's name will be different from the name of Freeport Bank.

In order to prevail on the branching issue,

> It must be shown that in substance a bank is doing business through the instrumentality of the affiliate institution which constitutes the alleged branch, or vice versa, in the same way as if the institutions were one.

"Independent Bankers Association of Georgia v. Board of Governors of the Federal Reserve System," 516 F. 2d 1206 (D.C. Cir. 1975). In view of the foregoing, and having considered the comments of the Protestants and all the other facts of record, the Board concludes that Bank will not be operated in a unitary fashion with Applicant's banking subsidiary and thus this proposal will not contravene Texas' branch banking law.

Protestants further contend that the Freeport banking market is not particularly attractive for de novo entry because little growth in the area can be expected. Consequently, Protestants assert, it is doubtful that Bank can become a viable independent banking institution. The Board has reviewed the facts of record, including the past and projected growth of the economy of the area, and finds that the market can reasonably be expected to support an additional banking alternative. This is especially so in light of the market's higher than average population growth, high income per household, and anticipated strong business development. While the decision to establish a new bank almost always involves some measure of risk, the Board is unable to conclude that Applicant's proposal involves more than the usual entrepreneurial risks inherent in such a proposal.

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[1] All banking data are as of June 30, 1975, adjusted to reflect bank holding company formations and acquisitions approved as of May 31, 1976.

[2] The Freeport banking market is approximated by Brazoria County exclusive of the communities of Alvin and Pearland and their immediate environs. The Freeport banking market was previously included in the Houston banking market; however, in response to Protestants' contentions that the Freeport area represented a distinct banking market, the Federal Reserve Bank of Dallas undertook a field study of the area. As a rseult, it was determined that the Freeport banking market was a separate and distinct banking market.

[3] Protestants also claim, that section 3(b) of the Act (12 U.S.C. 1842(b)) restricts the Comptroller's chartering authority. This provision of the Act refers to the Board's obligation to solicit the Comptroller's views with regard to applications by bank holding companies to acquire a national bank as a proposed subsidiary pursuant to section 3 of the Act. If the Comptroller recommends disapproval of an application, within the 30 days after receipt of the Board's notice the Board must hold a formal hearing on the application.

Finally, Protestants assert that any substantial growth by Bank would be at the expense of the area's existing banks. Applicant has defined a service area for Bank which overlaps the service areas of three neighboring banks. These banks have sustained growth rates of over 50 per cent on the average in both deposits and loans over the past five years. In view of the growth pattern of the area's economy and the commercial and industrial activity occurring near Bank's proposed site, it is the Board's determination that Applicant's entry will have no significant adverse effects on any bank in the market or impair their ability to remain viable banking organizations.

In view of the foregoing discussion and having considered the facts of record and all the comments of Protestants in light of the statutory factors the Board must consider under section 3(c) of the Act, it is the Board's judgment that consummation of the subject proposal would be in the public interest and that the application to acquire Bank should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Chemical National Bank, Clute, Texas, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective July 1, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-19814 Filed 7-8-76;8:45 am]

LAWRENCE BANCSHARES, INC.

Formation of Bank Holding Co.

Lawrence Bancshares, Inc., Lawrence, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Lawrence National Bank and Trust Company, Lawrence, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Lawrence Bancshares, Inc., Lawrence, Kansas has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the sale of credit-related insurance. Notice of the application was published on May 6, 1976 in The Lawrence Daily Journal-World, a newspaper circulated in Lawrence, Kansas.

Applicant states that it would conduct an insurance agency business that would engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Lawrence National Bank and Trust Company, Lawrence, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 2, 1976.

Board of Governors of the Federal Reserve System, July 1, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-19815 Filed 7-8-76;8:45 am]

MERCANTILE TEXAS CORP.

Acquisition of Bank

Mercantile Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Federated Capital Corporation, Houston, Texas. As a result of the proposal, Applicant would acquire all of the voting shares (except for directors' qualifying shares) of The American National Bank of Austin, Austin, Texas; Corpus Christi National Bank, Corpus Christi, Texas; Capital National Bank, Houston, Texas; West Loop National Bank, Houston, Texas; The Guaranty State Bank of New Braunfels, New Braunfels, Texas; and The Alamo National Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 2, 1976.

Board of Governors of the Federal Reserve System, July 2, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-19816 Filed 7-8-76;8:45 am]

PENINSULA FINANCIAL, INC.

Formation of Bank Holding Co.

Peninsula Financial, Inc., Sturgeon Bay, Wisconsin has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 98.20 percent or more of the voting shares of First State Bank of Algoma, Algoma, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. 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 no later than July 30, 1976.

Board of Governors of the Federal Reserve System, June 30, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19817 Filed 7-8-76;8:45 am]

SECURITY BANCORP, INC.

Order Approving Retention of Security Datacenter and A.D.P.C., Inc.

Security Bancorp, Inc., Ponca City, Oklahoma, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (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 retain the assets of Security Datacenter ("Datacenter") and shares of A.D.P.C., Inc. ("A.D.P.C."), both of Ponca City, Oklahoma. Datacenter engages in the activities of providing bookkeeping and data processing services for Applicant's subsidiary bank, and financially related data processing services for businesses and municipalities. A.D.P.C. engages in the activity of providing financially related data processing services for public schools. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(8)).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public

[1] Voting for this action: Chairman Burns and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Governors Gardner and Wallich.

interest factors, has been duly published (41 FR 1546). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1943(c)(8)).

Applicant, the 25th largest banking organization in Oklahoma, controls one bank with deposits of approximately $49.1 million, representing 0.5 percent of the total deposits in commercial banks in the State.[1]

Datacenter is an unincorporated company, all the assets of which have been owned by Applicant since August of 1970. Primarily, Datacenter provides bookkeeping and data processing services for the internal operations of Applicant's subsidiary bank. In addition, it provides financially related data processing services to municipalities and private business firms. In 1975, Datacenter had total operating revenue of approximately $328,000.

A.D.P.C. is a computer service company that leases computer time from Datacenter in order to perform financially related data processing services for public school systems in Oklahoma. Applicant presently controls approximately 47 percent of the outstanding shares of A.D.P.C.[2] In 1975, A.D.P.C. had total operating revenue of approximately $210,000.

In acting on applications submitted pursuant to section 4(c)(8) of the Act, the Board analyzes an application to retain a company engaged in section 4(c)(8) activities by the same standards that it analyzes an application to acquire a company engaged in such activities. In addition, the Board analyzes the competitive effects of a proposal both at the time of the acquisition and at the time of the application for retention. Applicant acquired Datacenter in August, 1970 from Applicant's sole subsidiary bank. Since that transaction was essentially a reorganization of Applicant's existing data processing activities, it does not appear to have had any significant adverse effects on competition at that time. At present, Datacenter competes with three general data processing services in the Ponca City market[3] to provide certain data processing services for municipalities and businesses. From the facts of record it does not appear that the retention of Datacenter by Applicant would have any significant adverse effects on existing or potential competition.

A.D.P.C. was formed de novo in 1971, and thus, the acquisition of its shares by Applicant does not appear to have had any significant adverse effects on competition at that time. A.D.P.C. is highly specialized in that it only provides financially related data processing services for public school systems throughout Oklahoma. On the basis of the record, it does not appear that the retention of A.D.P.C. by Applicant would have any significant adverse effects on existing or potential competition. The retention of Datacenter and A.D.P.C. by Applicant should provide benefits to the public by assuring the respective customers of those companies of a continued and convenient source for financially related data processing services. Moreover, there is no evidence in the record indicating that retention of Datacenter or A.D.P.C. would lead to any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

With respect to Applicants' financial condition, the Board notes that, in the past, Applicant has incurred substantial debt in order to purchase its own shares.[4] Such practice, known as "bootstrapping," is of concern to the Board because it has the potential to reduce or eliminate equity in a bank holding company; place substantial pressure on the holding company's subsidiary bank(s) to pay excessive dividends to service the debt; and encourage undue risk-taking aimed at increasing the earnings of its subsidiary bank(s) in order to service the debt. As of May 15, 1976, § 225.6 of Regulation Y (12 CFR 225.6) requires that, under certain conditions, a holding company planning to make purchases of its own equity securities must notify the Board 45 days prior to any such transaction. The purpose of this recent amendment is to assist the Board in supervising bank holding companies by providing advance notice of holding company redemptions that could have a significant impact on the holding company's capital structure. Accordingly, future redemptions by Applicant of its equity securities may be subject to this prior notification requirement, and if circumstances indicate that the proposed transaction would violate applicable law, or create an unsafe or unsound condition in Applicant, the Board would, if necessary, use its cease and desist authority to prevent the transaction.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under Section 4(c)(8) is favorable. Accordingly, the applications are hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[5] effective June 30, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19818 Filed 7-8-76;8:45 am]

[1] All banking data are as of June 30, 1975.

[2] On January 14, 1971, the date A.D.P.C. was formed, Applicant acquired one-third of the outstanding shares of A.D.P.C. without prior Board approval. This transaction did not require prior Board approval by virtue of § 225.4(d) of Regulation Y (12 CFR § 225.4(d)). Since that time, however, Applicant has on two separate occasions acquired additional shares of A.D.P.C. without prior Board approval. It appears from the facts of record that these two latter acquisitions of shares were based on a misunderstanding of the applicable statutes and regulations relating to nonbanking activities of bank holding companies. In accord with the Board's position with respect to violations of the Act, the Board has scrutinized the underlying facts surrounding the acquisitions of shares of A.D.P.C. without prior Board approval; and upon an examination of all the facts of record, the Board believes that those facts do not call for denial of the application to retain shares of A.D.P.C.

It should be noted that, under the Act, any acquisition by a bank holding company that would result in that holding company controlling more than five percent of the shares of a company engaged in nonbanking activities requires the prior approval of the Board. This requirement is applicable to any such acquisition of shares of a nonbanking company, whether or not the holding company already controls more than 50 percent of that company's shares.

[3] The Ponca City market, the relevant geographic market for purposes of analyzing the competitive effects of the proposal to retain Datacenter, is approximated by all of Kay County, Oklahoma.

[4] Through earnings retention, Applicant has been able to replace nearly all of its shareholder equity that was reduced by the purchase of its own shares.

[5] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

UNITED ROCK CONSTRUCTION, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Resereve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by United Rock Construction, Inc., Omaha, Nebraska ("United") for a determination that following the distribution of all United's stockholdings in M&M Investment Company, Omaha, Nebraska ("M&M"), to United's two shareholders ("transferees"), United will not in fact be capable of controlling the transferees.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, That, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for

oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than August 2, 1976. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, like reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony at such oral hearing. The Board subsequently will designate a time and place for any hearing ordered, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, July 2, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-19819 Filed 7-8-76;8:45 am]

WESTERN MICHIGAN CORP.

Order Denying Acquisition of Bank

Western Michigan Corporation, Niles, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received including the denial recommendation of the Department of Justice, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the 34th largest banking organization in Michigan and through its sole subsidiary, First National Bank of Southwestern Michigan, Niles, Michigan ("FNB"), holds deposits of approximately $108.7 million, representing 0.4 percent of the total deposits held by commercial banks in the State.[1] Acquisition of Bank would increase Applicant's share of Statewide deposits by approximately .05 percent and would make Applicant the 31st largest banking organization in Michigan. Although consummation of this transaction would not significantly increase the concentration of banking resources in Michigan, it would have significant adverse effects upon concentration in the relevant banking market.

Bank (deposits of $15.1 million) controls approximately 20.1 percent of the total deposits held by commercial banks in the Cass County banking market, the relevant banking market,[2] and is the second largest of five banking organizations competing in the market. FNB, Applicant's banking subsidiary, competes in the adjoining Niles, Michigan-South Bend/Elkhart, Indiana banking market.[3] FNB also operates one branch (deposits of $12.9 million) in the relevant banking market and controls approximately 17.1 percent of the market's total deposits, thereby ranking as the fourth largest among the five banking organizations in the market. Acquisition of Bank by Applicant would significantly increase Applicant's share of total deposits in the relevant banking market since Applicant would become the market's second largest banking organization and would control approximately 37.2 percent of total market deposits. Thus, the two-bank concentration ratio in the market would become 75.3 percent, a significant increase in the concentration of banking resources in the relevant market.

In addition to the significant adverse effects on concentration, it appears that the proposal would also have adverse effects on existing and future competition within the Cass County banking market. As noted above, Applicant already operates in the relevant banking market[4] and the record indicates clearly that there is substantial competition between Applicant and Bank which would be eliminated by this proposal.[5] Furthermore, the proposal would reduce the number of banking alternatives operating in the market. Moreover, approval of the proposed transaction would remove a viable entry vehicle for a Michigan bank holding company not currently represented in the market. This factor is even more significant when considered in light of the fact that market is not particularly attractive for de novo entry by other banking organizations seeking to gain access to the Cass County market. On the basis of the foregoing and other facts or record, including the views of the Department of Justice and Applicant's response thereto, the Board concludes that approval of the application would have significantly adverse effects on both existing and potential competition.

On the basis of the foregoing and other facts of record, the Board concludes that the competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the communities to be served.

The financial and managerial resources and prospects of Applicant, its subsidiary bank, and Bank are regarded as satisfactory and consistent with approval of the application; however, such considerations do not provide significant weight for approval of the application. Acquisition of Bank by Applicant would enable Bank to expand its trust department, increase its lending capacity through loan participations, upgrade its agricultural loan services, and create new time deposit services and municipal and corporate savings programs. These considerations relating to convenience and needs lend some weight toward approval of the application. The Board finds, however, that neither the considerations relating to banking factors nor to convenience and needs are sufficient to outweigh the adverse competitive effects of Applicant's proposal.

On the basis of the facts in the record,[5a] and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized above.

By order of the Board of Governors,[6] effective June 30, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-19820 Filed 7-8-76;8:45 am]

[1] Unless otherwise indicated, all banking data are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved through May 31, 1976.

[2] The Cass County banking market is approximately by all of Cass County except the two extreme southwestern townships of Howard and Milton, which are part of the Niles, Michigan-South Bend/Elkhart, Indiana banking market.

[3] FNB operates eight banking offices in this market.

[4] The other eight banking offices of Applicant's lead bank are all within 25 miles of Bank's head office in Cassopolis, albeit in a different market.

[5] Among the facts of record regarded by the Board as evidencing the elimination of existing competition are the amount of deposits and loans derived from Bank's service area by Applicant's subsidiary bank, which represent 9.9 and 15.2 percent of Bank's total deposits and loans, respectively.

[5a] Dissenting Statement of Governor Lilly filed as part of the original document. Copies are available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Chicago.

[6] Voting for this action: Vice Chairman Gardner and Governors Jackson and Partee. Voting against this action: Governor Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

FEDERAL TRADE COMMISSION

DETERMINATION OF APPLICABILITY OF CALIFORNIA STATE LAW TO WARRANTORS COMPLYING WITH MAGNUSON-MOSS WARRANTY ACT

Proceeding, Invitation To Comment, and Public Hearings

The State of California has applied for a determination, under the provisions of

Title I, Section 111(c)(2) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. 93-637, 15 U.S.C. 2301, et seq. (hereinafter the "Warranty Act"), that certain provisions of California law afford protection to consumers greater than the requirements of the Warranty Act and do not unduly burden interstate commerce.

Under Section 111(c) of the Warranty Act, a State requirement which relates to labeling or disclosure with respect to written warranties or performance thereunder is rendered inapplicable to written warranties meeting federal standards if it is within the scope of an applicable requirement of the Warranty Act governing warranty disclosure provisions, designations or minimum standards (sections 102, 103 and 104 or rules thereunder) and not identical to such requirement. State requirements may be declared applicable to such transactions by the Federal Trade Commission, according to paragraph two of this provision, if an appropriate State agency applies and the Commission determines (pursuant to a rulemaking proceeding under section 109) that the requirement in question gives more protection to consumers than does the Warranty Act and that it does not unduly burden interstate commerce. The State requirement will then be applicable to the extent specified by the Commission for as long as the State administers and enforces the requirement effectively. Another exception to Section 111(c) is Section 111(b), which preserves consumer rights or remedies under State law.[1]

The Commission has concluded that three sections of the California laws submitted will be affected by operation of section 111(c) of the Warranty Act—§§ 1793.1, 1797.3 and 1797.5 of the California Civil Code.

(1) Section 1793.1(b) of the Song-Beverly Consumer Warranty Act, while similar to disclosures required by 16 CFR § 701.3(a)(5) of the regulations implementing § 102 of the Warranty Act, is not identical to that requirement;

(2) The "Mobile Home Warranty" designation requirement of California Civil Code § 1797.3 is not identical to the provisions of § 103 of the Warranty Act;

(3) That part of § 1797.3(d) of the California Civil Code which requires disclosure of telephone numbers is not identical to the disclosure provided for by 16 CFR 701.3 (a)(5); and

(4) The pre-sale availability requirements of § 1797.5 of the California Civil Code are not identical to the requirements of 16 CFR Part 702 which also implements Warranty Act § 102.

It should be noted, however, that provisions (1), (3) and (4) would be affected only *after* the rules implementing section 102 of the Warranty Act are effective. (See, 40 FR 60168, Dec. 31, 1975, 16 CFR Parts 701, 702. The Rules effective December 31, 1976.)

It should also be noted that the Commission expresses no view as to the effect of the Warranty Act on the Song-Beverly Act should the state, rather than a consumer, undertake to enforce it. Since the Song-Beverly Act does not explicitly provide for state enforcement, and since the Commission is not aware of any judicial decision on the question, the Commission will not consider the issue at the present time.

In view of the foregoing, the Commission hereby initiates a proceeding to determine, pursuant to the California petition and the provisions of section 111(c)(2) of the Warranty Act (15 U.S.C. 2311(c)(2)), whether the above described State requirements afford protection to consumers greater than the requirements of the Warranty Act and do not unduly burden interstate commerce. If it is determined that a provision of the State law affords protection to consumers greater than the requirements of the Warranty Act and that such provision does not unduly burden interstate commerce, then the provision will be applicable to written warranties in compliance with the federal requirements to the extent specified in such determination for as long as the State of California administers and enforces effectively such greater requirement.

All interested persons are hereby notified that they may file written data, views, and arguments concerning this matter with the Special Assistant Director for Rulemaking, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, no later than September 7, 1976.

All interested persons are also given notice of the opportunity to orally present data, views, and arguments pursuant to section 109 of the Warranty Act (15 U.S.C. 2309), at public hearings to be held commencing at 9:30 a.m., September 13, 1976 in Room 13209, 11000 Wilshire Boulevard, Los Angeles, California 90024. Additional hearings will be held commencing at 9:30 a.m., September 20, 1976 in Room 532, Federal Trade Commission Building, Pennsylvania Avenue at 6th Street, NW., Washington, D.C.

Any persons desiring to orally present his or her views, data, and arguments at any of the hearings should so inform the following designated people, no later than September 7, 1976, and state the estimated time required for his or her oral presentation. For the Los Angeles hearings notify the Director of the Commission's Los Angeles Regional Office at the above address. For the Washington, D.C. hearings notify the Special Assistant Director for Rulemaking, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. Reasonable limitations upon the length of time allotted to any person may be imposed.

In addition, all persons desiring to deliver a prepared statement at either of the hearings should file such statement together with supporting factual material with the Special Assistant Director for Rulemaking no later than September 7, 1976. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit five copies, except that supporting materials need not be duplicated.

The data, views, and arguments presented will be available for examination by interested persons in Room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered fully by the Commission in making its final determination.

For the further informaiton of interested persons, the following Commission staff analysis of the California State law provisons in question is set forth:

COMMISSION'S STAFF ANALYSIS

SONG-BEVERLY CONSUMER WARRANTY ACT

(California Civil Code, §§ 1790-1795.7)

Article 1. General Provisions. Section 1790 names the short title of the Act. Section 1790.1 prohibits a waiver of the act's protections except as expressly provided. Section 1790.2 provides for the severability of the sections. Section 1790.3 provides that this act prevails where the consumer's rights conflict with the commercial code. Section 1790.4 provides for the cumulative effect of the act's remedial provisions.

The above five provisions are unaffected by the Warranty Act since they are general provisions which do not impose duties or obligations on warrantors or consumers.

Article 2. Definitions. Section 1791 defines terms such as "buyer", "manufacturer", "distributor", "seller", "soft goods", and "consumables."

These terms involve definitional provisions which are unaffected by the Warranty Act.

Section 1791.1 defines "implied warranties."

Subsection (a) defines the implied warranty of merchantability and Subsection (b) the implied warranty of fitness. Subsection (c) provides that the duration of an implied warranty shall be coextensive with an express warranty, provided it is reasonable; however, such implied warranty must have a duration of 60 days at a minimum and one year as a maximum.

As defined by section 101(7) of the Warranty Act, the term "implied warranty" means "an implied warranty arising under state law (as modified by sections 108[2] and 104(a)[3]) in connection with the sale by a supplier of a consumer product." Staff's view is that the language of Section 101(7) stating that implied warranties "arise" under state law is evidence of Congressional intent to allow state law to govern creation and duration of implied warranties.[4] The fact

[1] The Commission believes it is Congress' intent to permit warrantors to use the same warranty forms on a nationwide basis. Accordingly, provisions relating to warranty labeling or disclosures that are rendered inapplicable by virtue of section 111(c) are not preserved by section 111(b), and can only remain applicable pursuant to a Commission determination under section 111(c)(2).

[2] Section 108(a) of the Warranty Act prohibits suppliers from disclaiming or modifying implied warranties, except as specified in § 108(b). This section provides that "implied warranties may be limited in duration

that the key Warranty Act provisons regulating limitation of implied warranties as to duration are directed to "suppliers" (Section 108(a)) and "warrantors" (Section 104(a)(2)) rather than states buttresses this position. Additionally, it is suggested that if Congress had wanted to affect the duration of implied warranties created under state law it would have done so expressly. Consequently, staff concludes that this California provision is unaffected by the Warranty Act.[5]

Subsection 1791.1(d) provides for a cause of action for damages for breach of implied warranties by a buyer or consumer injured thereby.

This state provision is not a requirement which relates to labeling or disclosure with respect to written warranties, or performance thereunder; nor is it within the scope of an applicable requirement of sections 102, 103, or 104 since it does not relate to standards concerning written warranty disclosures, designations, or minimum content requirements. Consequently, it is not within the purview of section 111(c) of the Warranty Act.

While section 110(d) of the Warranty Act also provides for a cause of action for a consumer who is damaged by warrantor failure to comply with an obligation under an implied warranty, no conflict exists between the federal provision and the state law. Moreover, this subsection provides for a consumer cause of action, and, according to section 111(b)(1) of the Warranty Act, nothing in the Act "shall invalidate or restrict any right or remedy of any consumer under State law." This provision, therefore, is not affected by the Warranty Act.

Section 1791.2 defines "express warranty."
Section 1791.3 defines "as is" or "with all faults".

These two definitions do not create any substantive rights or duties and, therefore, are not within the scope of section 111(c), nor are they affected by any other provision of the Warranty Act.

Article 3. Sale Warranties. The first six sections of this article provide that warranties of merchantability and fitness for a particular purpose attach to goods in consumer sales and define the circumstances under which these warranties may be disclaimed.

Section 1792 provides that unless disclaimed in the manner prescribed, a manufacturer's implied warranty of merchantability accompanies every sale or consignment for sale of consumer goods at retail.

Section 1792.1 provides that where applicable the sale or consignment is also accompanied by the manufacturer's implied warranty of fitness.

Section 1792.2 provides that where applicable an implied warranty of fitness from the retailer accompanies such sale or consignment.

The provisions of state law concerning the creation of implied warranties are unaffected by the Warranty Act because the Act makes clear that implied warranties are created by operation of state law.[6]

Section 1792.3 provides that these implied warranties may not be waived except when a consumer product is sold "as is" or "with all faults", and all other provisions of the chapter are strictly complied with.

Section 1792.4 provides that the disclaimer will not be effective unless there is a conspicuous writing attached to the goods clearly informing the buyer, prior to sale, in simple and concise language: (1) that the goods are being sold on an "as is" or "with all faults" basis; (2) that the entire risk as to quality and performance of the goods is with the buyer; and, (3) that should the goods prove defective, the buyer alone assumes the entire costs of all necessary servicing and repair.

Section 1792.5 states that if the requirements are met as to "as is" sales there can be a waiver of implied warranties.

Since the purpose of these provisions is to provide for the sale of consumer goods without any warranty, express or implied, they do not relate to written warranties and are therefore outside the scope of section 111(c) of the Warranty Act. These sections could, however, be affected in the future by regulations promulgated by the Commission under section 109(b) of the Warranty Act. That section provides that the Commission "may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure."[7] At the present time, however, the state law is unaffected by the Warranty Act.

Section 1793 provides that nothing shall affect the right of a manufacturer, distributor, or retailer to make express warranties; however, the maker of express warranties may not limit, modify or disclaim implied warranties as to consumer goods.

The first part of this provision is permissive and consistent with the Warranty Act. The second portion is identical to one of the federal minimum standards for a written warranty under the Warranty Act and not thereby affected. With respect to written warranties which fail to meet these federal minimum requirements and which attempt to limit duration of implied warranties under section 108(b), the state provision creates a consumer right preserved by operation of section 111(b)(1) of the Warranty Act.[8] Consequently, this state provision is unaffected by the Warranty Act.

Section 1793.1 requires certain disclosures in making express warranties.

Subsection (a) requires that the language used be readily understood and that the warrantor be clearly identified.

Subsection (b) provides that a warrantor who maintains service or repair facilities in California shall: (1) give the buyer a list of each such repair facility with its name and address; or, (2) give the name, address and telephone number of the repair facility central directory within the state or toll free number; or, (3) maintain at the seller's premises a list of authorized service facilities. (In the latter instance, it shall be the duty of the seller to provide the name, address and telephone number of the nearest repair facility upon request.)

Section 102 of the Warranty Act mandates Commission promulgation of rules requiring full discosure of written warranty terms and conditions. Commission rules dealing with disclosure of written consumer product warranty terms and conditions, and implementing section 102 have been recently promulgated.[9] These

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to the duration of a written warranty of reasonable duration if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty." Finally, § 108(c) states: "A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this title and State law."

[2] Section 104(a)(2) provides that a warrantor offering a "full" written warranty under § 104 of the Warranty Act may not limit duration of implied warranties arising in conjunction therewith.

[4] Staff recognizes, however, that it is at least arguable that the term "arising" refers only to the creation of implied warranties and that duration is covered by the federal act. Section 108(b), which permits implied warranties to be limited in duration to the duration of a written warranty of reasonable duration if such limitation is conscionable and conspicuously disclosed, is silent as to whom it is directed and thus could be applicable to states. Further, § 108(c), which is also silent regarding to whom it is directed, provides that limitations in violation of § 108 are ineffective. However, § 108(a) refers to § 108(b) as an exception to its mandatory requirement that suppliers may not disclaim or modify implied warranties on consumer products and § 108(b) notes that it applies for purposes of the Warranty Act other than § 104(a)(2) where warrantors are directed that they may not limit duration of implied warranties in meeting the federal minimum requirements for a "full" written warranty. Finally, the interpretation being rejected would result (at least in California) in federal law continuing the duration of an implied warranty which would otherwise be cut off by state law. It is submitted that a clearer expression of legislative intent would be necessary to accomplish this result.

[5] Therefore, in California a consumer product with a two-year "full" written warranty may be acocmpanied by an implied warranty of merchantability of maximum one-year duration. However, without a clear and conspicuous disclosure of this limitation, such warranty would appear to be "deceptive" under seciton 110(c)(2) of the Warranty Act since it would tend to mislead a reasonable individual exercising due care.

[6] *See,* section 101(7) of the Warranty Act, and the discussion of § 1791.1 of the Song-Beverly Consumer Warranty Act (hereinafter "Song-Beverly Act"), *supra.*

[7] The Commission recently proposed a rule implementing section 109(b) of the Warranty Act. *See,* 41 F.R. 1089 (Jan. 6, 1976).

[8] § 111(b)(1) of the Warranty Act states "Nothing in the Act shall invalidate or restrict any right or remedy of any consumer under State law."

[9] *See,* 40 FR 60168 (Dec. 31, 1975), 16 CFR Parts 701, 702.

rules become effective December 31, 1976.[10]

By operation of section 111(c) of the Warranty Act, the state disclosure provisions of § 1793.1(b) [11] will be rendered inapplicable to written warranties complying with the federal requirements, when effective, since they are not identical to these requirements. Under section 111(c)(2), however, these state provisions may be subject to examination in a Commission rulemaking proceeding pursuant to section 109 of the Warranty Act. If the Commission determines that the state provisions afford greater protection to consumers than the requirements of the Warranty Act and that they do not unduly burden interstate commerce, these requirements will be applicable as long as they are effectively enforced. In view of the above discussion, staff recommends commencement of such a rulemaking proceeding.

Section 1793.2. Subsection (a) provides that a manufacturer who sells consumer goods with an express warranty shall either maintain sufficient service and repair facilities in California to carry out the terms of such warranties or be subject to the provisions of § 1793.5.[12]

Subsection (b) provides that service or repair necessary to conform the goods to express warranties must be commenced within a reasonable time and (unless the buyer agrees in writing to the contrary) must be completed within 30 days (unless delays are beyond the control of the manufacturer).

Subsection (c) provides for return of nonconforming goods by the buyer, except that if the size, weight or method of attachment or installation of a product is such that delivery to the manufacturer or seller cannot reasonably be accomplished, the buyer may notify the manufacturer or its nearest repair facility and the manufacturer is required to pick up the goods for service and repair or arrange for transportation, at its expense.

Subsection (d) provides for replacement or refund (less the amount attributable to use) if the manufacturer cannot repair or service the goods to conform with the applicable express warranties.

This section imposes certain statutory duties and performance requirements, enumerated in (b), (c), and (d), on manufacturers selling consumer goods with an express warranty with regard to maintenance of service and repair facilities in California. While these provisions arguably set forth requirements within the scope of section 104 of the Warranty Act, it is unnecessary to consider the effect of § 111(c) on these provisions since they also create, in conjunction with section 1794,[13] consumer rights and remedies within the meaning of section 111(b)(1)[14] of the Warranty Act.[15] As a result, the state provisions in question remain unaffected by the Warranty Act.[16]

Section 1793.3 provides that if a manufacturer of consumer goods, for which an express warranty is given, does not provide service or repair facilities within the state pursuant to § 1793.2, the buyer may: (a) return the goods to the retail seller for repair, replacement, or refund, at the retailer's option, or, (b) return the goods to any retail seller within the state who sells like goods of the same manufacturer for replacement or refund, at the retailer's option. This section also provides in subsection (c) that if the buyer is unable to return the goods because of size, weight or method of attachment or installation, the buyer shall give notice to the retailer who shall, at his expense, repair the goods at the buyer's residence or pick up the goods (or arrange for transportation of the goods to his place of business).

Section 1793.4 provides that where a manufacturer is subject to the provisions of § 1793.3 (because service and repair facilities are not maintained in California) such service and repair must be commenced within a reasonable time and, unless the buyer agrees otherwise in writing, goods conforming to the applicable express warranties shall be tendered within 30 days.

Section 1793.5 requires that manufacturers who make express warranties but who do not provide the required service and repair facilities within the state shall be liable for costs and expenses to any retailer who is required under the provisions of this act to honor the manufacturer's warranties.

Section 1793.3 (providing for return of nonconforming goods of manufacturers failing to provide minimum service or repair facilities within the state) must be read together with section 1793.4 (requiring tender of conforming goods within 30 days) and section 1793.5 (holding the manufacturer liable to the retail seller for expenses incurred in honoring the manufacturer's warranties). These three sections create a statutory scheme to ensure that manufacturer's warranties are honored by out-of-state sellers not maintaining sufficient service or repair facilities in California. These sections establish performance obligations upon the retailer to repair, replace or refund, and impose a duty to reimburse on the manufacturer-warrantor. These sections constitute consumer rights and remedies since, by virtue of section 1794 of the Song-Beverly Act, a buyer of consumer goods injured by a willful violation of these provisions may bring an action for recovery of treble damages and attorney fees. Although these obligations arguably constitute warranty performance requirements within the scope of section 104, they come within the limitation of section 111(b)(1)[17] and remain unaffected by the Warranty Act.

Section 1793.35. Subsection (a) provides that where the retail sale of soft goods or consumables is accompanied by an express warranty and the items do not conform to the warranty, the buyer may return the goods within 30 days (or greater time if provided in the warranty).

Subsection (b) provides that when such goods are returned the retailer shall replace the nonconforming goods where the manufacturer has directed replacement in the warranty or, where there is no such direction, the retailer may (at his option) replace the nonconforming goods or reimburse the buyer. (Section 1793.5 provides for retailer reimbursement for these expenses.)

These obligations also constitute consumer rights and remedies since, by virtue of section 1794 of the Song-Beverly Act, a buyer of consumer goods injured by a willful violation of these provisions may bring an action for recovery of treble damages and attorney fees. Although these obligations arguably constitute warranty performance requirements within the scope of section 104, they come within the limitation of section 111(b)(1) and remain unaffacted by the Warranty Act.

Section 1794 states that a consumer injured by a willful violation of these provisions may maintain a treble damage action and recover attorney fees.

This state provision is not a requirement which relates to labeling or disclosure with respect to written warranties or performance thereunder; nor is it within the scope of an applicable requirement of sections 102, 103 or 104 since it does not relate to standards concerning written warranty disclosures, designations, or minimum content requirements. Consequently, it is not within the purview of section 111(c) of the Warranty Act.

While section 110(d) of the Warranty Act provides for a cause of action for a consumer who is damaged by the warrantor's failure to comply with an obli-

[10] These rules will not take effect until one year after their promulgation in order to allow ample time for warrantors and other affected persons to revise written warranties, packaging and related materials and to allow the Commission time in which to promulgate related regulations under the Warranty Act. The period between the promulgation and the effective date of these rules will also permit the Commission to conduct hearings on state applications concerning future applicability of state warranty provisions under section 111(c)(2) of the Warranty Act.

[11] The substance of paragraph (a) of this section is identical to requirements of section 102(a) of the Warranty Act and rules implementing such section. (16 CFR 701.3 (a)).

[12] *See*, the discussion at p. 15, *infra*.

[13] By virtue of section 1794 of California's Song-Beverly Act, a buyer of consumer goods injured by a willful violation of the requirements enumerated in § 1793.2 may bring an action for recovery of treble damages and attorney fees.

[14] *See* note 8, *supra* for the text of this provision which preserves consumer rights and remedies under state law. If these requirements *were* rendered inapplicable, obviously the consumer rights and remedies contained therein would be invalidated or restricted.

[15] It may be noted here that there are no express provisions for *state* enforcement of either the Song-Beverly Act or the California mobile home warranty sections *infra*, although it has been suggested that these statutes are nevertheless enforceable under other provisions of the California Civil Code (*e.g.*, section 3369, the state's unfair trade practices act, or, with respect to the mobile home law, the licensing authority) by state action. Such authority has never been confirmed in a reported court decision, however.

[16] While the rights and remedies of consumers under such state law may not be identical to, nor be in every respect as great as, the rights and remedies provided under the Warranty Act, the two are separate and distinct, and the effect of section 111(b)(1) of the Warranty Act is to preserve for the consumer the alternate right or remedy under state law.

[17] *See* n. 8, *supra* for the text of this provision.

gation under the Act, there is no conflict between the federal provision and state law. Moreover, even if there were a conflict, section 111(b)(1) of the Warranty Act expressly provides that nothing in the Act shall invalidate or restrict such a consumer right or remedy. This provision, therefore, is not affected in any way by the Warranty Act.

Section 1794.1 permits a cause of action for a retail seller injured by willful or repeated violations of the act and provides for recovery of treble damages and attorney fees.

Section 1794.2 limits treble damage claims to individual actions and actions other than those based solely on implied warranties.

These state provisions are not requirements relating to labeling or disclosure with respect to written warranties or performance thereunder; nor are they within the scope of an applicable requirement of sections 102, 103 or 104 since they do not relate to standards concerning written warranty disclosures, designations, or minimum content requirements. Consequently, they are not within the purview of section 111(c), and are not otherwise affected by the Warranty Act.

Section 1794.3 states that the provisions of the act do not apply to defects caused by unauthorized or unreasonable use of the goods following sale.

The substance of this provision is identical to section 104(c) of the Warranty Act and is unaffected thereby.

Section 1794.4 provides that the act does not preclude the sale of service contracts to customers, with or without an express warranty, as long as the terms and conditions are fully and conspicuously disclosed in simple and readily understood language.

Section 106(b) of the Warranty Act states: "Nothing in this title shall be construed to prevent a supplier or warrantor from entering into a service contract with the consumer in addition to or in lieu of a written warranty if such contract fully, clearly, and conspicuously discloses its terms and conditions in simple and readily understood language." Thus, the substance of the state provision is identical to the Warranty Act provision and is unaffected thereby. It should be noted however, that section 106 (a) of the Warranty Act provides that the Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be fully, clearly and conspicuoulsy disclosed.[18]

Section 1794.5 provides that a manufacturer may suggest methods of effecting service and repair other than those required by the act.

Section 110 of the Warranty Act provides for establishment of informal dispute settlement mechanisms by warrantors whereby consumer disputes are fairly and expeditiously settled and further provides for Commission oversight of such procedures.[19] The state provision is permissive, rather than mandatory, and since there is no conflict between the state and federal provisions, the state provision remains unaffected thereby.

Section 1795 provides that if express warranties are made by persons other than the manufacturer, the obligation of that person shall be the same as those imposed on the manufacturer.

This provision merely incorporates by reference obligations and duties imposed upon manufacturers in other sections. The persons affected by this provision would, however, be subject to such other state provisions of the Song-Beverly Act only to the extent that they are not affected by the Warranty Act, as described in this memorandum.

Section 1795.1 provides for an exception from the requirements of the act for equipment and parts of a heating, cooling or air conditioning system that become fixed parts of a structure unless an express warranty has been made by the retailer who shall in such case have the duty to follow these provisions.

This section provides for an exception to the Song-Beverly Act and is completely outside the scope of the Warranty Act and unaffected thereby.[20]

Section 1795.5 states that if a distributor or retailer of "used" goods makes express warranties, the obligation of the warrantor shall be the same as the warrantor of a new product except that it shall be the obligation of the seller rather than the manufacturer to maintain sufficient service and repair facilities within the state. (Any implied warranty attaching to used goods may be coextensive with any express warranty, except there is a 30 day minimum and three month maximum duration for such warranty.[21])

This provision merely incorporates by refrence obligations and duties set out in other sections. The persons affected by this provision would, however, be subject to such other state provisions of the Song-Beverly Act only to the extent that they are not affected by the Warranty Act, as described in this memorandum.

Section 1795.6. Subsection (a) tolls the warranty period for implied and express warranties during the time the product is being repaired if the product sells for $50 or more).

Subsection (b) defines "manufacturer" (for purposes of this section) to include its service or repair facility.

Section 102(b)(3) of the Warranty Act provides that the Commission may prescribe rules "for extending the period of time a written warranty * * * is in effect * * * [where] the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the written warranty or by reason of the failure of the warrantor * * * to carry out such warranty within the period specified in the warranty. * * *" Such rules have not been promulgated under this section as yet, however, and since there is currently no conflict between the Warranty Act and § 1795.6, this provision remains unaffected by the Warranty Act.

Subsection (c) requires that sellers of consumer goods selling for $50 or more provide a receipt showing the date of purchase by the buyer. This provision also requires that manufacturers or sellers performing warranty work "provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer."

This state provision is not a requirement which relates to labeling or disclosure with respect to written warranties, or performance thereunder; nor is it within the scope of an applicable requirement of sections 102, 103 or 104 since it does not relate to standards concerning written warranty disclosures, designations, or minimum content requirements. Consequently, it is not within the purview of section 111(c), nor is it otherwise affected by the Warranty Act.

Section 1795.7 provides for the tolling of the period during which the manufacturer is liable t the seller in the case of a manufacturer's warranty.

This state provision is also not within the purview of section 111(c) of the Warranty Act, nor is it affected by any other provision of that Act.

MOBILE HOME WARRANTY PROVISIONS

(California Civil Code, §§ 1797–1797.5)

These provisions establish a statutory warranty for all mobile homes sold by licensed dealers, and also provide for terms and disclosures required in such warranty.

Section 1797 provides that all new mobile homes sold by a dealer licensed by the Department of Motor Vehicles be covered by a warranty, the minimum requirements of which are set forth in this chapter.

Section 1797.1 defines a "mobile home."

Section 1797.2 provides that the required warranty applies to the manufacturer as well as to the dealer.

Section 1797.3 provides that the warranty be set forth in a separate written document entitled "Mobile Home Warranty" and be delivered to the buyer at the time the contract for sale is signed, and that such warranty must contain the following terms:

(a) that the mobile home is free from any substantial defects in material or workmanship;

(b) that the manufacturer or dealer or both shall take the appropriate corrective action at the site of the mobile home in instances of substantial defects in materals or workmanship which become evident within one year from the date of delivery of the mobile home to the buyer, provided the buyer or his transferee gives written notice of such defects to the manufacturer or dealer at their business address not more than one year and ten days after date of delivery;

(c) that the manufacturer and dealer shall be jointly and severally liable under the warranty;

[18] While no such rule has yet been promulgated or proposed, adoption of such a rule could well affect § 1794.4 of the Song-Beverly Act, thereby requiring a future Commission determination in this regard.

[19] The Commission recently promulgated a rule implementing section 110 of the Warranty Act. *See*, 40 FR 60190 (Dec. 31, 1975), 16 CFR Part 703.

[20] While this provision exempts certain products from the requirements of state law, it should be emphasized it exempts no one from complying with the Warranty Act.

[21] State law creating an implied warranty may set limits on duration. *See*, section 101 (7) of the Warranty Act, and the discussion of § 1791.1 of the Song-Beverly Act, *supra*.

(d) that the address and telephone number where to mail or deliver written notices of defects be set forth in the document;

(e) that the one-year warranty period applies to structures, plumbing, heating, electrical systems and all appliances and other equipment installed and included therein by the manufacturer or dealer; and,

(f) that the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the buyer should report all complaints to these parties initially, even though the manufacturers of any or all appliances may also issue their own separate warranties.

Section 1797.4 provides that the remedies under the chapter are cumulative and may not be waived.

Nothing in the Warranty Act prohibits a state from requiring that there be a warranty on a particular consumer product. Further, a state may set the duration of such statutory warranty. Also, states may mandate substantive terms if they are not requirements relating to performance under a written warranty, within the scope of a requirement under section 104 of the Warranty Act (or if they are identical to such requirements). Finally, a state may require disclosure of such requirements in a written warranty if they are also items required to be disclosed under the provisions of 16 CFR Parts 701–702, the rules implementing section 102 of the Warranty Act.

The mandatory terms contained in § 1797.3 paragraphs (b), (c) and (f) of the California statute set forth requirements under a written warranty within the scope of section 104 of the Warranty Act.[22] By operation of section 111(c) of the Warranty Act these state requirements may be rendered inapplicable to written warranties in compliance with federal requirements, if not identical therewith, except to the extent they provide for consumer rights and remedies.[23] Since the substance of these provisions is identical to requirements contained in section 104(a)(1) of the Warranty Act, however, they are unaffected thereby.[24]

The state provision also sets forth disclosure duties and obligations. Section 102 of the Warranty Act mandates Commission promulgation of rules requiring full disclosure of written warranty terms and conditions and rules dealing with this subject were recently promulgated.[25] By operation of section 111(c) of the Warranty Act, the state disclosure provisions of the California law would be rendered inapplicable to written warranties complying with Federal requirements, when effective,[26] if not identical to these requirements. However, the terms required to be contained in a written warranty under the California statute are, with one exception, also items required to be disclosed by the rules implementing section 102[27] and so they would not be affected by the Warranty Act.[28] The exception is the requirement in term (d) that the warranty contain the telephone numbers of the dealer and manufacturer where notices of defects may be given. 16 CFR Part 701 implements section 102 of the Warranty Act and section 701.3(a)(5) thereof does not mandate disclosure of telephone numbers in a written warranty, it merely makes such disclosure optional.

Finally, the state provision that the warranty be set forth in a separate written document entitled "Mobile Home Warranty" comes within the scope of section 103 of the Warranty Act. Section 103 provides that a written warranty on a consumer product must be designated either "full" or "limited" warranty, and any written warranty not satisfying the federal minimum requirements for a "full" written warranty (as set forth in section 104) must be designated a "limited warranty." By operation of section 111(c) of the Warranty Act the California written warranty designation requirement would not be applicable to a written warranty designated "full" or "limited" in accordance with the requirements of section 103 of the Warranty Act.[29]

Therefore, by operation of section 111(c) of the Warranty Act the "Mobile Home Warranty" designation requirement of section 1797.3 and the requirement in that section in term (d) that the warranty contain the telephone numbers of the dealer and manufacturer where notices of defects may be given will be rendered inapplicable to written warranties complying with federal requirements since they are not identical to such requirements. Under section 111(c)(2), however, these state provisions may be subject to examination in a Commission rulemaking proceeding pursuant to section 109 of the Warranty Act. If the Commission determines that the state provisions afford greater protection to consumers than the requirements of the Warranty Act and do not unduly burden interstate commerce, these requirements will be applicable as long as they are effectively enforced. In view of the above discussion, staff recommends commencement of such a rulemaking proceeding.

Section 1797.5 requires dealers to post signs announcing the existence of the warranty and the availability of sample copies.

This is a requirement within the scope of section 102(b)(1)(A) of the Warranty Act which provision authorizes the Commission to prescribe rules "requiring that the terms of any written warranty on a consumer product be made available to the consumer (or prospective consumer) prior to the sale of the product to him." A rule implementing this provision was recently promulgated by the Commission and becomes effective December 31, 1976.[30]

By operation of section 111(c) of the Warranty Act, the state disclosure provisions of § 1797.5 will be rendered inapplicable to written warranties complying with the federal requirements, when effective, since they are not identical to these requirements. Under section 111(c)(2) however, these state provisions may be subject to examination in a Commission rulemaking proceeding pursuant to section 109 of the Warranty Act. If the Commission determines that the state provisions afford greater protection to consumers than the requirements of the Warranty Act and do not unduly burden interstate commerce, these requirements will be applicable as long as they are effectively enforced. In view of the above discussion, staff recommends commencement of such a rulemaking proceeding.

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[22] Paragraphs (a) and (e) are not within the scope of the language of § 111(c) because state law may provide for the creation of a statutory warranty and set its duration. Paragraph (d) is strictly a disclosure provision and the effect of the Warranty Act on this section is discussed *infra*.

[23] Section 111(b)(1), an exception to section 111(c), states: "Nothing in this title shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law." Under California law a mobile home buyer has a right to the above described statutory warranty. The Warranty Act preserves this right. State enforcement, however, is subject to the rules set out in section 111(c) of the Warranty Act.

[24] While no time provision for commencing and completing required "corrective action" is specified, the underlying law of contracts is that such obligations will be fully performed within a reasonable time. *See*, U.C.C. section 2–309(1). Also, the notification provisions of paragraphs (b) and (f) are consistent with section 104(b)(1) in that they do not impose any duty other than notification as a condition for securing remedy under the warranty.

[25] *See*, 40 FR 60168 (Dec. 31, 1975) 16 CFR Parts 701, 702.

[26] The rules become effective December 31, 1976.

[27] Terms (a) and (e) of the California statute relate to warranty coverage. Disclosure of such information is also required by the terms of section 701.3(a)(2) of the section 102 Warranty Act rules. Terms (b) and (f) of the California statute concern what action the warrantors will take where there is a breach; section 701.3(a)(3) of the Warranty Act rules require disclosure of this information. Term (e) of the California statute deals with duration of the warranty and this is covered by Warranty Act rule section 701.3(a)(4). Finally, terms (b), (c), (d) and (f) provide for the identification of the responsible parties under the written warranty and the procedure to be followed to secure corrective action; disclosure of this information should be required by Warranty Act rule section 701.3(a)(5).

[28] Warrantors, of course, would also have to disclose the additional items not mandated by the California statute but nevertheless required to be disclosed by regulations under the Warranty Act (16 CFR Parts 701–702).

[29] As written, the required California written warranty would have to be designated a "limited" warranty unless it also included *all* of the minimum requirements for a "full" federal warranty contained in section 104 of the Warrantly Act.

[30] *See*, 40 FR 60189 (Dec. 31, 1975), 16 CFR Part 702.

AUTO WARRANTY PROVISIONS

(California Health and Safety Code, §§ 39156, 39157; California Vehicle Code, §§ 9975, 34715)

Section 39156 provides that the manufacturer of each motor vehicle and motor vehicle engine shall warrant to purchasers that it is designed, built and equipped to conform at the time of sale with California's emission standards and that each motor vehicle or motor vehicle engine is free from defects in materials and workmanship which could cause such motor vehicle or motor vehicle engine to fail to conform with applicable regulations for its "useful life" as defined in the next section (*§ 39157*).

Section 9975 requires that, notwithstanding any limitation in any warranty relating to a motor vehicle, a manufacturer who notifies a motor vehicle owner of a safety defect must correct that defect without charge to the customer.

Section 34715 requires an automobile manufacturer to warrant that the automobile is equipped with an appropriate energy-absorption system so that it can be driven directly into a standard test barrier at five miles per hour without sustaining property damage to the front or rear of the vehicle.

These state provisions are not requirements relating to labeling or disclosure with respect to written warranties or performance thereunder; nor are they within the scope of an applicable requirement of sections 102, 103, or 104 since they do not relate to standards concerning written warranty disclosures, designations, or minimum content requirements. Consequently, they are not within the purview of section 111(c), nor are they otherwise affected by the Warranty Act.

NOTICE TO WARRANTOR PROVISION

(California Commercial Code, § 2801)

Section 2801 states that if a manufacturer or seller issues a written warranty requiring the buyer to complete and return a proof of purchase form, such warranty shall not be unenforceable because the buyer fails to complete or return the form. This protection can be waived by the buyer in writing.

Under section 2801, a manufacturer's or seller's warranty is not rendered unenforceable by the consumer's failure to return a "proof of purchase" form. This statutory right to maintenance of a warranty, regardless of any such attempt by a warrantor at limitation, provides for a consumer right or remedy within the meaning of section 111(b)(1).[21] This provision is therefore unaffected by the operation of section 111(c) of the Warranty Act, nor is it otherwise affected by that Act.

Issued: July 9, 1976.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-19865 Filed 7-8-76;8:45 am]

[21] *See* n. 8, *supra* for the text of this provision.

INTERNATIONAL TRADE COMMISSION

[337-TA-20]

CERTAIN BISMUTH MOLYBDATE CATALYSTS

Notice and Order Concerning Procedure or Commission Action

Notice is hereby given that—

(1) The Commission, in its Notice and Order published on June 16, 1976 (41 FR 24460), set July 12, 1976, as the date for oral argument concerning the presiding officer's Recommendation to terminate this investigation.

(2) Pursuant to the stipulation filed by the parties to this investigation (M. 20-8), which supercedes complainant's motion to control oral argument (M. 20-7), the time and date for the oral argument concerning the presiding officer's Recommendation are set for 10 a.m., e.d.t., on July 19, 1976, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission:

Issued: July 2, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-19786 Filed 7-8-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-62]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Company, Tokyo, Japan, an exclusive patent license in Japan for the four NASA owned inventions covered by the Japanese counterparts of: (1) U.S. Application for Patent Serial No. 652,948 for "Liquid-Cooled Brassier", filed by NASA on January 27, 1976; and (2) U.S. Application for Patent Serial No. 651,007 for "Optical Conversion Method", filed by NASA on January 21, 1976. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Service, Springfield, Virginia, 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: June 28, 1976.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-19471 Filed 7-8-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-64]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL; PANEL ON AVIATION SAFETY AND OPERATING SYSTEMS; SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM

Meeting

The NASA Research and Technology Advisory Council (RTAC), Subcommittee on Aviation Safety Reporting System will meet on July 28-29, 1976, at the Ames Research Center, Moffett Field, CA 94035. The meeting will be held in the Committee Room, Administration Building. The meeting is being held at this time to review the first quarter's operation of the Aviation Safety Reporting System. Members of the public will be admitted on a first come, first served basis up to the seating capacity of the room which is about 25 persons. All visitors must report to the Ames Research Center receptionist in the Administration Building.

The RTAC Subcommittee on Aviation Safety Reporting System serves in an advisory capacity only. The Chairman is Mr. John H. Winant. There are 11 members. The following list sets forth the approved agenda and schedule for the July 28-29, 1976, meeting of the Aviation Safety Reporting System Subcommittee. For further information please contact Mr. E. Gene Lyman, (202) 755-2380.

JULY 28, 1976

Time	*Topic*
9 a.m.	Report of the chairman. Purpose: To summarize activities relating to the Aviation Safety Reporting System since the last subcommittee meeting.
9:30 a.m.	Report on the Aviation Safety Reporting System. Purpose: To describe status of activities pertaining to ASRS operation. Members will comment on these activities and identify items requiring additional attention.
10:30 a.m.	Review of ASRS reports. Purpose: To allow members an opportunity to comment on information received and topics required special analysis.
2:30 p.m.	Report of Security Group. Purpose: To review security aspects of ASRS and to receive members advice and recommendations concerning ASRS security.
3:30 p.m.	Review of aviation safety research. Purpose: To review ongoing aviation safety research studies and to receive member's advice about these studies.

JULY 29, 1976

Time	Topic
8:30 a.m.	Review of ASRS publications. Purpose: To review draft ASRS quarterly report and to consider distribution plans for periodic and special reports.
11:30 a.m.	Member's discussion. Purpose: To consider total aspects of ASRS and provide advice and recommendations about its operation.
1 p.m.	Adjourn.

WILLIAM W. SNAVELY,
Assistant Administrator for DoD and Interagency Affairs, National Aeronautics and Space Administration.

JULY 1, 1976.

[FR Doc.76-19806 Filed 7-8-76;8:45 am]

[Notice 76-63]

SPACE PROGRAM ADVISORY COUNCIL

Meeting

The NASA Space Program Advisory Council will meet on July 26 and 27, 1976, in the Williamsburg Room, Building E-2, Wallops Flight Center, Wallops Island, Virginia 23337. The meeting, to be held from 9 a.m. to 4:30 p.m. on July 26, 1976, and from 9 a.m. to 12:30 p.m. on July 27, 1976, is open to the public. The seating capacity of the room is about 30 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

The NASA Space Program Advisory Council was established as an interdisciplinary group to advise NASA senior management with respect to the plans for, the work in progress on, and the accomplishments of NASA's space programs. The Council is concerned with the disciplines appropriate to Physical Sciences, Life Sciences, Space Applications, and Space Systems, as they bear on space programs. The Chairman of the Council is Dr. Frederick Seitz. There are currently eighteen members on the Council and additional members on four standing committees which report to the Council. The following list sets forth the approved agenda and schedule for the meeting. For further information contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202, 755-8433, NASA Headquarters, Wash.. D.C.

JULY 26, 1976

Item and time	Topic
1. 9 a.m.	Opening remarks: This time is provided for the chairman's introductory remarks and for the Executive Secretary to cover administrative matters.
2. 9:15 a.m.	NASA program update: Highlights of space program events and activities since the last meeting will be summarized.
3. 10 a.m.	Viking status report: The Council will be briefed on the status of both Viking I and II missions.
4. 11 a.m.	Stratospheric research program summary: The present status of and plan for the NASA stratospheric research program will be described for the Council.
12 m.	Lunch.
5. 1:30 p.m.	Fiscal Year 1978 budget outlook and candidate new starts: The prospects for the fiscal year 1978 budget will be discussed and candidate new starts will be identified. Committee chairmen will discuss the views of their respective committees as developed during their June meetings, and SPAC members are asked to provide their views.
4:30 p.m.	Adjourn.

JULY 27, 1976

6. 9 a.m.	Life sciences program summary: The present and planned life sciences program will be described for the Council.
7. 10 a.m.	Tracking and data relay satellite system summary: The Council will be briefed on the proposed tracking and data relay satellite system. Included will be discussion of the technical concept and the various management and development options.
8. 11 a.m.	Outlook for aeronautics summary: The outlook for aeronautics study, which examined future aeronautical mission prospects and technology, will be summarized for the Council's information.
9. 12 m.	Science content of applications programs: The chairmen of the physical Sciences and Applications Committees will report on their joint efforts to examine and coordinate the scientific aspects of the applications program. The discussions at their recent joint committee meeting will be reviewed.
12:30 p.m.	Adjourn.

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

JULY 1, 1976.

[FR Doc.76-19805 Filed 7-8-76;8:45 am]

[Notice 76-65]

STRATOSPHERIC RESEARCH ADVISORY COMMITTEE

Postponement of Meeting

A meeting of the Stratospheric Research Advisory Committee which was originally scheduled for July 20-21, 1976 and which was announced in the FEDERAL REGISTER Vol. 41 No. 117 on Wednesday June 16, 1976, has been postponed until after September 1, 1976.

JULY 1, 1976.

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.76-19807 Filed 7-8-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

CINCINNATI STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 2, 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:

Bankamerica Corporation, $3.125 Par Common, File No. 7-4845.

Upon receipt of a request on or before July 12, 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.76-19791 Filed 7-8-76;8:45 am]

[Rel. No. 19599; 70-5875]

EASTERN UTILITIES ASSOCIATES, ET AL.

Proposed Issue and Sale of Either Unsecured Notes by Holding Company, or Common Stock by One Subsidiary to Holding Company or to a Second Subsidiary

Notice is hereby given that Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a reg-

istered holding company, and two of its electric utility subsidiary companies, Brockton Edison Company ("Brockton"), 36 Main Street, Brockton, Massachusetts 02403, and Montaup Electric Company ("Montaup"), P.O. Box 391, Fall River, Massachusetts 02722, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9(a), 10, 12(d) and 12(f) of the Act and Rules 43(a) and 44(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are refrerred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA proposes to borrow $20,000,000 through the issuance of unsecured promissory notes in the amounts of $11,500,000 to the Frist National Bank of Boston ("First Boston note") and $8,500,000 to The Chase Manhattan Bank, N.A. ("Chase note").

The First Boston note will mature on May 31, 1982 and will bear interest at 125% of the sum of ½ of 1% plus the prime or base rate in effect at the bank from time to time (adjusted as of the date of any change in such prime or base rate). The First Boston note will contain a provision for sinking fund installments of one-sixth of the principal amount thereof, payable beginning November 30, 1979 and each six months thereafter; it may be prepaid in whole or in part (in payments not less than $500,000) at any time without penalty; in some circumstances, prepayments will be applied to installments in inverse order of their maturity. The loan agreeunder which the First Boston note will be issued will provide for a committment commission on $11,500,000 at ½ of 1% per annum from June 1, 1976 to the date the loan is made or, if the loan is not made, to the date the agreement terminates. Assuming a prime rate of 7%, the effective cost of the First Boston Note would be 9.375%.

The Chase not will mature on May 31, 1982 and will provide for interest payable quarterly at 115% of the "applicable rate," which will be the greater of: (i) the rate then charged by the bank on short-term loans to large businesses with the highest credit standing; or (ii) the sum of (a) ½ of 1% plus (b) the average rate (on a discount basis) for 90 to 119 day dealer placed prime commercial paper. Each change in the interest rate resulting from a change in the applicable rate is to become effective on the day on which change in the applicable rate occurs. Assuming an applicable rate of 7%, the effective cost of the Chase note would be 8.05%.

The Chase not will contain a provision for sinking fund installments of one-sixth of the original principal amount thereof payable beginning November 30, 1979 and each six months thereafter. The Chase note is expected to be payable in whole or in part (in payments not less than $500,000) at any time without penalty; in some circumstances such prepayments will be applied to installments in inverse order of their maturity. The loan agreement under which the Chase note will be issued will provide for a finance fee from June 1, 1976 to the date the loan is paid in full or if the loan is not made, to the date the agreements terminates, payable quarterly, at 15% of the applicable rate per annum, as defined above, computed on $8,500,000, as reduced from time to time by payments or prepayments of principal; for a committment fee on $8,500,000 at ½ of 1% per annum from June 1, 1976 to the date the loan is made or if the loan is not made, the date the agreement terminates; and for a closing fee of $85,000, payable on the date of closing.

EUA expects that pursuant to loan agreements under which the First Boston and the Chase notes are to be issued, that EUA will be subject, among other things, to certain restrictive covenants with respect to issuance of securities, including short-term notes, maintenance of consolidated working capital and limitations on dividend payments. EUA also expects that the proceeds of securities issued by EUA may be required in some circumstances to be applied to make prepayments of the First Boston and Chase notes. There are no compensating balances required in connection with either of these notes.

EUA proposes to use the net proceeds of the promissory notes to (i) purchase 378,368 newly issued shares of additional Brockton stock ("Brockton stock") at their par value of $25 per share or an aggregate par value of $9,459,200, and (ii) prepay in full or substantially in full EUA's short-term debt to banks, said borrowings estimated to be $11,800,000 at the time of such payment. Brockton proposes to issue and sell the Brockton stock to EUA for the consideration stated above. EUA proposes to pledge such stock to First Boston as Trustee under EUA's Indenture and Deed of Trust dated as of October 1, 1953, as supplemented, securing EUA's Collateral Trust Bonds.

Brockton proposes to apply the proceeds from such sale of the Brockton stock, together with $40,800 of treasury cash, to the purchase of 95,000 newly issued shares of Montaup common stock ("Montaup stock"). Montaup proposes to sell such stock to Brockton at its par value of $100 per share or an aggregate par value of $9,500,000. Montaup will use the proceeds from such sale to reduce Montaup's outstanding short-term debt to banks. At the time of the sale of the Montaup stock, it is expected that Montaup will have $24,600,000 in outstanding short-term debt to banks. Montaup proposes to issue and sell the Montaup stock to Brockton for the above described consideration. Brockton will pledge the Montaup stock to State Street Bank and Trust Company under Brockton's Indenture of First Mortgage and Deed of Trust dated as of September 1, 1948, as supplemented and modified, securing Brockton's First Mortgage and Collateral Trust Bonds.

It is stated that the Department of Public Utilities of the Commonwealth of Massachusetts has jurisdiction over various aspects of the proposed transactions, that the Public Utilities Control Authority of the State of Connecticut will be asked to waive any jurisdiction it might have over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than July 26, 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 filed or as it may be 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.76-19792 Filed 7-8-76;8:45 am]

[Release No. 9338; File No. 812-3968]

SOGEN—SWISS INTERNATIONAL CORP.

Filing of Application for Exemption and Order of Temporary Exemption Pending Determination of the Application

JUNE 30, 1976.

Notice is hereby given that SoGen—Swiss International Corporation ("SoGen"), 20 Broad Street, New York, New York 10005, has filed an application pursuant to Section 9(c) of the Investment Company Act of 1940 ("the Act") for an order exempting SoGen from the provisions of section 9(a) of the Act, and for an order of temporary exemption from section 9(a) pending the Commission's

determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

SoGen, a New York corporation, is a registered broker-dealer under Section 15 of the Securities Exchange Act of 1934 and a registered investment adviser under Section 203 of the Investment Advisers Act of 1940. Swiss American Corporation, a New York corporation, which is a wholly-owned subsidiary of Swiss Credit Bank, owns 50.8% of the voting stock of SoGen. Among its activities, SoGen acts as investment adviser and principal underwriter to SoGen International Fund (the "Fund"), an investment company registered under the Act.

On November 25, 1975, the Commission commenced an action in the United States District Court for the District of Columbia entitled "Securities and Exchange Commission v. American Institute Counselors, Inc. et al." (75 Civ. 1965) against various defendants, including Swiss Credit Bank, alleging violations of various provisions of the federal securities laws. Swiss Credit Bank, without admitting or denying any of the allegations of the Complaint, stipulated to the entry of a Final Order terminating the action against it, with prejudice, and entered into a Stipulation and Undertaking with the Commission.

The Final Order provides that Swiss Credit Bank shall not, directly or indirectly, make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell, offer to buy or sell, or carry or cause to be carried securities of the Progress Group (as defined in the Final Order) except in accordance with the provisions of Section 5 of the Securities Act of 1933. The order further provides that Swiss Credit Bank shall not transact business with any member of the Progress Group when such member is acting as a broker-dealer or investment adviser or is engaging in investment company activities unless such member has complied with the applicable registration requirements of the securities laws of the United States.

Section 9(a) of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or distributor of any registered investment company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application, the Commission by order shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

SoGen submits pursuant to section 9(c) that the prohibitions of section 9(a) of the Act, to the extent applicable by virtue of the entry of the Final Order against Swiss Credit Bank, would be unduly and disproportionately severe as applied to SoGen and that the conduct of Swiss Credit Bank has been such as not to make it against the public interest or protection of investors to grant this exemption. In support thereof, SoGen represents that (i) the prohibitions of section 9(a) would deprive the Fund of the continuity of services of SoGen as its investment adviser and principal underwriter and (ii) neither SoGen nor the Fund participated in any of the alleged conduct set forth in the Commission's action. The Commission has considered the matter and finds that:

(1) The prohibitions of Section 9(a) may be unduly or disproportionately severe as applied to SoGen in that SoGen did not participate in any of the alleged conduct set forth in the Commission's action and, that the conduct of Swiss Credit Bank has been such as not to make it against the public interest or protection of investors to grant the application by SoGen for a temporary exemption from Section 9(a) pending determination of the application; and

(2) In order to maintain the uninterrupted services provided by SoGen to the Fund, it 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 that the temporary order be issued forthwith.

Accordingly, it is ordered, pursuant to Section 9(a) of the Act, that SoGen is hereby temporarily exempted from the provisions of Section 9(a) of the Act operative as a result of the entry of the Final Order against Swiss Credit Bank in "Securities and Exchange Commission v. American Institute Counselors, Inc. et al.," pending final determination by the Commission of SoGen's application for an Order exempting SoGen from the provisions of Section 9(a) operative as a result of the entry of such Final Order.

Notice is further given that any interested person may not later than July 26, 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon SoGen at the address set forth 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. At any time after said date, as provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-19793 Filed 7-8-76;8:45 am]

[Release No. 9337; File No. (812-3969)]

WHITE, WELD & CO. INC.

Filing of Application for Exemption and Order of Temporary Exemption Pending Determination of the Application

JUNE 30, 1976.

Notice is hereby given that White, Weld, & Co. Incorporated ("White, Weld"), One Liberty Plaza, 91 Liberty Street, New York, New York 10006, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940 ("the Act") for an order exempting White, Weld from the provisions of section 9(a) of the Act, and for an order of temporary exemption from 9(a) pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicant is a registered broker-dealer under Section 15 of the Securities Exchange Act of 1934. To the best of Applicant's knowledge, Swiss Credit Bank owns approximately 41% of the voting securities of Societe anonyme financiere de Credit Suisse et de White, Weld which owns approximately 28% of the capital stock (including approximately 24% of the voting securities of White Weld Holdings, Inc. which owns 100% (except directors' qualifying shares) of the voting securities of Applicant. Applicant acts as administrator and distributor (and, accordingly, is deemed to be the principal underwriter) for White Weld Money Market Fund Incorporated ("WWMM Fund"), an open-end, diversified management investment company registered under the Act.

On November 25, 1975, the Commission commenced an action in the United States District Court for the District of Columbia entitled "Securities and Exchange Commission v. American Institute Counselors, Inc. et al., (75 Civ. 1965) against various defendants, including Swiss Credit Bank, alleging violations of various provisions of the federal securi-

ties laws. Swiss Credit Bank, without admitting or denying any of the allegations of the Complaint, has stipulated to the entry of a Final Order terminating the action against it, with prejudice, and entered into a Stipulation and Undertaking with the Commission.

The Final Order provides that Swiss Credit Bank shall not, directly or indirectly, make use of any means or instruments of transportation or communication in interstate commerce or the mails to sell, offer to buy or sell, or carry or cause to be carried, securities of the Progress Group (as defined in the Final Order) except in accordance with the provisions of section 5 of the Securities Act of 1933. The order further provides that Swiss Credit Bank shall not transact business with any member of the Progress Group when such member is acting as a broker-dealer or investment adviser or is engaging in investment company activities unless such member has complied with the applicable registration requirements of the securities laws of the United States.

Section 9(a) of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to serve or act in the capacity of employee, officer, director, member of an advisory board, investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that, upon application, the Commission by order shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Notwithstanding the filing of its application, White, Weld disclaims that Swiss Credit Bank is an "affiliate", as that term is generally applied under the securities laws of the United States, or an "affiliated person" as that term is defined by the Act, of Applicant. However, were Swiss Credit Bank deemed to be an "affiliated person" of White, Weld by virtue of section 2(3) of the Act, White, Weld would, to the extent that section 9(a) of the Act is applicable by virtue of entry of the Final Order against Swiss Credit Bank, be ineligible to serve or act in any of the capacities set forth in section 9(a) by reason of section 9(a)(3) of the Act.

White, Weld submits pursuant to Section 9(c) that the prohibitions of Section 9(a) of the Act, to the extent applicable by virtue of the entry of the Final Order against Swiss Credit Bank, would be unduly and disproportionately severe as applied to White, Weld and that the conduct of Swiss Credit Bank has been such as not to make it against the public interest or protection of investors to grant this exemption. In support thereof, White, Weld represents that (i) the prohibitions of Section 9(a) would deprive WWMM Fund of the continuity of services of White, Weld as its principal underwriter and (ii) neither White, Weld nor the WWMM Fund participated in any of the alleged conduct set forth in the Commission's action.

The Commission has considered the matter and finds that:

(1) The prohibitions of Section 9(a) may be unduly or disproportionately severe as applied to White, Weld in that White, Weld did not participate in any of the alleged conduct set forth in the Commission's Complaint and that the conduct of Swiss Credit Bank has been such as not to make it against the public interest or protection of investors to grant the application of White, Weld for a temporary exemption from Section 9(a) pending determination of the application; and

(2) In order to maintain the uninterrupted services provided by White, Weld to the WWMM Fund, it 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 that the temporary order be issued forthwith.

Accordingly, it is ordered, pursuant to section 9(c) of the Act, that White, Weld is hereby temporarily exempted from any of the provisions of section 9(a) of the Act operative as a result of the entry of the Final Order against Swiss Credit Bank in "Securities and Exchange Commission *v.* American Institute Counselors, Inc., et al", pending final determination by the Commission of White, Weld's application for an order exempting White, Weld from any of the provisions of section 9(a) operative as a result of the entry of such Final Order.

Notice is further given that any interested person may, not later than July 26, 1976, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon White, Weld, care of Stephen R. Volk, Esquire, 53 Wall Street, New York, New York 10005. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application, shall be issued upon the request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further development in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-19704 Filed 7-8-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-0039]

ASSOCIATED CAPITAL CORP.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA regulations (13 CFR 107.102(1976)) by Associated Capital Corporation, 5151 Bannock Street, Denver, Colorado 80216 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholder are:

William G. Thompson, 5200 Lakeshore Drive, Littleton, Colorado 80123, President and Director.

Clair D. Smith, 507 Ken Mar Court, Longmont, Colorado 80501, Vice President and Director.

Rodney J. Love, 5470 West Hinsdale Avenue, Littleton, Colorado 80123, Secretary-Treasurer & Director.

Glenn E. Hageman, 448 South Leyden, Denver, Colorado 80224, General Manager.

Associated Grocers of Colorado, Inc., 5151 Bannock Street, Denver, Colorado 80216, 100 percent shareholder.

Associated Grocers of Colorado, Inc. (Associtated), is a voluntary cooperative association of retail grocers which was formed and presently operates to provide cooperative purchasing, distribution and other services to its members.

It is proposed that while the Applicant's financing will primarily be in retail grocery stores which are owned and operated by members of the cooperative, consideration will also be given to applications for assistance submitted by any eligible small business concern. These members through their ownership of the cooperative are the beneficial owners of 100 percent of the Applicant's common stock. As such, they would be considered an "affiliated group" beneficially owning all of the Applicant's common stock. Therefore, the proposed financings to member retail grocers would be subject to the conflict of interest provisions of § 107.1004(b)(1) of the regulations.

It is the intent of SBA to grant the Applicant a partial exemption from the restrictions of § 107.1004(b)(1) of the reg-

ulations in order to make it possible to finance, and thus help advance the best interests of, small retail grocers. The partial exemption would extend only to the financial assistance provided to the small retail grocers who are members of the cooperative. Any financial assistance to other Associates of the Licensee would not be exempt, and would fall within the purview of § 1707.1004 of the regulations.

Further, in view of its distinctive nature as a voluntary cooperative association of small retail grocers operated for their mutual benefit, SBA intends to grant an exemption from § 107.1004(b)(5) of the regulations to permit members of the cooperative to use up to 100 percent of the proceeds of the Applicant's financing to purchase property, including goods and services from Associated and/or its wholly owned subsidiary, Grocers General Agency, Inc., which provides insurance coverage for members of Associated.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owner and management, (2) the reasonable prospects for successful operation of the new company under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is further given that any person may, on or before July 26, 1976, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: July 1, 1976.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.76-19853 Filed 7-8-76;8:45 am]

SUSQUEHANNA RIVER BASIN COMMISSION

ADDITIONAL HEARINGS

The Susquehanna River Basin Commission has proposed regulations governing the consumptive uses of water in the Susquehanna River Basin. The proposed regulations were published in the FEDERAL REGISTER, Vol. 41, No. 109, June 4, 1976 on pages 22598 and 22599.

Interested parties are invited to submit comments, suggestions, or objections regarding the adoption of the regulations at public hearings scheduled for:

July 8, 1976—1:30 p.m. and 7:30 p.m. at the Penn Ram Motor Inn, 5401 Carlisle Pike, Mechanicsburg, Pennsylvania.

July 21, 1976—2 p.m. and 7:30 p.m. at the Corning Public Library, Civic Plaza, Corning, New York.

July 22, 1976—2 p.m. and 7:30 p.m. at the Broome County Office Building, 2nd Floor Auditorium, Government Plaza, Binghamton, New York.

July 28, 1976—2 p.m. and 7:30 p.m. at the Havre de Grace High School, 700 Congress Avenue, Havre de Grace, Maryland.

Persons unable to attend the hearing may submit written comments to the Secretary, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, Pennsylvania 17055.

ROBERT J. BIELO,
Executive Director.

[FR Doc.76-19854 Filed 7-8-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this sixth day of July, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending July 2, 1976

Name of applicant	Location of enterprise	Principal product or activity
Delta Diversified, Inc.	Dalton, Ga.	Manufacture of the finishing of broadloom tufted carpets.
Louisville Tool & Engineering Co., tenant to city of Louisville.	Louisville, Ga.	Manufacture of tool and dies made with steel fabrication.
Vantran Corp., tenant to city of Louisville	do.	Manufacture of electric transformers.
Delilah Manufacturing Co., tenant to city of Louisville.	do.	Manufacture of drapery products.
Samson Plastic Conduit & Pipe, Inc., tenant to city of Louisville.	Samson, Ala.	Manufacture of miscellaneous plastic products for conduits, pressure water and sewer pipes.
Toy City, Inc.	Hardeeville, S.C.	Retail sales, warehousing, and distribution of toys.
Allen's Feed & Grain, Inc.	Colmar, Ill.	Grain drying and storage facilities; buying and selling.
Porter, Inc.	Decatur, Ind.	Manufacture of fiberglass boats.
Louisville Tool & Engineering Co., tenant to city of Louisville.	Louisville, Ga.	Manufacture of tools and dies made with steel fabrication.
Southwest Carbon Paper Manufacturing Co., Inc.	Parsons, Kans.	Manufacture of carbon paper and ink.
Blair Cedar & Novalty Works, Inc., tenant of city of Camdenton.	Camdenton, Mo.	Manufacture of cedar novelties.
Het-Chem-Co.	Harrisonville, Mo.	Manufacture of specialty chemicals.
Curtis Studio, Ltd.	Loveland, Colo.	Manufacture of original western sculpture, hydrocal and pewter, and bronze plate.
Steamboat Springs Winter Sports Club, tenant to city of Steamboat Springs.	Steamboat Springs, Colo.	90-m ski jump.
McNamara & Peppe Arcata	Arcata, Calif.	Manufacture of lumber, wood chips, sawdust and shavings, and hog fuel.
Coachella Valley Laundry, Inc.	Coachella, Calif.	Laundry and linen supply service.

[FR Doc.76-19918 Filed 7-8-76;8:45 am]

Office of the Secretary

SECRETARY'S COMMITTEE ON VETERANS' AFFAIRS

Meeting

Announcement is made of the following Committee meeting:

Name: Department of Labor Secretary's Committee on Veteran's Affairs.
Date: July 19, 1976.
Place: Secretary's Conference Room, S2508 (South Wing), New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.
Time: 1600.
Proposed agenda:
Policy statement on veterans' committee.
Economic overview of veterans employment and unemployment.
New veterans regulations and standards.
Statistical report on veterans activities.

Purpose of meeting: The Committee will review the Secretary's restructuring order, examine the functions as redefined, outline rules of procedures, and receive reports on veterans employment and the implementation of regulations and standards pertaining thereto.

Meeting of the Secretary's Committee on Veterans' Affairs is open to the public.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairperson may allow public presentation of oral statements at the meeting.

All communications regarding this Committee should be addressed to Mr. Ralph E. Hall, Director, Veterans Employment Service, Room 8400 Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

For the Secretary of Labor.

RALPH E. HALL,
Director, Veterans Employment Service, Vice Chairperson, Secretary's Committee on Veterans' Affairs.

JULY 6, 1976.

[FR Doc.76-19911 Filed 7-8-76;8:45 am]

[TA-W-947]

BRYAN MFG., CO.

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance

On June 24, 1976 the Department of Labor received a petition dated April 29, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Bryan Mfg., Co., Mayfield, Kentucky (TA-W-947). 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 men's tailored clothing produced by Bryan Mfg., Co. 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 19, 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 19, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of June 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-19756 Filed 7-8-76;8:45 am]

[TA-W-953]

BURROUGHS, INC.

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance

On June 24, 1976 the Department of Labor received a petition dated June 17, 1976 which was filed under section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Warren, New Jersey Electronic Component Division of Burroughs, Inc. Detroit, Michigan (TA-W-953). 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 electronic digital displays for calculators produced by Burroughs, Inc. 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 19, 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 19, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of June 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-19758 Filed 7-8-76;8:45 am]

[TA-W-952]

CARROLL SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On June 24, 1976 the Department of Labor received a petition dated June 13, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America on behalf of the workers and former workers of Carroll Shoe Co., Summersville, West Virginia, a subsidiary of Combridge Rubber Co., Tanneytown, Md. (TA-W-952). 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 canvas shoes for men, women, and children produced by Carroll Shoe Company 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 threat-

ened 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 19, 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 19, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of June 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-19757 Filed 7-8-76;8:45 am]

[TA-W-817]

GALETON PRODUCTION CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-817: 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 26, 1976 in response to a worker petition received on April 26, 1976 which was filed by the workers of the Galeton Production Company on behalf of workers and former workers producing electronic receiving tubes at the Galeton Production Company, Galeton, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on May 14, 1976, (41 FR 20044). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Galeton Production Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group of eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision 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 of the criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average employment declined 51.1 percent in 1974 compared to 1973. Average employment declined 44.3 percent in the first half of 1975 compared to the same period in 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company production declined 44.9 percent in quantity in 1974 compared to 1973 and declined 69.9 percent in the first half of 1975 compared to same period of 1974. The plant closed on June 27, 1975.

INCREASED IMPORTS

The ratios of imports to domestic production and consumption increased in quantity in each year from 42.6 percent and 31.5 percent, respectively, in 1973 to 57.6 percent and 38.9 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation indicates that imports of electronic receiving tubes have increasedd in recent years.

Customers of the manufacturer for whom the Galeton Prouction Company produced exclusively increased their purchases of imported electronic receiving tubes and reduced their purchases from the manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of electronic receiving tubes contributed importantly to the total or partial separation of the former workers of the Galeton, Production Company Galeton, Pennsylvania. In accordance with the provisons of the Act, I make the following certification:

All workers of the Galeton Production Company, Galeton, Pennsylvania who became totally or partially separated on or after April 20, 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 28th day of June 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-19544 Filed 7-8-76;8:45 am]

[TA-W-724]

HUTCH SPORTING GOODS CO.

Notice of 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-724: 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 26, 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 sporting and athletic goods at Hutch Sporting Goods Company, Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15489). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hutch Sporting Goods Company, its customers, the U.S. Department of Commerce, the U.S. 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 eligibilty requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or 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 two criteria have been met, the third and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Hutch declined 14 percent in 1975 from 1974 and declined 13 percent in the first quarter of 1976 compared to the first quarter of 1975. Production workers work interchangeably on products at Hutch and are not identifiable by product line.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales by Hutch increased one percent in 1974 from 1973 and increased six percent in 1975 from 1974. Sales in the first quarter of 1976 were 29 percent above sales in the first quarter of 1975.

Production of basketballs and footballs comprised 40–80 percent of total output by Hutch during the 1973–1975 period. Production of football and basketballs increased 17 percent in 1975 from 1974 and 15 percent in the first quarter of 1976 compared to the first quarter of 1975. Production of athletic clothing declined 28 percent in 1975 from 1974 and 19 percent in the first quarter of 1976 from the first quarter of 1975. Production of protective equipment increased 10 percent in 1975 from 1974 and declined .08 percent in the first quarter of 1976 from the first quarter of 1975. Helmet production declined four percent in 1975 from 1974.

INCREASED IMPORTS

Imports of basketballs declined in each year from 1973 through 1975. The import/production and import/consumption ratios declined from 28.3 percent and 22.1 percent, respectively, in 1971 to 13.9 percent and 12.2 percent, respectively, in 1975. Imports of footballs declined absolutely in 1974 and 1975 from the prior year's levels. The import/production and import/consumption ratios declined from 16.7 percent and 14.3 percent, respectively, in 1973 to 9.0 percent and 8.2 percent, respectively, in 1975. Imports of protective equipment and athletic clothing, while not separately identifiable, represent a negligible portion of the domestic market for such products. Imports of football equipment represented less than one percent of domestic consumption throughout the 1971–1975 period.

CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation reveals that separations of workers from Hutch Sporting Goods Company were due to a decline in sales of athletic clothing and protective equipment by the firm. Customers of athletic clothing and protective equipment produced by Hutch attributed reduced purchases from Hutch to general economic conditions and a decline in popularity of organized team sports utilizing protective equipment and athletic clothing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with sporting and athletic goods produced by Hutch Sporting Goods Company, Cincinnati, Ohio did not contribute importantly to the total or partial separations of workers of that firm.

Signed at Washington, D.C., this 28th day of June 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-19545 Filed 7-8-76;8:45 am]

[TA-W-722]

MAGERMAN TROUSERS, INC.

Notice of 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-722: 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 26, 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 engaged in the production of men's trousers, Magerman Trousers, Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15490). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Magerman Trousers, Inc., its customers, the U.S. Department of Commerce, the U.S. 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 such 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 and third criteria have been met, the second and fourth criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at Magerman Trousers, Inc., Philadelphia, Pa. declined 11.7 percent in 1975 compared to 1974 and then increased 16.7 percent in the first quarter of 1976 compared with the same period of 1975.

Average hours worked per worker increased 7.1 percent in the last 3 quarters of 1975 compared with the same period of 1974 and increased 12.9 percent in the first quarter of 1976 compared with the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Magerman's production of men's trousers, in terms of value, increased 9.5 percent in 1975 compared to 1974 and increased 32.7 percent in the first quarter of 1976 compared with the same period of 1975.

INCREASED IMPORTS

When compared with each preceding year, U.S. imports of men's and boys' dress and sport trousers and shorts increased in 1972, decreased in 1973 and 1974, and then increased in 1975. The ratio of imports to domestic production increased from 18.2 percent in 1974 to 31.4 percent in 1975.

CONTRIBUTED IMPORTANTLY

One of the two manufacturing companies for which Magerman sews stated that they have been heavily increasing shipments to Magerman over the last 12 months, and have not shifted to imports. The other manufacturer has decreased shipments to Magerman because his customers are demanding more casual attire. This manufacturer did not shift orders to offshore contractors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's trousers did not contribute importantly to the total or partial separation of workers at Magerman Trousers, Incorporated, Philadelphia, Pennsylvania.

Signed at Washington, D.C., this 28th day of June 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-19546 Filed 7-8-76;8:45 am]

[TA-W-642 and TA-W-789]

SAN LEANDRO, CALIFORNIA PLANT OF THE SINGER BUSINESS MACHINE CO.

Notice of 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-642 and of TA-W-789: investigation

regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1976 in response to a petition (TA–W–642) received on that date which was filed by the Metal Polishers, Platers, Buffers, and Allied Workers Union on behalf of workers and former workers producing mini-computers, electronic cash registers, and computer-assisted cash register systems at the San Leandro, California plant of the Singer Business Machine Company, a subsidiary of the Singer Company, New York, New York. The Notice of Investigation was published in the FEDERAL REGISTER on March 19, 1976 (41 FR 11640).

The investigation was expanded to include a petition (TA–W–789) which was received on April 9, 1976 and which was filed on behalf of workers and former workers producing printed wiring, cables, and discs at the San Leandro, California plant of the Singer Business Machine Company, a subsidiary of the Singer Company, New York, New York. The Notice of Investigation was published in the FEDERAL REGISTER on May 4, 1976 (41 FR 18490). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Singer Business Machine Company, 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 such 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, 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 revealed that while the first three criteria have been met, the last criterion has not.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Total employment of hourly and salaried workers at the San Leandro plant decreased nine percent from 1973 to 1974 and declined 30 percent in 1975 compared to 1974. In January–February 1976 total plant employment was 61 percent below that in the like period of 1975.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The dollar value of mini-computers, electronic cash registers, computer-assisted cash register systems, and related components produced at the San Leandro plant decreased by 10 percent from 1973 to 1974 and by 39 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of computers, peripheral equipment, and related parts increased in dollar value each year from 1973 through 1975. The import/production ratio for computers, however, declined from 4.9 percent in 1974 to 4.7 percent in 1975. Imports of all types of cash registers decreased in dollar value from 1973 to 1974 but rose in 1975 compared to 1974. The import/production ratio also increased from 14.5 percent in 1974 to 20.9 percent in 1975. Import data on computer-assisted cash register systems are not separately identifiable from the above data on computers and cash registers.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Singer Business Machine Company had not imported or used imports of mini-computers, electronic cash registers, or computer-assisted cash register systems. Starting in June 1975 the San Leandro plant transferred production of certain component parts to a firm in Mexico. All imports of these components ceased in March 1976, due to the imminent closing of the San Leandro plant. However, the value of such imports was less than one percent of 1975 production costs.

The Singer Business Machine Company is a subsidiary of the Singer Company, New York, New York. Due to the highly competitive nature of the business machine market, the Singer Company decided in December 1975 to permanently close all facilities of the Singer Business Machine Company and to completely withdraw from the business machine market. Layoffs in anticipation of the plant closing began in January 1976. All production activities ceased at the San Leandro plant in April 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the mini-computers, electronic cash registers, and computer-assisted cash register systems, and related components produced at the San Leandro, California plant of the Singer Business Machine Company did not contribute importantly to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 24th day of June 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76–19547 Filed 7–8–76;8:45 am]

[TA–W–274]

UNITED STATES SHOE CORP.

Notice of 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, the Department of Labor issued a certification of eligibility on January 9, 1976 for adjustment assistance applicable to workers and former workers producing women's nonrubber footwear at the Crothersville, Indiana plant of the United States Shoe Corporation (TA–W–274). The notice of certification was published in the FEDERAL REGISTER on January 21, 1976 (41 FR 3153).

The impact date of the certification issued by the Department on January 9, 1976 was revised on the basis of the finding that the original impact date of January 3, 1975 was the date of the last payroll but not the date of the last day of work which was two weeks earlier. Therefore, it was determined that the impact date should be changed to December 20, 1974.

Since it was the intent of the original certification to include all workers at the Crothersville plant engaged in employment adversely affected by imports, a further investigation showed that eligibility for adjustment assistance should be extended to all workers who were separated on or after October 24, 1974. Such additional revised certification is made as follows:

All hourly, piecework, and salaried workers engaged in the production of women's nonrubber footwear at the Crothersville plant of the United States Shoe Corporation who became totally or partially separated from employment on or after October 24, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of June 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76–19548 Filed 7–8–76;8:45 am]

[TA–W–850]

VEEDER INDUSTRIES, INC. MAC-IT COMPANY DIVISION

Notice of 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–850: 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 by the United Steelworkers of America on behalf of workers producing specialty fasteners at the Veeder Indus-

tries, Inc., Mac-It Company Division, Lancaster, Pennsylvania plant.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 21381) on May 25, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Veeder Industries, Inc., Mac-It Company Division, the United Steelworkers of America, and Department Files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(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 in the Department's investigation reveals that there have been no significant separations at the Mac-It Company Division during the year before the date of the petition and no reduction of hours in the workweek.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at Veeder Industries, Inc., Mac-It Company Division, has not become totally or partially separated, as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of June 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-19549 Filed 7-8-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 88]

ASSIGNMENT OF HEARINGS

JULY 6, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141517, California Contract Carrier, Inc., now assigned July 7, 1976, at Kansas City, Mo., is canceled and application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-19917 Filed 7-8-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 6, 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 on or before July 26, 1976.

FSA No. 43186—*Joint Water-Rail Container Rates—Zim Israel Navigation Co., Ltd.* Filed by Zim Israel Navigation Co., Ltd., (No. 12), for itself and interested rail carriers. Rates on general commodities, from and to railroad terminals at Mobile, Alabama, on the one hand, to and from ports in the Far East, on the other.

Grounds for relief—Water competition.

Tariffs—Zim Israel Navigation Co., Ltd., tariffs I.C.C. Nos. 6, 7, and 8, F.M.C. Nos. 34, 35, and 36, respectively. Rates are published to become effective on August 9, 1976.

FSA No. 43187—*Iron or Steel Pipe and Related Articles to Malloy and Newell, Arkansas.* Filed by Southwestern Freight Bureau, Agent, (No. B-608), for interested rail carriers. Rates on iron or steel pipe and related articles, in carloads, as described in the application, from points in official (including Illinois), southern and western trunk-line territories, to Malloy and Newell, Arkansas.

Grounds for relief—Rate relationship.

Tariff—Supplement 98 to Southwestern Freight Bureau, Agent, tariff 259-F, I.C.C. No. 5080. Rates are published to become effective on August 5, 1976.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-19915 Filed 7-8-76;8:45 am]

[Notice No. 289]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 9, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before July 29, 1976 pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76223. By order of July 2, 1976 the Motor Carrier Board, on reconsideration, approved the transfer to Albina Transfer Co., Inc., Portland, Oreg., of Certificate No. MC 96605 (Sub-No. 1) issued by the Commission May 19, 1958, to Bullet Line, Inc., Tacoma, Wash., authorizing the transportation of lumber, between points in King County, Wash., on the one hand, and, on the other, points in Cowlitz, Grays Harbor, Lewis, Pierce, and Thurston, Wash.; between points in Cowlitz, Grays Harbor, Lewis, Pierce, and Thurston Counties, Wash.; restricted against service between, or from and to Sumner, Seattle, Hoquiam, Tacoma, and Steilacoom, Wash., and points in their commercial zones; and lumber, not including plywood, between points in Pierce County, Wash., on the one hand, and, on the other, points in Oregon. Nick I. Goyak, Esquire, 555 Benjamin Franklin Building, One SW Columbia, Portland, Oreg. 97258.

No. MC-FC-76380. By order of July 2, 1976 the Motor Carrier Board approved the transfer to Morrell Transfer, Inc., Elk River, Minnesota, of a Certificate of Registration No. MC 96687 (Sub-No. 2), issued December 9, 1968, to Larry V. Morrell, doing business as Morrell Transfer, Elk River, Minnesota, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity granted in R.R.C.C. Orders Nos. 1211-3 and 1211-4, dated April 27, 1964, and October 25, 1966, issued by the Railroad and Warehouse Commission of the State of Minnesota. Larry V. Morrell, Morrell Transfer, Inc., 809 Jackson Street, Elk River, Minn. 55330, Applicant.

ROBERT L. OWALD,
Secretary.

[FR Doc.76-19916 Filed 7-8-76;8:45 am]

federal register

FRIDAY, JULY 9, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

DRINKING WATER REGULATIONS

Radionuclides

Title 40—Protection of Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 552-2]

PART 141—INTERIM PRIMARY DRINKING WATER REGULATIONS

Promulgation of Regulations on Radionuclides

On August 14, 1975, the Environmental Protection Agency (EPA) proposed national interim primary drinking water regulations for radioactivity pursuant to sections 1412, 1445, and 1450 of the Public Health Service Act ("the Act"), as amended by the Safe Drinking Water Act, Pub. L. 93-523, 40 FR 34324. Numerous written comments on the proposed regulations were received, and a public hearing was held in Washington on September 10, 1975.

The regulations for radioactivity are hereby promulgated in final form. A number of changes have been made in the proposed regulations in response to comments received. These changes represent efforts to clarify what are necessarily technical and complex provisions and to make monitoring requirements more realistic. The proposed maximum contaminant levels for radionuclides have been retained as proposed.

The comments received on the proposed regulations and EPA's response to those comments are discussed in detail in Appendix A. The promulgated radionuclides regulations and Appendix A should be read in the context of the national interim primary drinking water regulations as a whole. The regulations concerning microbiological, chemical and physical maximum contaminant levels, and related regulations dealing with public notification of violations and reports and record-keeping by public water systems, were promulgated on December 24, 1975, 40 FR 59566.

The balance of this preamble discusses briefly the five major issues highlighted in the preamble to the proposed radionuclides regulations, and lists in summary form the changes made in the proposed regulations.

The preamble of the proposed regulations listed five issues on which comment was particularly requested:

1. The number and location of the public water systems impacted by the proposed maximum contaminant levels for radionuclides.

2. The number and location of water supplies requiring radium analysis at the proposed 2 pCi/liter gross-alpha-particle-activity screening level.

3. The estimated preliminary assessments of the costs and technology for radium removal.

4. The validity and appropriateness of an aggregate dose method for setting maximum contaminant levels.

5. The acceptability of a maximum contaminant level for radium of 5 pCi/liter as opposed to a higher or lower level.

Public Water Systems Impacted: Little significant information was provided with respect to the number of community water systems that may exceed the proposed maximum contaminant levels. The State of Texas did report that 15 community water systems in that State would exceed the 5 pCi limit for radium: EPA estimated in the preamble to the proposed regulations that a total of approximately 500 of the Nation's community water systems would exceed the proposed radium limit. It is likely that relatively few community water systems currently exceed the proposed maximum contaminant levels for either gross alpha particle activity or man-made radioactivity. Those levels are intended as preventative limits rather than as corrective limits.

Public Water Systems Requiring Radium Analysis: The monitoring requirements for the radium maximum contaminant level provide for an initial screening measurement of gross alpha particle activity to determine if analysis for radium-226 is needed. EPA requested comment on the number and location of community water systems that would exceed the proposed screening level of 2 pCi/l. A number of comments were received on the possible impact of the proposed screening level. The principal concern expressed was that a 2 pCi/liter screening level was unnecessarily low and would force a large number of public water systems to conduct expensive radium analyses in cases where the radium limit was not being exceeded.

A number of commentors were under the impression that radium daughter products were in equilibrium with radium in drinking water so that their accompanying alpha particle activity would be an indication of radium. Monitoring data from many public water systems indicates that because of differences in solubility and geological processes, the alpha particle activity is frequently much lower than would be observed for an equilibrium mixture of radium and daughter products and sometimes may be no greater than that due to radium-226 alone.

EPA agrees that in many cases adequate protection can be obtained with a screening level higher than 2 pCi/liter provided that the precision of the measurement is great enough to insure that the gross alpha activity is unlikely to exceed 5 pCi/l. The regulations have been amended accordingly. The effect of this change is that a screening test, in lieu of radium analysis, is permitted for most systems having gross alpha particle activities as high as 4 pCi/l. However, as noted in the Statement of Basis and Purpose for the proposed radionuclide regulations, care should be taken in evaluating the results of the screening test because the alpha particle activity screen does not measure radium-228, a beta emitter. For this reason, EPA recommends that, in localities where radium-228 may be present in significant quantities, the State establish a screening level no greater than 2 pCi/liter.

Costs and Technology for Radium Removal: One comment on radium removal costs stated that the EPA cost estimates may be too high because new technologies for radium removal are being developed. Another comment stated that the EPA estimates appear "reasonable at this time," and a third that the estimates are "too general" in that system size was not considered.

As discussed in the Statement of Basis and Purpose for the proposed radionuclides regulations, costs for radium removal were found to be essentially independent of system size for systems treating less than three million gallons per day. Since there are no data indicating that the maximum contaminant level for radium is being exceeded in systems larger than this, the EPA cost estimates are valid.

Three commentors thought the cost projections for radium removal might be low because disposal of radium wastes was not considered. The Agency is presently conducting a research study to investigate disposal costs. Compared to industrial effluents containing radium, the amount of radium involved is quite small. The only available data indicate that a commercial waste disposal service for radioactive materials would be expected to cost about 50 cents annually per person served for radium disposal. However, costs will vary depending on locality and the disposal method used. It should also be noted that any radium disposal problems generated by the proposed regulations will not be unlike those already encountered by the many communities already removing radium as part of their water softening processing.

Other comments suggested consideration of occupational exposure to radium in water treatment plants. The Agency has made a limited examination of the levels of radiation in the vicinity of ion exchange units used to remove radium in operating water treatment plants. Exposure levels to operating personnel are measurable and occupational exposures could range up to 25-100 mrem/yr. These doses are well below the Federal occupational guides for radiation workers of 5000 mrem/yr. Appropriate Federal Radiation Guidance will be provided if future studies indicate the problem of occupational exposure to treatment plant personnel is serious.

One commentor questioned the efficiency of radium removal by ion exchange used in the cost analysis in Appendix V of the Statement of Basis and Purpose. That analysis shows that treatment cost is relatively independent of radium removal efficiency as long as removal exceeds 90 percent. Operating data from currently used municipal water treatment systems indicate that average radium removal efficiency throughout the exchange cycle ranges from 93 to 97 percent.

Aggregate Dose Level: As noted in the preamble to the proposed radionuclides regulations, 40 FR 34325, EPA considered but rejected the use of an aggregate dose level in establishing maximum contaminant levels. This approach would consider both the risk to individuals and the total risk to the population served, so that the maximum contaminant level would be inversely related, within lim-

its, to the size of the exposed population group. Comments on the concept of aggregate dose levels overwhelmingly endorsed EPA's decision not to use that approach in the development of maximum levels under the Safe Drinking Water Act.

Maximum Contaminant Level for Radium: A number of States submitted comments on EPA's proposal to establish the maximum contaminant level for radium at 5 pCI/liter. One State suggested that a limit of 10 pCI/liter be established for small public water systems. This suggestion has not been accepted by EPA because the legislative history of the Safe Drinking Water Act indicates that, to the extent possible, all persons served by public water systems should be protected by the same maximum contaminant levels. A number of other States expressed concurrence in the 5 pCi/liter limit.

One commentor cited the results of a U.S. Public Health Service study that indicated that persons in communities with water having a concentration of 4.7 pCi/liter had a higher mortality incidence due to bone sarcoma than persons in communities with water having less than 1 pCi/liter. The commentor contended that the USPHS study did not show a significant difference in cancer risk at a 95 percent confidence level, and that in any event the number of excess cancers was significantly less than would be predicted on the basis of the NAS-BEIR Report.

EPA notes that the confidence level of the USPHS study was 92 percent which is not significantly different from a 95 percent criterion considering the overall precision of the USPHS study. Mortality estimates on which the 5 pCi/liter limit was based included all cancers, not just bone sarcoma. Moreover, the EPA estimates are for lifetime exposures, whereas most of the participants in the USPHS study were exposed for a substantially shorter period of time. Moreover, the incidence of cancer observed in the USPHS study is somewhat greater than would be predicted by the linear dose response model used by EPA, not less as suggested by the commentor. Given these facts it is EPA's view that the USPHS study supports its use of risk estimates from ingested radium as a valid measure of the impact of various control levels. EPA will, however, study new cancer incidence data as they become available to determine whether the 5 pCi/liter level provides appropriate protection.

Changes Made in the Proposed Regulations:

In response to comments received on the proposed regulations, a number of changes have been made. The comments and changes are discussed in some detail in Appendix A. The following list summarizes changes which have been made:

1. Section 141.2 has been revised to simplify the definitions of "gross alpha particle activity" and "gross beta particle activity." As proposed these definitions were confusing because they sought to make distinctions which were more properly set forth in §§ 141.15 and 141.16.

2. Section 141.15 has been changed to make clear that the maximum contaminant level for gross alpha particle activity does not apply to isotopes of uranium and radon.

3. Section 141.16 has been redrafted for clarity and provisions relating to the means of determining compliance have been moved to § 141.26. It should be noted that the average annual concentration of strontium-90 yielding 4 mrem per year to bone marrow is 8 pCi/1 not 2 pCi/1 as was stated in the Proposed Regulations. Accordingly, Table A in Section 141.16 has been corrected and the detection limit for strontium-90 listed in Table B, § 141.25 has been changed to 2pCi/1.

4. Section 141.25 has been revised to include newer analytical methods and to delete some obsolescent methods. The definition of detection limit has been changed to indicate clearly that it applies only to uncertainty in the precision of the measurement due to counting errors. Also, a new detection limit of 4 pCi/liter has been established for gross beta particle activity so that gross beta analysis may be substituted for strontium-89 and cesium-134 analyses in some cases. It should be noted that under § 141.27 the State, with the concurrence of the Administrator, may authorize the use of alternative analytical methods having the same precision and accuracy as those listed in §§ 141.25 and 141.26.

5. Section 141.26 has been redrafted for clarity and the alpha particle activity screening level has been redefined to provide a higher gross alpha screening limit as long as the precision of measurement insures that the gross alpha activity is unlikely to exceed 5 pCi/1. Also, the requirement for quarterly sampling has been revised to permit a yearly sample where a one-year record based on quarterly sampling has indicated the average annual gross alpha particle activity and radium-226 activity to be less than half the applicable maximum contaminant level. The period allowed for initial monitoring has been extended to three years rather than two years after the effective date of these regulations. Also, rather than require that subsequent monitoring be every three years for ground water and every five years for surface water, monitoring for both ground water and surface water will be required every four years.

6. Section 141.26 has been amended to provide that, when ordered by the State, a community water system will be required to participate in a watershed monitoring program for man-made radioactivity. EPA recommends that States require such programs in each principal watershed under their jurisdiction. In addition, the provision allowing the use of discharge data from nuclear facilities in lieu of special monitoring for man-made radioactivity has been amended to allow only the use of environmental surveillance data taken in conjunction with the State. Also in § 141.26 a screening level for gross beta particle activity has been established to reduce the cost of monitoring water systems affected by nuclear facilities.

If any screening levels for gross beta particle activity are exceeded, identification of specific radionuclides is mandatory prior to public notification and initiation of any enforcement action. In addition to the gross beta particle activity measurement, it may be necessary, as new energy technologies become available in the future, to monitor for specific man-made contaminants other than those currently identified. The Act provides that these regulations may be amended from time to time.

EFFECTIVE DATE

Section 1412(a)(3) of the Act provides that "The interim primary regulations first promulgated * * * shall take effect eighteen months after the date of their promulgation." The interim primary regulations first promulgated were those for microbiological, chemical and physical contaminants. They were promulgated on December 24, 1975, and will become effective June 24, 1977. Because it is desirable that all of the basic interim primary drinking water regulations take effect on the same date, and in view of the long lead time provided to public water systems for compliance with these radionuclide regulations, the radionuclide regulations also will become effective on June 24, 1977.

It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with Executive Order 11821, and it has been determined that an Inflation Impact Statement is not required. (The estimated ten million dollar annual cost is less than the one-hundred million dollar annual cost cut-off established as the minimum for which an Inflation Impact Statement is required.)

For the reasons given above, Part 141, Chapter 40 of the Code of Federal Regulations is hereby amended as follows:

RUSSELL TRAIN,
Administrator.

JUNE 23, 1976.

1. By revising § 141.2 to include the following new paragraphs (j) through (o):

§ 141.2 Definitions.

* * * * *

(j) "Dose equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

(k) "Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

(l) "Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

(m) "Gross alpha particle activity" means the total radioactivity due to

alpha particle emission as inferred from measurements on a dry sample.

(n) "Man-made beta particle and photon emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

(o) "Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

2. By adding §§ 141.15, 141.16, 141.25 and 141.26 as follows:

§ 141.15 Maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity in community water systems.

The following are the maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity:

(a) Combined radium-226 and radium-228—5 pCi/1.

(b) Gross alpha particle activity (including radium-226 but excluding radon and uranium)—15 pCi/1.

§ 141.16 Maximum contaminant levels for beta particle and photon radioactivity from man-made radionuclides in community water systems.

(a) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

(b) Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing 4 mrem total body or organ dose equivalents shall be calculated on the basis of a 2 liter per day drinking water intake using the 168 hour data listed in *"Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure,"* NBS Handbook 69 as amended August 1963, U.S. Department of Commerce. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

TABLE A.—*Average annual concentrations assumed to produce a total body or organ dose of 4 mrem/yr*

Radionuclide	Critical organ	pCi per liter
Tritium	Total body	20,000
Strontium-90	Bone marrow	8

§ 141.25 Analytical Methods for Radioactivity.

(a) The methods specified in *Interim Radiochemical Methodology for Drinking Water*, Environmental Monitoring and Support Laboratory, EPA-600/4-75-008, USEPA, Cincinnati, Ohio 45268, or those listed below, are to be used to determine compliance with §§ 141.15 and 141.16 (radioactivity) except in cases where alternative methods have been approved in accordance with § 141.27.

(1) Gross Alpha and Beta—Method 302 "Gross Alpha and Beta Radioactivity in Water" *Standard Methods for the Examination of Water and Wastewater*, 13th Edition, American Public Health Association, New York, N.Y., 1971.

(2) Total Radium—Method 304 "Radium in Water by Precipitation" Ibid.

(3) Radium-226—Method 305 "Radium-226 by Radon in Water" Ibid.

(4) Strontium-89,90 — Method 303 "Total Strontium and Strontium-90 in Water" Ibid.

(5) Tritium—Method 306 "Tritium in Water" Ibid.

(6) Cesium-134 — ASTM D-2459 "Gamma Spectrometry in Water," *1975 Annual Book of ASTM Standards, Water and Atmospheric Analysis*, Part 31, American Society for Testing and Materials, Philadelphia, PA. (1975).

(7) Uranium—ASTM D-2907 "Microquantities of Uranium in Water by Fluorometry," Ibid.

(b) When the identification and measurement of radionuclides other than those listed in paragraph (a) is required, the following references are to be used, except in cases where alternative methods have been approved in accordance with § 141.27.

(1) *Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions*, H. L. Krieger and S. Gold, EPA-R4-73-014, USEPA, Cincinnati, Ohio, May 1973.

(2) *HASL Procedure Manual*, Edited by John H. Harley. HASL 300, ERDA Health and Safety Laboratory, New York, N.Y., 1973.

(c) For the purpose of monitoring radioactivity concentrations in drinking water, the required sensitivity of the radioanalysis is defined in terms of a detection limit. The detection limit shall be that concentration which can be counted with a precision of plus or minus 100 percent at the 95 percent confidence level (1.96σ where σ is the standard deviation of the net counting rate of the sample).

(1) To determine compliance with § 141.15 (a) the detection limit shall not exceed 1 pCi/l. To determine compliance with § 141.15(b) the detection limit shall not exceed 3 pCi/l.

(2) To determine compliance with § 141.16 the detection limits shall not exceed the concentrations listed in Table B.

TABLE B.—DETECTION LIMITS FOR MAN-MADE BETA PARTICLE AND PHOTON EMITTERS

Radionuclide	*Detection limit*
Tritium	1,000 pCi/l.
Strontium-89	10 pCi/l.
Strontium-90	2 pCi/l.
Iodine-131	1 pCi/l.
Cesium-134	10 pCi/l.
Gross beta	4 pCi/l.
Other radionuclides	1/10 of the applicable limit.

(d) To judge compliance with the maximum contaminant levels listed in sections 141.15 and 141.16, averages of data shall be used and shall be rounded to the same number of significant figures as the maximum contaminant level for the substance in question.

§ 141.26 Monitoring Frequency for Radioactivity in Community Water Systems.

(a) Monitoring requirements for gross alpha particle activity, radium-226 and radium-228.

(1) Initial sampling to determine compliance with § 141.15 shall begin within two years of the effective date of these regulations and the analysis shall be completed within three years of the effective date of these regulations. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis *Provided*, That the measured gross alpha particle activity does not exceed 5 pCi/1 at a confidence level of 95 percent (1.65σ where σ is the standard deviation of the net counting rate of the sample). In localities where radium-228 may be present in drinking water, it is recommended that the State require radium-226 and/or radium-228 analyses when the gross alpha particle activity exceeds 2 pCi/1.

(ii) When the gross alpha particle activity exceeds 5 pCi/1, the same or an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds 3 pCi/1 the same or an equivalent sample shall be analyzed for radium-228.

(2) For the initial analysis required by paragraph (a)(1), data acquired within one year prior to the effective date of this part may be substituted at the discretion of the State.

(3) Suppliers of water shall monitor at least once every four years following the procedure required by paragraph (a)(1). At the discretion of the State, when an annual record taken in conformance with paragraph (a)(1) has established that the average annual concentration is less than half the maximum contaminant levels established by § 141.15, analysis of a single sample may be substituted for the quarterly sampling procedure required by paragraph (a)(1).

(i) More frequent monitoring shall be conducted when ordered by the State in the vicinity of mining or other operations which may contribute alpha particle radioactivity to either surface or ground water sources of drinking water.

(ii) A supplier of water shall monitor in conformance with paragraph (a)(1) within one year of the introduction of a new water source for a community water system. More frequent monitoring shall be conducted when ordered by the State in the event of possible contamination or when changes in the distribution system or treatment processing occur which may increase the concentration of radioactivity in finished water.

(iii) A community water system using two or more sources having different con-

centrations of radioactivity shall monitor source water, in addition to water from a free-flowing tap, when ordered by the State.

(iv) Monitoring for compliance with 141.15 after the initial period need not include radium-228 *except when* required by the State, *Provided*, That the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure required by paragraph (a)(1).

(v) Suppliers of water shall conduct annual monitoring of any community water system in which the radium-226 concentration exceeds 3 pCi/1, when ordered by the State.

(4) If the average annual maximum contaminant level for gross alpha particle activity or total radium as set forth in § 141.15 is exceeded, the supplier of a community water system shall give notice to the State pursuant to § 141.31 and notify the public as required by § 141.32. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(b) Monitoring requirements for man-made radioactivity in community water systems.

(1) Within two years of the effective date of this part, systems using surface water sources and serving more than 100,000 persons and such other community water systems as are designated by the State shall be monitored for compliance with § 141.16 by analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. Compliance with § 141.16 may be assumed without further analysis if the average annual concentration of gross beta particle activity is less than 50 pCi/1 and if the average annual concentrations of tritium and strontium-90 are less than those listed in Table A, *Provided*, That if both radionuclides are present the sum of their annual dose equivalents to bone marrow shall not exceed 4 millirem/year.

(i) If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with § 141.16.

(ii) Suppliers of water shall conduct additional monitoring, as ordered by the State, to determine the concentration of man-made radioactivity in principal watersheds designated by the State.

(iii) At the discretion of the State, suppliers of water utilizing only ground waters may be required to monitor for man-made radioactivity.

(2) For the initial analysis required by paragraph (b)(1) data acquired within one year prior to the effective date of this part may be substituted at the discretion of the State.

(3) After the initial analysis required by paragraph (b)(1) suppliers of water shall monitor at least every four years following the procedure given in paragraph (b)(1).

(4) Within two years of the effective date of these regulations the supplier of any community water system designated by the State as utilizing waters contaminated by effluents from nuclear facilities shall initiate quarterly monitoring for gross beta particle and iodine-131 radioactivity and annual monitoring for strontium-90 and tritium.

(i) Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three monthly samples. The former is recommended. If the gross beta particle activity in a sample exceeds 15 pCi/1, the same or an equivalent sample shall be analyzed for strontium-89 and cesium-134. If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with § 141.16.

(ii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. As ordered by the State, more frequent monitoring shall be conducted when iodine-131 is identified in the finished water.

(iii) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. The latter procedure is recommended.

(iv) The State may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity by the supplier of water where the State determines such data is applicable to a particular community water system.

(5) If the average annual maximum contaminant level for man-made radioactivity set forth in § 141.16 is exceeded, the operator of a community water system shall give notice to the State pursuant to § 141.31 and to the public as required by § 141.32. Monitoring at monthly intervals shall be continued until the concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

APPENDIX A

RESPONSE TO PUBLIC COMMENTS

Proposed National Interim Primary Drinking Water Regulations for radionuclides, 40 FR 34324, were published for comment on August 14, 1975. Written comments on the proposed regulations were received, and a public hearing on the proposal was held in Washington on September 10, 1975. As a result of review of the written comments and of testimony at the public hearing, as well as further consideration of the available data by EPA, a number of changes have been made in the proposed regulations. The principal changes are summarized in the Preamble to the final regulations. The purpose of this Appendix is to discuss the comments received on various aspects of the proposed regulations, and to explain EPA's response to those comments.

Part I of the Appendix deals with comments on specific provisions of the proposed regulations, in numerical order. Part II concerns more general comments received by EPA. Responses to the five specific issues on which comments were solicited in the August 14 proposal are reviewed and discussed in the preamble to the promulgated regulations. Part III is the Agency's policy Statement of March 3, 1975, on the Relationship between radiation dose and effect.

PART I

Comments on Specific Provisions of the Proposed Regulations § 141.2—Definitions

A number of commentors stated that the definitions given in § 141.2 for gross beta particle and gross alpha particle activity were confusing because they excluded certain radionuclides. These definitions have been redrafted to omit the exclusions, which are more properly dealt with in the basic regulations.

§ 141.15—MAXIMUM CONTAMINANT LEVELS OF RADIUM-226, RADIUM-228, AND GROSS ALPHA PARTICLE RADIOACTIVITY

Several comments suggested that the maximum contaminant level for gross alpha particle activity should state clearly that this limit does not apply to isotopes of uranium and radon. This was the intention of the proposed regulations, and § 141.15 has been redrafted accordingly. Some commentors requested clarification of the impact of the exclusion of uranium and radon on monitoring procedures and compliance. It is true that the sample preparation techniques specified in § 141.25 preclude the measurement of the gaseous radionuclides radon-220 and radon-222. Their daughter products, however, will be retained in the sample as intended by these regulations. As noted in the Statement of Basis and Purpose, one of the main intentions of the maximum contaminant level for gross alpha particle activity is to limit the concentration of long half-life radium daughters. In cases where gross alpha particle activity exceeds 15 pCi per liter, analysis of the water for its uranium content by chemical or other means will be needed to determine compliance. Except in ground water impacted by uranium-bearing ores, such analyses will rarely be necessary.

Two commentors mentioned that no rationale for the gross alpha particle maximum contaminant limit of 15 pCi/1 was given in the preamble to the proposed regulations. The rationale for this limit is, however, discussed in the Statement of Basis and Purpose. It is based on a consideration of the radiotoxicity of other alpha particle emitting contaminants relative to radium. The 15 pCi/1 gross alpha particle limit, which includes radium-226 (but not uranium or radon), is based on the conservative assumption that if the radium concentration is 5 pCi/1 and the balance of the alpha particle activity is due to the next most radiotoxic alpha particle emitting chain starting with lead-210, the dose to bone will not be unduly increased. Though less precise than setting maximum contaminant levels for lead-210 specifically, the establishment of a limit on gross alpha particle activity is more in keeping with the current capability of State laboratories while providing significant public health protection. Reasons for omitting uranium and radon from the limit for gross alpha particle activity are given in the Statement of Basis and Purpose.

§141.16—MAXIMUM CONTAMINANT LEVELS OF BETA PARTICLE AND PHOTON RADIOACTIVITY FROM MAN-MADE RADIONUCLIDES

Several commentors had difficulty interpreting this section. It has been redrafted and that portion of the proposed maximum contaminant level for man-made radioactivity dealing with compliance has been moved to § 141.26 for purposes of clarity.

One commentor questioned the basis of the selection of the proposed 4 millirem annual limit. As stated in the preamble to the proposed regulations, the four millirem per year limit for man-made radioactivity was chosen on the basis of avoiding undesirable future contamination of public water supplies as a result of controllable human activities. Current levels of radioactivity in public water systems are below the proposed limit. Appropriate data on this point is provided in the Statement of Basis and Purpose.

Reference was made by one commentor to the Nuclear Regulatory Commission design criteria for light water reactors which limits the thyroid dose from a single nuclear reactor due to the liquid pathway to ten millirem per year. The commentor suggested that this number is in conflict with the proposed maximum contaminant level for man-made radioactivity. However, because the two levels are computed on different bases, iodine-131 concentrations meeting NRC design criteria would also meet maximum contaminant limits. Therefore, there is no conflict between these regulations and NRC design criteria. It should be noted, however, that the NRC limits are design criteria, not operational limits, and apply to only a single nuclear reactor. The EPA maximum contaminant limits have a completely different application. They apply to the finished waters served by a community water system which may use source waters contaminated by several reactors or other nuclear facilities.

Another commentor stated that the strontium-90 maximum contaminant level would produce a bone cancer dose of 4 millirem per year only after several decades of intake. That is correct—all of the maximum contaminant levels are based on an assumed lifetime ingestion at the concentration limits.

A few commentors stated that because in some localities the dose from strontium-90 in milk exceeds 4 mrem per year, the maximum contaminant level for strontium-90 in drinking water should be eliminated or made greater. The Administrator does not agree that the radioactive contamination of milk and milk products, which may occur in some localities, is a proper basis for relaxing maximum contaminant levels for drinking water. The maximum contaminant level for strontium-90 is not exceeded in community water systems at present nor is it likely to be exceeded in the foreseeable future. To permit unnecessary contamination of public water systems because of other environmental pathways impacting on man would be inappropriate.

A few commentors suggested that 2 liters per day was not an appropriate ingestion rate assumption for drinking water. The Administrator notes that a 2 liter per day intake is assumed for establishing maximum contaminant levels for all contaminants, not just radioactivity, and that this question has been discussed at length in the preamble and Appendix A to the National Interim Primary Drinking Water Regulations, 40 FR 59575.

A few commentors asked why potassium-40 was not considered as part of the maximum contaminant level for beta particle radioactivity. The amount of potassium in the body is controlled homostatically and is not proportional to water intake levels. Without the exception for potassium-40, some communities might be required to perform more analytical examination than necessary if waters exceeded the gross beta activity screening level. If the increased beta activity is due to potassium-40, there is no increased risk to users of the public water systems and therefore such tests are unnecessary.

§ 141.25—ANALYTICAL METHODS FOR RADIOACTIVITY

Several commentors noted that the Proposed Regulations on analytical methods did not allow for the substitution of equivalent alternative techniques. EPA agrees that this is an important consideration and § 141.27 has been added to the regulations to allow substitution of equivalent analytical methods with the approval of the State and the Administrator. Two commentors believed that no analytical methods should be specified as part of the regulations, 40 FR 34324. The Administrator believes, however, that defined analytical methods must be a part of the regulations so that compliance procedures are uniform and subject to verification.

Many commentors believed that alternative analytical methods were preferable to those listed in the proposed regulations and several made specific suggestions. EPA recognizes that some of the proposed analytical methods were obsolescent and for this reason a new handbook, *Interim Radiochemical Methodology for Drinking Water*, has been prepared by the Agency. § 141.25 has been revised to include these new methods and to delete some of the analytical methods proposed earlier. However, some Standard Methods have been retained because they are equivalent to the newer procedures and are currently being used by State laboratories.

Several comments concerned the need for laboratory certification and quality assurance. EPA will seek to certify at least one State laboratory in each State. The State may in turn certify additional laboratories. Pursuant to § 141.28, only monitoring results from laboratories approved or certified by the entity with primary enforcement responsibility will be acceptable.

Several comments were received concerning application of the defined detection limits. The detection limit requirements have been changed to indicate clearly that the limit applies only to uncertainty in the precision of the measurement due to counting errors. Other sources of imprecision and the overall accuracy of the determination are not a part of the detection limits given in this section but rather their control is to be implemented by means of the quality assurance program mentioned previously.

A few commentors believed that the proposed detection limit for gross alpha particle activity was too low. Because systems using very hard water may be unable to detect alpha particle activity at the 1 pCi/1 concentration, the detection limit for compliance with the gross alpha particle activity limit, § 141.15(b) has been increased to 3 pCi/1. This higher detection limit is not acceptable for gross alpha particle measurements substituted for radium analysis under § 141.26(a)(1)(i). If water hardness precludes use of this screening test, a radium analysis must be made to demonstrate compliance with § 141.15(1) of these regulations.

Most commentors believed the detection limits for man-made radioactivity were low but practicable in laboratories where modern testing facilities are available.

§ 141.26—MONITORING REQUIREMENTS FOR ALPHA PARTICLE AND RADIUM ACTIVITY

The major comments on § 141.26(a) were that the requirements were not clearly written and that the alpha particle activity screening test for a mandatory radium-226 measurement was too low thus necessitating unnecessary expense without increasing protection to the public health. Paragraph (a) has been redrafted to clarify the intent of these regulations; and, as discussed in the preamble to these regulations, the gross alpha particle screening level has been increased.

Some commentors objected to the requirement that quartely monitoring be continued when maximum contaminant levels are exceeded and others asked why quarterly sampling is needed. The reason why quarterly monitoring may provide additional public health protection where maximum contaminant levels are exceeded is discussed in the Statement of Basis and Purpose. The Agency agrees that quarterly sampling may be unnecessary in some cases and has amended the regulations to allow a single yearly sample where a one year historical record based on quarterly sampling shows the average annual gross alpha particle activity and the radium-226 activity to be less than one-half the applicable maximum contaminant levels.

Comments were divided on sampling frequency. Citizen groups tended to want more frequent monitoring and the States less frequent monitoring. Of particular public interest was the possible contamination of ground and surface water by mining operations. The revised regulations encourage the State to require more frequent monitoring for natural radioactivity in situations where mining or other operations may impact on water quality, when new sources of supply water are utilized or when water treatment processing is changed by the supplier of a community water system.

Several commentors requested an extension of the initial two-year period proposed for mandatory compliance. EPA is aware that these regulations call for a more expanded monitoring effort than is presently being carried out by most States. The regulations have been revised to require that initial monitoring begin within two years and that analysis be completed within three years of the effective data. In addition, the Agency has reconsidered, as suggested by several commentors, the proposed requirement that ground water be monitored every three years and surface water every five years and believes monitoring every four years for each is appropriate. The regulation has been so amended.

A few States requested that the initial monitoring of any community water system for radioactivity be at the discretion of the State and that the frequency of monitoring be determined by each State on a case by case basis. This is essentially the system now used. Congress has mandated *improved* control of drinking water quality, and these regulations seek to carry out that mandate.

Two commentors objected to the Agency's use of a gross alpha screening test to determine the need for radium-226 measurements because such a test is not applicable to radium-228, a beta emitter. Since radium-226 and radium-228 are not part of the same decay series, one of the commentors believed an evaluation which measures only gross alpha particle activity was inappropriate. It is true that radium-228 and radium-226 are in different decay series. However, the available monitoring data indicate that there is no record of radium-228 occurring in community water systems unless it is accompanied by radium-226. As pointed out in the Statement of Basis and Purpose, the radium-226 concentration in public water supply systems is almost always greater than the radium-228 concentration. Therefore, a screening test based on gross alpha particle activity is valuable for determining when further testing for specific radionuclides is

necessary. However, States are encouraged to require specific analyses for both radium-226 and radium-228 where radium-228 may be present.

Several commentors raised questions concerning the points at which samples are to be taken and the procedure to be followed where multiple, or alternate, sources are utilized. As indicated in both the Statement of Basis and Purpose, and § 141.2(c) of the Interim Primary Drinking Water Regulations, sampling is to be done at the "free-flowing outlet of the ultimate user." Where multiple sources are employed, the samples should represent an unbiased estimate of the maximum concentration of radionuclides ingested by persons served by the system.

The Administrator recognizes that in some communities several wells are used at different periods throughout the year to supply drinking water and that because of different concentrations of radioactivity in these wells the concentration in finished water may fluctuate considerably. It is recommended that in such cases the States require augmented sampling programs which include monitoring of source waters. In the revised regulations the State has been given authority to order such monitoring.

§ 141.26(b)—MONITORING REQUIREMENTS FOR MAN-MADE RADIOACTIVITY

There were two types of objection to the proposal that mandatory monitoring for man-made radioactivity be confined to systems serving more than 100,000 persons and systems impacted by nuclear facilities. Some commentors felt that all systems, including those utilizing ground water, should be monitored. Others believed that monitoring only systems serving large communities would not adequately reflect the situation in their States.

EPA believes that because of cost and the size and number of laboratories available now to do the radiochemical analysis required for man-made radioactivity, monitoring efforts are better directed at those systems which are most likely to be contaminated by man-made radioactivity. However, the State should require monitoring for man-made radioactivity in each principal watershed under its jurisdiction as necessary to determine the extent of radioactivity in surface waters. The regulations have been so amended.

Commentors representing consumers, States, and industry objected to the provision that discharge data from nuclear facilities could be used in lieu of monitoring for man-made radioactivity. This provision has been redrafted to reflect more adequately the intention of this provision. Suppliers may use data obtained through an environmental surveillance program conducted by a nuclear facility in conjunction with the State to show compliance with these regulations. In many cases these monitoring programs will include more complete and frequent analyses of radioactivity in source and finished waters than would normally be available through State efforts alone.

A few comments stated that the proposed monitoring for specific radionuclides in the vicinity of nuclear facilities would often be unnecessary and that if such tests could be preceded by a screening test for gross beta particle activity, monitoring costs would be reduced. EPA agrees with these comments as they apply to the required quarterly monitoring for strontium-89 and cesium-134. The regulations concerning monitoring in the vicinity of nuclear facilities have been amended to establish a screening level for gross beta particle activity of 15 pCi/1. Only if this concentration is exceeded is measurement of strontium-89 and cesium-134 required. Tritium and iodine-131 are not measured by a test for gross beta particle activity and the requirement for analyses for these radionuclides is retained.

Some commentors pointed out that monitoring for iodine-131 as proposed was unrealistic since a single "grab" sample per quarter might not detect intermittent discharges from nuclear facilities. Other commentors stated that the decay of iodine-131 would render any measurements meaningless. While there is merit in both arguments, continuous monitoring for iodine-131 is impractical in many cases because of cost considerations. However, monitoring for iodine-131 will be more meaningful if, each quarter, a sample based on five successive daily composites is measured, as required in the revised regulations. This measurement should be made as soon as possible after collection and appropriate decay corrections applied as outlined in *Interim Radiochemical Methodology for Drinking Water*, referenced in S141.25(a).

Several commentors requested supplemental information on the storage and analysis of composited quarterly samples. Additional comments questioned the feasibility of compositing quarterly samples for iodine-131 monitoring and the need to correct for decay between the time samples are collected and measured. The required treatment for the preservation of composited samples is discussed in both the Statement of Basis and Purpose and the reference cited above. In the case of iodine-131, hydrochloric rather than nitric acid should be used for acidification and sodium bisulfite should be added to the sample.

A few commentors requested that cesium-137 be included with cesium-134 in the monitoring program for man-made radioactivity. The Administrator believes, in the interest of cost, that only one cesium isotope measurement should be mandatory. Measurement of cesium-134, which provides more information on changes in environmental levels than cesium-137 monitoring, is preferable. However, States may include cesium-137 monitoring if they desire to do so. In many cases costs will not be affected significantly. When beta activity exceeds 50 pCi/l, identification of major radioactive constituents is required. The extent of such analysis should be based on the States' determination of what radionuclides are likely to be present in the water and the maximum dose that could be delivered by unidentified components.

A few commentors requested additional guidance on calculating the concentration of radioactivity yielding 4 mrem per year, based on NBS Handbook 69, as required by these Regulations. The Administrator anticipated this problem and the Agency is publishing a revised Statement of Basis and Purpose which includes a table giving the concentration that is calculated to result in a dose equivalent rate of 4 mrem per year from all radionuclides of interest. The revised Statement also contains other pertinent information needed to facilitate compliance with these regulations.

PART II

General Comments

Monitoring and treatment costs

Many comments were received on the Agency's estimate of monitoring costs under these proposed regulations. One State supplied cost estimates which were lower than analytical costs estimated in the preamble. Another State thought that cost estimates in the preamble "were about right." However, all other commentors thought that the cost estimates made by EPA were too low. There are several reasons for this difference of opinion. In some cases commentors provided an analysis of their estimated cost for compliance based on sampling frequencies in excess of those required by the proposed regulations and the use of additional test analyses not required by the regulations. Another source of difficulty was that, as stated in the preamble, the cost per sample did not include collection and shipping charges. One State estimated this cost as high as $15.00 per sample. No other examples were provided, however. This Agency's cost for obtaining one gallon water samples for its Eastern Environmental Radiation Facility in Alabama is, exclusive of labor costs: container cost, $.62; shipping empty, $1.00; return full container, $2.00. Since analyses for gross alpha particle activity and radium require less volume, States costs for most community water supplies should be lower.

A major source of disparity between Agency and commentor cost estimates was that the EPA estimates did not include capital equipment costs. This is particularly important for States having essentially no ongoing program for measuring radioactivity in water. In such cases the cost estimates will be exceeded if a new laboratory program must be established. In most cases, however, State laboratories are available with at least some equipment for initiating the required monitoring program.

Two states objected to the monitoring costs for natural radioactivity on the basis that they were not cost effective for small public water systems. They contended that monitoring should be restricted to large community water supplies. The Administrator believes that the requirements of the Safe Drinking Water Act are such that the quality of water served by community water supply systems should be independent of the population size to the extent feasible. It will be more expensive, in some cases, on a per person basis to monitor very small systems, but such costs are not impractical for even the smallest community water system. However, in the case of man-made radioactivity, the nature of the potential hazard, the availability of laboratory facilities and the cost of monitoring do justify limiting required monitoring to large community water systems, serving more than 100,000 persons, community systems impacted by nuclear facilities, systems using water from major watersheds, and such other systems as are designated by the State.

Other groups pointed out that on the whole the monitoring cost per person served is trivial and objected to the aggregation of national costs in the preamble. EPA believes that the national costs as well as the cost to individual community water systems, are worthy of consideration.

One commenter believed that the number of community water systems impacted by nuclear facilities had been underestimated because the number of nuclear facilities would increase markedly in the future and many community water systems would be impacted by a single nuclear facility. It is true that the number of nuclear facilities that will necessitate monitoring of community water systems will increase in the future. The cost estimates in the preamble were based on an assumed average of one and a half community water systems being impacted by each nuclear facility. The commenter believed two would be impacted by each nuclear facility in his State.

Another commentor wanted to know if all drinking water regardless of source would be monitored for both alpha particle and beta particle radioactivity. The Regulations are specific on this point. Systems utilizing only ground water need not monitor for man-made beta particle radioactivity. Sources using surface water must monitor for both beta and alpha particle activity if they serve more than 100,000 persons, utilize surface water which may be contaminated by effluents from nuclear facilities, or as required

by the State. Other surface water systems need not monitor for man-made radioactivity. However, it is recommended that all systems be monitored for gross beta particle activity.

A large number of respondents were concerned with the number and adequacy of existing monitoring facilities and the costs connected with establishing supplemental facilities. In some cases existing monitoring facilities may not be adequate. The situation will be more severe for those jurisdictions where the gross alpha particle concentration exceeds the screening level. However, the higher screen level in the revised regulation will reduce the number of mandatory radium analyses by a factor of two or more.

Moreover, the phased monitoring requirements imposed by these regulations should provide adequate time for State and private laboratories to add necessary facilities and equipment. It is true that many small systems will be required to monitor for gross alpha activity and, in the aggregate, bear the major cost impact of the monitoring requirements. However, it is precisely these systems which are most likely to be contaminated with natural radioactivity. There is no question but that additional funds will be required for such increased monitoring. It was the intent of Congress that these costs be borne by the individual public water systems and that corrective measures, such as consolidation of smaller systems, be employed to ameliorate this effect.

A few commentors questioned whether the proposed limits were "cost effective" in terms of both treatment and monitoring costs. As stated in the preamble to the proposed regulations, selection of an appropriate maximum contaminant level was not based solely on the estimated cost effectiveness of radium removal. As explained in the Statement of Basis and Purpose, the health risk estimates are uncertain by at least a factor of four. However, the difference in cost-effectiveness between different control levels is independent of this uncertainty and therefore provides information on where cost-benefit ratios become significantly poorer. The Statement of Basis and Purpose also examines why the cost-effectiveness of radium removal by ion exchange is low and suggests alternative approaches to obtaining maximum contaminant levels at lower costs. The cost-effectiveness of the required monitoring program will depend on the number of supplies identified as exceeding the maximum contaminant limits. This cannot be forecast until the initial monitoring is completed. In any event, a strict cost-effectiveness approach is not the intent of the Safe Drinking Water Act. Maximum contaminant levels are to prevent adverse health effects to the extent feasible.

One commentor interpreted a statement in the Preamble concerning future review of these regulations to indicate that the purpose of the Proposed Regulations was to conduct a national field survey for radioactivity in drinking water at State expense. A second comment expressed a similar opinion regarding monitoring requirements for man-made radioactivity.

The Proposed Regulations are based on the Administrator's determination that they protect health to the extent feasible after taking treatment costs into consideration. He is aware that the Agency's estimates of national cost are dependent on the number of community water systems impacted and that an adequate estimate of their number is not available now. By Congressional mandate these are interim regulations subject to revision in 1978. The Administrator would be remiss if he were to ignore new data on the impact of these regulations as it becomes available as an outgrowth of the reporting requirement.

Another commentor asked why the Agency had not set the limit for man-made radioactivity using a cost-benefit approach. The Agency does not believe such an approach is either practicable or needed at this time. Present levels of man-made radioactivity in community water systems are quite low—a statement supported in Appendix III of the Statement of Basis and Purpose and there is no evidence that allowing higher concentrations in drinking water would confer significant reductions in compliance costs. Effluent control costs are not likely to be changed by the proposed regulations for man-made radioactivity. Effluent control practices of the nuclear industry as currently regulated appear to be adequate in terms of the proposed maximum contaminant limits. The Agency does not believe it was the intention of Congress that the cost of removing man-made radioactivity from public water systems should be balanced against the cost of effluent controls required by regulations established under other legislation.

Calculational models used

One commentor objected to the statement in the preamble concerning the estimated dose due to drinking water contaminated by currently operating nuclear fuel cycle components. The objection was based on two points.

(1) That these estimates were based on calculational models, which may not accurately reflect reality.

(2) That the estimates do not consider aerial depositions from radioactive materials which are initially deposited into air and then fall out onto the ground and are washed into waterways.

The Administrator believes the best calculational models currently available were used for these estimates. Measurement of the actual doses is, of course, impossible at these low levels. As stated in the Statement of Basis and Purpose, the Administrator will consider new models as they are proposed by appropriate organizations and modify the proposed regulations as necessary to reflect new information as it becomes available. By basing compliance with maximum contaminant levels on measured concentrations of radioactivity in finished drinking water the Administrator believes aerial deposition as a source of water contamination is adequately considered.

Public water systems impacted

One commentor stated that the monitoring data included in the Statement of Basis and Purpose for community water systems were not representative of the radium or alpha particle radioactivity in sections of the country having abnormally high concentrations of natural radioactivity and therefore EPA's estimates of the impact of the proposed regulations were unrealistic. The Agency believes that the data given in the Appendix to the Statement of Basis and Purpose were representative of the country as a whole, but agrees there are sections of the country which routinely have higher amounts of radium in their community water systems. However, as stated in the Statement of Basis and Purpose, these national data were not used as a basis for the EPA estimate of the number of public water systems impacted by the proposed maximum contaminant limit for radium. Rather, that estimate is based on other monitoring data obtained mostly in regions where significant amounts of radium are commonly found in community water systems, as referenced in the Statement.

Linear nonthreshold response functions

One commentor stated the Agency was too conservative in the estimation of possible health effects because a linear nonthreshold dose response function was assumed. Another commentor stated a linear nonthreshold relationship is not conservative enough since an increased radiocarcinogenic response has been associated with low dose rates from alpha particle irradiation. Conversely, one commentor stated that there is a threshold for radiation injury from ingested radium and that the maximum contaminant level for radium should be based on his value for a threshold dose. Reasons for using a linear nonthreshold dose response were given in full in the Statement of Basis and Purpose and are reproduced here as Part III of this Appendix. The Agency is aware that one study on the results of clinical treatments with radium-224 indicates that protraction of the alpha exposure is more carcinogenic and that it has been hypothesized that lung cancer may be associated with very low dose rates from alpha particle emitters. Also, analyses of the radium dial painter data have been interpreted as indicating that bone cancers from lower radium doses occur later in life than from large doses and this has been interpreted as an argument for an effective threshold. However, the United States Public Health Service has studied this question in some detail, BRH/DBE 70–5, and EPA agrees with the USPHS finding that the data are insufficient to specify an unequivocal dose response model and their conclusion that, "* * * in the low dose region expected to be experienced by the general public, the assumption of a linear nonthreshold model continues to be a prudent public health philosophy for standards setting."

MISCELLANEOUS

Two States requested a definition of "nuclear facility." As explained in the Statement of Basis and Purpose, the term "nuclear facility" is flexible so that the States may determine which community water systems require additional monitoring. The term "nuclear facility" should not be construed as applying only to nuclear electric-generating plants and other components in the uranium fuel cycle but may also include, at the option of the State, waste storage areas, experimental facilities, and medical centers as outlined in the Statement of Basis and Purpose.

Four commentors believed that the proposed regulations would be difficult for persons working in community water systems to understand—that they were too technical. EPA agrees this is a highly technical subject not amenable to lay terms. However, the Agency has attempted to clarify the regulations and believes that all States have radiological health personnel who are willing to assist a supplier of water if particular problems of interpretation arise.

Several commentors expressed the opinion that data collected prior to implementation of the proposed regulations should be admissible as evidence of compliance. EPA agrees and the regulations have been modified so that analytical data acquired one year prior to the effective date of these regulations may be substituted for monitoring required during the initial period at the discretion of the State. This should reduce initial monitoring costs.

Two commentors expressed concern about adverse health effects that might occur as a result of sodium addition to water during the zeolite softening process. Possible health effects from sodium were considered in detail by the Agency in the development of the proposed regulations for inorganic chemicals, as well as for radium, and are discussed in the Statement of Basis and Purpose. The

Agency believes it not appropriate to set a maximum contaminant level for sodium. The consensus of opinion among medical personnel in this field is that, while the sodium added is not negligible, patients on a restricted, but noncritical, sodium diet would not be adversely affected at the increased levels contemplated. Patients for whom the increased levels might be critical are not normally permitted to use regular drinking water supplies but are restricted to specially processed water. The Statement of Basis and Purpose recommends that community physicians having patients in areas where the concentration of sodium is increased due to radium removal be so informed by the supplier.

One commentor took exception to the suggestion in the preamble that, taken as a whole, releases from hospitals and other industrial facilities would result in doses comparable to those released from nuclear facilities such as light water reactors. The statement in the preamble was not based on a full scale technical evaluation. The Agency is studying releases of radioactive materials from hospitals and other complexes through contractor research and will amend this estimate as necessary based on these and other findings.

Several respondents were in doubt as to the responsibilities of the water supplier in terms of actual performance of the required analyses. Allied questions were directed to whether the supplier of water or the State is responsible for the cost of analyses.

It is the intent of the regulations that the individual water supplier, while responsible for compliance with the regulations, may reasonably be expected to collect and transmit water samples to approved laboratories for actual performance of the radioanalysis. It is the intent of both Congress and these regulations that the principal costs associated with compliance with the Safe Drinking Water Act be borne by the individual public water systems. However, a State is not barred from analyzing samples for public water systems without charge.

One commentor wanted to know if the proposed maximum contaminant levels for radioactivity in drinking water replaced Federal Radiation Council Guidance on Radiation Protection Guides for the general population. These regulations do not replace FRC recomendations on the transient intake of radioactive materials, which included both the food and water pathways, and which contemplated, except in the case of radium, exposures of less than a lifetime duration. EPA believes that the FRC Range II limit for large population groups cannot be applied to a single pathway, such as drinking water, since FRC Guides include exposure from external radiation, inhaled radioactivity and radioactivity in food as well as drinking water.

Three commentors questioned basing the maximum contaminant limits on the same dose limit whether applied to any internal organ or to the whole body. EPA has considered this question with care in developing these regulations, recognizing that the conservatism of the maximum contaminant limits was increased by this decision. The decision not to consider critical organs for the ingestion of radioactivity in drinking water is based on the National Committee on Radiation Protection (NCRP) recommendations contained in NCRP Report No. 39. In that report, the NCRP recommended that organ dose limits for the general population be based on whole body dose and not at a fraction of the corresponding *occupational dose limit* for critical organs. The NCRP decision was in part based on the lack of data available at that time to consider appropriately the risk from a radiation insult to various organs. Such data are becoming available now and the International Commission on Radiation Protection (ICRP) is considering basing dose limits on the risk to various organ systems. When the ICRP recommendations are developed in final form they will be considered by EPA.

PART III

ORP Policy Statement on the Relationship Between Radiation Dose and Effect; March 3, 1975

The actions taken by the Environmental Protection Agency to protect public health and the environment require that the impacts of contaminants in the environment or released into the environment be prudently examined. When these contaminants are radioactive materials and ionizing radiation, the most important impacts are those ultimately affecting human health. Therefore, the Agency believes that the public interest is best served by the Agency providing its best scientific estimates of such impacts in terms of potential ill health.

To provide such estimates, it is necessary that judgments be made which related the presence of ionizing radiation or radioactive materials in the environment, i.e., potential exposure, to the intake of radioactive materials in the body, to the absorption of energy from the ionizing radiation of different qualities, and finally to the potential effects on human health. In many situations the levels of ionizing radiation or radioactive materials in the environment may be measured directly, but the determination of resultant radiation doses to humans and their susceptible tissues is generally derived from pathway and metabolic models and calculations of energy absorbed. It is also necessary to formulate the relationship between radiation dose and effects; relationships derived primarily from human epidemiological studies but also reflective of extensive research utilizing animals and other biological systems.

Although much is known about radiation dose-effect relationships at high levels of dose, a great deal of uncertainty exists when high level dose-effect relationships are extrapolated to lower levels of dose, particularly when given at low dose rates. These uncertainties in the relationships between dose received and effect produced are recognized to relate, among many factors, to differences in quality and type of radiation, total dose, dose distribution, dose rate, and radiosensitivity, including repair mechanisms, sex, variations in age, organ, and state of health. These fatcors involve complex mechanisms of interaction among biological chemical, and physical systems, the study of which is part of the continuing endeavor to acquire new scientific knowledge.

Because of these many uncertainties, it is necessary to rely upon the considered judgments of experts on the biological effects of ionizing radiation. These findings are well-documented in publications by the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR), the National Academy of Sciences (NAS), and the National Council on Radiation Protection and Measurements (NCRP), and have been used by the Agency in formulating a policy on relationship between radiation dose and effect.

It is the present policy of the Environmental Protection Agency to assume a linear, nonthreshold relationship between the magnitude of the radiation dose received at environmental levels of exposure and ill health produced as a means to estimate the potential health impact of actions it takes in developing radiation protection as expressed in criteria, guides, or standards. This policy is adopted in conformity with the generally accepted assumption that there is some potential ill health attributable to any exposure to ionizing radiation and that the magnitude of this potential ill health directly proportional to the magnitude of the dose received.

In adopting this general policy, the Agency recognizes the inherent uncertainties that exist in estimating health impact at the low levels of exposure and exposure rates expected to be present in the environment due to human activities, and that at these levels the actual health impact will not be distinguishable from natural occurrences of ill health, either statistically or in the forms of ill health present. Also, at these very low levels, meaningful epidemiological studies to prove or disprove this relationship are difficult, if not practically impossible to conduct. However, whenever new information is forthcoming, this policy will be reviewed and updated as necessary.

It is to be emphasized that this policy has been established for the purpose of estimating the potential human health impact of Agency actions regarding radiation protection, and that such estimates do not necessarily constitute identifiable health consequences. Further, the Agency implementation of this policy to estimate potential human health effects presupposes the premise that, for the same dose, potential radiation effects in other constituents of the biosphere will be no greater. It is generally accepted that such constituents are not more radiosensitive than humans. The Agency believes the policy to be a prudent one.

In estimating potential health effects it is important to recognize that the exposures to be usually experienced by the public will be annual doses that are small fractions of natural background radiation to at most a few times this level. Within the U.S. the natural background radiation dose equivalent varies geographically between 40 to 300 mrem per year. Over such a relatively small range of dose, any deviations from dose-effect linearity would not be expected to significantly affect actions taken by the Agency, unless a dose-effect threshold exists.

While the utilization of a linear, nonthreshold relationship is useful as a generally applicable policy for assessment of radiation effects, it is also EPA's policy in specific situations to utilize the best available detailed scientific knowledge in estimating health impact when such information is available for specific types of radiation, conditions of exposure, and recipients of the exposure. In such situations, estimates may or may not be based on the assumptions of linearity and a nonthreshold dose. In any case, the assumptions will be stated explicitly in any EPA radiation protection actions.

The linear hypothesis by itself precludes the development of acceptable levels of risk based solely on health considerations. Therefore, in establishing radiation protection positions, the Agency will weigh not only the health impact, but also social, economic and other considerations associated with the activities addressed.

[FR Doc.76-19305 Filed 7-8-76;8:45 am]

federal register

FRIDAY, JULY 9, 1976



PART III:

FEDERAL ELECTION COMMISSION

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ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

Polling Expenses

FEDERAL ELECTION COMMISSION

[11 CFR Part 106]

[Notice 1976-33]

ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

Polling Expenses

The Commission today publishes a proposed regulation on the treatment of polling expenses under the Federal Election Campaign Act of 1971, as amended. The proposed regulation is § 106.4, to be added to 11 CFR, Part 106 of the Commission's draft disclosure regulations which were published for comment on May 26, 1976 (41 FR 21572). The Commission will welcome critical commentary with regard to this proposed provision through July 21, 1976, when the comment period closes. Comments should be addressed to the Regulations Section, Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

Dated: July 2, 1976.

VERNON W. THOMSON,
Chairman, for the
Federal Election Commission.

§ 106.4 Allocation of polling expenses.

(a) The purchase of opinion poll results by a candidate or a candidate's authorized political committee or agent is an expenditure by the candidate.

(b) The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent receipt of the poll results by a candidate or the candidate's authorized political committee or agent is a contribution in kind by the purchaser to the candidate and an expenditure by the candidate. The poll results are received by a candidate if the candidate or the candidate's authorized political committee or agent:

(1) Requested the poll results in any manner;

(2) Accepted the polls results; or

(3) Used the poll results.

(c) The amount of a contribution under paragraph (b) of this section or of an expenditure under paragraphs (a) and (b) of this section attributable to each candidate-recipient shall be:

(1) That share of the overall cost of the poll which is allocable to each candidate (including State and local candidates), based upon the cost allocation formula of the polling firm from which the results are purchased. Under this method the size of the sample, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares; or

(2) An amount computed by dividing the overall cost of the poll equally among candidates (including State and local candidates) receiving the results; or

(3) A proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate bears to the total number of question results received by all candidates (including State and local candidates); or

(4) An amount computed by any other method which reasonably reflects the benefit derived.

(d) The first candidate(s) who receive(s) polls results under paragraph (b) of this section and any candidate(s) who receive(s) poll results under paragraph (b) of this section within 30 days after receipt by the initial recipient(s) shall compute the amount of the contribution-in-kind and the expenditure as provided in paragraph (c) of this section.

(e) The amount of the contribution and expenditure reported by a candidates(s) who receive(s) poll results under paragraph (b) of this section more than 30 days after receipt of such poll results by the initial recipient(s) shall be:

(1) If the results are received during the period 31 to 60 days following receipt by the initial recipient(s), 70 percent of the amount allocated to an initial recipient(s), 70 percent of the amount allocated to an initial recipient of the same results.

(2) If the results are received 61 to 90 days following receipt by the initial recipient(s), 40 percent of the amount allocated to an initial recipient of the same results.

(3) If the results are received more than 90 days after receipt by the initial recipient(s), 10 percent of the amount allocated to an initial recipient of the same results.

[FR Doc.76-19879 Filed 7-8-76;8:45 am]

federal register

FRIDAY, JULY 9, 1976



PART IV:

FEDERAL POWER COMMISSION

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ANNUAL REPORT OF POWER SYSTEM TRANSMISSION AND DISTRIBUTION TECHNICAL DATA

Proposed Rulemaking

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM76-21]

ANNUAL REPORT OF POWER SYSTEM TRANSMISSION AND DISTRIBUTION TECHNICAL DATA

Proposed Rulemaking

JUNE 30, 1976.

Notice is hereby given pursuant to the Administrative Procedure Act, 5 U.S.C. 553, and sections 10, 19, 20, 202, 205, 206, 207, 304, 309 and 311 of the Federal Power Act,[1] that the Commission proposes to add § 141.31 to Part 141 of the Approved Forms under the Federal Power Act to provide that a new FPC Form No. 157 be required for reporting. The proposed new form would be entitled "Annual Report of Power System Transmission and Distribution Technical Data."

During the period of critical energy needs, such as the nation is currently experiencing, the public interest requires that the Commission have available to it current and continuing information on the operations of electric utilities transmitting and distributing electric energy for sale in interstate commerce. The interests of those electric utilities regulated by the Commission also require efficient and progressive means of regulation.

On September 26, 1973, in Docket No. R-438, the Commission issued Order No. 494, amending Part 2, Chapter I, Title 18 of the Code of Federal Regulations and setting forth Commission policy for the development of a fully automated computer regulatory system to provide such information. When developed and fully operative, the system will provide prompt and ready access to data contained in a central electronic data bank, eliminating the duplication of informaiton now collected and reducing the quatity of existing manual files. This system will not only facilitate the evaluation and analysis of all data, but it will also accommodate the development of new reguatory techniques.

In Order No. 494, the Commission stated that all existing "hard copy" public use forms would be redesigned and consolidated to eliminate redundancies and that instructions for reporting would be clarified by use of Electronic Data Processing (EDP) Technology. Public use form information, as it is currently submitted, will be replaced by the submission of individual data elements within a general data element and code scheme. It is anticipated that this major system revision will result in the reduction of the total number of data items currently transmitted to the Commission by the respondents.

In Order No. 494, the Commission further stated that the development of the automated computer information system would be effected through the use of phased rulemaking proceedings in which various Commission reporting procedures and report forms would be restructured. To this end, Form No. 157 is designed to incorporate into a readily retrievable data processing system some of the information currently submitted on FPC Form Nos. 1 [2], 1F [3], 1M [4], 12 [5], and 12F [6].

With the exception of shield wire data, direct reporting of line impedance characteristics, and additional technical description of special equipment, no new data would be required by Form No. 157. The new form would eliminate certain information now collected on Form Nos. 1, 12, and 12F and clarify other information now collected. It is anticipated that at least one year of parallel reporting will be required for system evaluation. Assuming successful operation of the new system within such time period, the related schedules within the current FPC Form Nos. 1, 1F, 1M, 12, and 12F for these respondents would then be eliminated.

The proposed FPC Form 157 would consist of 6 schedules, Schedules 663, 664, 666, 667, 668, and 852. The current forms collect raw data such as conductor spacing which is used by staff to calculate line impedance characteristics. The proposed Form 157 would eliminate such derivative calculations by direct reporting of line impedance characteristics, for example.

Schedule 663 pertains to transmission line data. In addition to the information currently collected, some further information would be necessary to digitize that data obtained from the maps included with the present forms. Specifically, those data items are the substation ID codes to and from, the circuit ID, the number of sections included, the section number, and the number of other lines on the structure. New reporting data for assessing reliability would be shield wire information.

Schedule 664 pertains to system substations and transformers. The identification bank number would be used to digitize this information. The addition of temperature rise rating across the primary, secondary and tertiary windings is a more technically correct method of obtaining the transformer rating now reported. The remaining additional items, i.e., automatic tap change, phase shift, approximate weight of bank in service and shipping weight of bank, are important characteristics from a power system reliability viewpoint.

Schedule 666 pertains to conversion apparatus and special equipment. While this information is currently collected as part of FPC Form No. 1, the additional information requested is necessary to reflect an accurate technical description of this equipment. Additional data items are phase of equipment, design voltage, operating voltage, maximum continuous capacity rating, capacity with forced cooling, and frequency of equipment.

Schedule 667 pertains to distribution transformer and capacitor data. All of this data is curerntly reported, although the new form would categorize the data by type of equipment in order to reflect current equipment use different from that at the time the present FPC forms were designed.

Schedule 668 pertains to electric watthour meter data and contains no information which is not currently reported; however, different categorical breakdowns are specified so that the data presented meets current needs.

Schedule 852 pertains to system maps, diagrams, and annual system map update submissions where the minimum voltage of transmission lines to be represented is raised from 22KV to 69KV.

All data and information submitted pursuant to this new form would be required to be subscribed and verified by a duly authorized executive officer of the respondent as being factually accurate and complete to the best of his or her knowledge, according to the Commission's Rules of Practice and Procedures (18 CFR, Part 1).

It has been contemplated by the Commission that all respondents, in using EDP media, would be required to submit their data on magnetic tape. The Commission now proposes that magnetic tape, in addition to a hard copy of the forms used to create the tape, would be required only from respondents having over 2,000 MW of installed capacity and that the manner of the preparation of the tapes be left to the discretion of those respondents. For all other respondents, an original and four copies of each completed Form No. 157 would be required to be filed with the Commission.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 29426, not later than August 30, 1976, data, views, and comments or suggestions in writing concerning all or part of the proposed form. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submissions to the Commission should indicate the name, title, and mailing address and telephone number of the person to whom communications concerning the proposals should be addressed and whether the person filing submissions requests a conference with the staff of the Federal Power Commission to discuss the proposed form. The Staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

The proposed amendment to Part 141 of the Commission's Approved Forms under the Federal Power Act would be made pursuant to the authority granted the Commission by the Federal Power Act, as amended, particularly sections 10, 19, 20, 202, 205, 206, 207, 304, 309, and 311.[6]

[1] 41 Stat. 068-1070, 1073, 1074; 49 Stat. 842-844, 848, 849, 851-853, 855- 856, 858, 859; 67 Stat. 461; 82 Stat. 617; 16 U.S.C. 803, 812, 813, 824a, 824d, 824e, 824f, 825c(b), 825c(c), 825h, 825j.

[2] 18 CFR 141.1 (1975).
[3] 18 CFR 141.2 (1975).
[4] 18 CFR 141.7 (1975).
[5] 18 CFR 141.51 (1975).
[6] 18 CFR 141.57 (1975).

[6] Supra, note 1.

Effective for the reporting year 1976, the Commission proposes to amend Part 141, Statements and Reports (Schedules), in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.31 prescribing new FPC Form No. 157, Annual Report of Power System Transmission and Distribution Technical Data in the form set out in Attachment A hereto. New § 141.31 will read as follows:

§ 141.31 Form No. 157, Annual Report of Power System Transmission and Distribution Technical Data.

This form is designed to collect system technical data on bulk power transmission lines; on equipment at substations including transformers, conversion apparatus and other special equipment; and on distribution transformers and capacitors. The form also provides for the submission of electric system maps, diagrams, and system map updates. The filing of transmission line data is annually on or before May 1 for the previous calendar year with the other schedules filed when there are changed values, additions, and/or deletions.

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

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

DOCKET NO. RM76-21

ATTACHMENT A

FEDERAL POWER COMMISSION

BUREAU OF POWER

ANNUAL REPORT OF POWER SYSTEM
TRANSMISSION AND DISTRIBUTION
TECHNICAL DATA

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
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Level II Instructions
Level III Instructions
- Schedule 0100 Instructions
- Schedule 0663 Instructions
- Schedule 0664 Instructions
- Schedule 0666 Instructions
- Schedule 0667 Instructions
- Schedule 0668 Instructions
- Schedule 0852 Instructions
- Schedule 0000 Instructions
- Schedule 1000 Instructions

Cross-reference List

Add List

Data Standards

Schedule 0100: Index of FPC Public Use Schedules Submitted
Schedule 0663: Transmission Line Data
Schedule 0664: System Substation and Transformer Data
Schedule 0666: Conversion Apparatus and Special Equipment
Schedule 0667: Distribution Transformer and Capacitor Data
Schedule 0668: Electric Watthour Meter Data
Schedule 0852: System Maps and Diagrams
Schedule 0000: Footnotes to FPC Public Use Schedules
Schedule 1000: Supporting Documentation

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	

LEVEL I

GENERAL INSTRUCTIONS

FOR THE

PREPARATION AND SUBMISSION

OF PUBLIC USE SCHEDULES

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
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I. ADMINISTRATIVE BACKGROUND

The Federal Power Commission (FPC) has established an information system designed to improve the decision-making capabilities of the Commission. This program, the Regulatory Information System (RIS), was authorized by Commission Order 494, September 26, 1973, and features the following characteristics and capabilities:

- A consolidated data collection system designed to eliminate unnecessary or redundant reporting and to provide standardized data collection schedules.
- A comprehensive system for transmitting, processing, and accessing data requested of respondents by the Commission.
- Establishment of a modern computer facility at Commission headquarters featuring consolidated regulatory data bases and the associated automatic data processing (ADP) equipment and programming software necessary to store, validate, and access that data.

These instructions are intended to aid each respondent to understand the scope and objectives of the RIS system regarding source data collection and to provide clear and concise guidance for the completion of the revised public use schedules.

A. DATA COLLECTION CONCEPTS

The FPC public use schedules are designed to be vehicles for data collection, rather than for data display, by the Commission. This objective has guided the design of the layouts and instructions so as to achieve maximum efficiency in both data collection and subsequent processing. Within this basic design philosophy, the public use schedule data collection concept embodies the following design characteristics, some of which are described in greater detail in the subsequent chapters.

1. Optical Character Recognition (OCR) - All schedules have been designed with OCR requirements as one of the design constraints. This will allow for transition to optical scanning as a future alternative for data entry.

2. Separation of Instructions - All instructions are separated from the schedules to which they apply, in order to make efficient use of form space. Instructions consist of three separate levels, as follows:

- Level I - General (applicable to all schedules).
- Level II - General subject (applicable to natural gas operations, electric operations, or financial data).
- Level III - Detailed (applicable to individual schedules).

3. Separation of Footnotes - Footnotes or other extraneous marks or comments intended to qualify or modify data must not be entered directly on any schedule. The public use schedules have been designed to minimize the need for footnotes through the establishment of distinct data elements which represent some data previously reported as footnotes. However where necessary to make the related data more meaningful, footnotes may be entered on a special footnote schedule designed for this purpose. On the primary data schedules, the respondent must enter only a unique footnote reference number to provide a link to the footnote schedule.

4. Reporting Requirements - Reporting frequencies of the new schedules vary from semi-monthly to biennally. For certain schedules, all data must be supplied with each submission. For the other schedules, all data must be supplied with an initial submission, and on subsequent submission of these schedules respondents need report only changes, additions and deletions. These requirements are specifically stated in the Detailed Instructions for each schedule in paragraph B under the heading "II. General Information".

5. Consolidated Schedules - Many of the public use schedules have been designed to consolidate data previously collected on more than one schedule. The consequence of such consolidation is a reduction in the total number of schedules. Furthermore, portions of some schedules may be inapplicable to certain respondents, as specified in the detailed instructions.

B. APPLICABILITY OF INSTRUCTIONS

The Commission will provide to each respondent all three levels of instructions, appropriate to the type of operation. For example, an electric utility will receive:

- Level I - General Instructions
- Level II - General Subject Instructions (Electric Operating Data)
  - General Subject Instructions (Corporate and Financial Data)
- Level III - Detailed Instructions (Electric Operating Schedules)
  - Detailed Instructions (Corporate and Financial Schedules)

Each respondent will also receive footnote schedules (with instructions) and free form (blank) schedules for the submission of narrative or graphic support data that will not be loaded into the Commission's data bases.

As the public use schedules undergo change in future reporting periods through the rulemaking process, modified layouts and instructions will be prepared by the Commission and mailed to the respondents, together with appropriate documentation that describes the authorization and the details of all such changes, additions, or deletions. The Commission will prepare the instructions in a manner suitable for looseleaf binders, so that they can be easily maintained by the respondents.

II. STANDARD DEFINITIONS

The following standard definitions are provided to aid the respondent in understanding the data collection concepts contained in these instructions.

A. RESPONDENT - Each corporation, person, agency, authority, or other legal entity or instrumentality, whether public or private, which is required, under the provisions of the Federal Power Act, the Natural Gas Act, or Commission Order, to submit information to the Federal Power Commission via public use forms. Respondents also include those organizations that voluntarily or upon request, provide data to the Commission.

B. PUBLIC USE SCHEDULE - A collection of functionally related data elements organized and formatted into an arrangement suitable for the collection of data; the instructions for preparation of a schedule are included in this definition.

C. DATA FIELD - Within a record or schedule, a specific area used for representing a particular data value, e.g., the spaces provided for data entry on a schedule.

D. DATA ELEMENT - A basic unit of identifiable and definable information. Data elements identify the data fields within a schedule.

E. DATA ITEM - The expression of a particular value of a data element. In cases where a data element identifies a column or row on a schedule, a data item is a specific entry within the column or row.

F. LOGICAL ENTRY - A collection of related characteristics, defined by data elements, associated with a specific "key" item of information. For example, "name", "address", "date of incorporation", and "total assets" are all attributes of the key item "company", which is identified by a company code. This entire collection of data elements is called a logical entry. Within the public use schedules, logical entries are blocks of data that may be repeated several times on a page.

G. KEY ITEM IDENTIFICATION - A data element that provides a unique reference point for purposes of accessing or retrieving data. Within the public use schedules, the key item(s) uniquely identify groups of related data elements which by definition are logical entries. Normally, key items appear first within a logical entry and must always be completed by the respondent. The Detailed Instructions for each schedule explicitly identify those data elements that are "key".

Other, more specific, definitions of technical and financial data elements are contained in the Level II - General Subject Instructions.

III. GENERAL PROCEDURES FOR SCHEDULE PREPARATION

Many of the public use schedules have been designed so that different types of respondents can use the same basic schedules and instructions for the collection of identical data. For such schedules, the Detailed Instructions explain the unique data preparation requirements applicable to each type of respondent.

A. SCHEDULE SUBMISSION

The Commission will forward annually an appropriate number of copies of each schedule required of the respondent for the given reporting period.

All respondents shall forward the number of copies ordered by the Commission of each public use schedule to the Commission. Respondents submitting schedules on magnetic tape must also submit an attested working copy, appropriately completed, of the supplied schedules from which the tapes were prepared.

The specific report period for each schedule is listed in the General Subject Instructions (Level II) for the natural gas operations, electric operations, or financial data. The reporting period must be entered by the respondent on each schedule. Care must be exercised to ensure that the report period on each schedule (month, day, year) represents the ending date of the period to which the data applies, not the date the schedule was completed.

Prior to forwarding the schedules to the Commission, the respondent must complete Schedule 0100, Index of Public Use Schedules Submitted. A data field-by-data field instruction for Schedule 0100 shall be found in the Level III, Detailed Instructions for this schedule. All schedules should be carefully assembled, packaged, and forwarded to the following address:

Federal Power Commission
825 North Capitol Street, N.E.
Washington, D. C. 20426
Attn: Office of the Secretary

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FEDERAL POWER COMMISSION
825 North Capitol Street, N.E.
Washington, D.C. 20426

ATTESTATION UNDER OATH

This report must be attested to under oath by an officer of the company. _____ (Insert here the name of the attester)

being first duly sworn according to law, certifies that he is _____ (Insert here the official legal title of attester)

of _____ (Insert here the exact legal title or name of respondent); that he has full power and authority to make the attestation; that he has read this report and is familiar with the contents therein; that to the best of his knowledge, information and belief, all estimates and matters therein set forth are true and correct and the said report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the period from and including _____, 19 ___, to and including _____, 19 ___.

_____ (Signature of attester)

Subscribed and sworn to before me

this _____ day of _____, 19 ___.

_____ NOTARY PUBLIC

(SEAL)

FIGURE III-1. NOTIFICATION OF ATTESTATION

B. REPORTING MEDIA

The acceptable media for reporting public use data are magnetic tape with a working copy of the schedules or typed schedules.

Many respondents are capable of preparing the data via magnetic tape and have been directed by the Commission to do so. In addition, the respondent must attach associated attested working copy of the FPC supplied schedules from which the tapes were prepared.

C. SUPPORTING DOCUMENTATION

Additional statements, maps, diagrams, charts or other documentation supportive to the data schedules not otherwise specifically required or provided for should be inserted directly behind the schedules to which they apply. Respondents shall utilize FPC Schedule Number 1000 in all cases except those requiring oversize documents such as large maps. In all cases, the schedule number and page number of the schedule to which the supporting documentation applies must be entered, as well as the reporting period. Supporting documentation must not be stapled to the corresponding schedules.

D. ATTESTATION

The complete set of schedules filed for a given reporting period must be subscribed and verified by the duly authorized executive officer of the respondent, or of one of the respondents where a consolidated schedule is filed, who is qualified and authorized to prepare or supervise the preparation of the schedules and to certify their accuracy, completeness, and truthfulness. Such attestation will be submitted in the format specified in the Attestation Under Oath, displayed in Figure III-1.

Information submitted on magnetic tape must be accompanied by a working copy of each schedule used to create the magnetic tape. A single Attestation Under Oath will apply to all information, regardless of filing medium, submitted in the reporting period.

E. RESPONDENT COMMENTS AND SUGGESTIONS

The Regulatory Information System represents a significant departure from the previous methods of gathering and using information by the Commission. Like all new systems, areas for improvement will undoubtedly be discovered during actual operation. All respondents are encouraged to supply comments and suggestions to the Commission of specific data collection or schedule design problems.

All questions concerning schedule design, data entry rules, filing requirements, or administrative matters, should be directed to the Office of Regulatory Information Systems at Commission headquarters. The telephone number for inquiries at the Commission is (202) 275-4138.

This telephone number and the schedule mailing address will be the main contact points between the Commission and the respondents for matters relating to the data collection. Questions that cannot be handled directly will be routed to the appropriate bureau or office personnel for resolution.

IV. RULES FOR DATA PREPARATION

The respondent is instructed to rigorously conform to the following general rules for data entry when preparing the schedules prior to the time that the schedules are forwarded for typing.

A. DATA FIELD LENGTH

Do not exceed the data field lengths allocated for each data element. When the data field size is inadequate, leave the data field blank and enter the true value in a footnote.

B. JUSTIFICATION (DATA POSITIONING)

Right justify every numeric data field; that is, place the data in the right portion of the data field so that no blank spaces follow the last character. Unfilled leading characters should be left blank. All alphabetic data fields must be left justified; that is, they begin at the left boundary of the data field.

C. ALPHABETIC AND NUMERIC

The Detailed Instructions for each schedule define each data field as either alphabetic (A) or numeric (N). The instructions also specify the data field length, including implied decimal positions for fractional numbers. For example, (N7.3) means a numeric field with seven characters to the left and three characters to the right of the implied decimal position. (N6) implies a six digit integer number and (A22) defines a twenty-two character alphabetic data field.

Do not enter alphabetic or special characters in a data field defined to be numeric by the instructions. The only exceptions to this rule are a minus sign or an asterisk, as described later. Numeric data fields must be right-justified and can be preceded by blank spaces. A data field defined as alphabetic may include any

combination of numeric and alphabetic characters. If necessary, words should be abbreviated to fit an alphabetic data field within the allocated space.

D. NEGATIVE ENTRIES

To indicate a negative numeric value, type over the preprinted minus sign in the right-most character of the data field immediately after the last significant digit; for example, | 4917- | . Positive numbers require no sign within the data fields; simply right-justify the number. Only certain data fields may legitimately contain negative numbers. Those data elements that may be expected to generate negative numbers are identified in the Detailed Instructions and in the schedules, where a character position is reserved for the minus sign, which is printed.

E. NULL ENTRIES

Data fields that are not applicable to a given respondent's situation must be left blank. Do not write in "N/A", or "NONE", or "NO DATA", or any other null response. Numeric data fields that do apply to the respondent but for which the respondent has a legitimate value of zero must be so entered with zero, including all decimal positions. Numeric, alphabetic, or alpha-numeric data fields that do not apply must be left blank.

F. PERCENTAGES AND FRACTIONS

Numeric data fields expressed in percentages may contain a variable number of decimal positions. In the schedules, all decimal points are implied by a preprinted character (▲) that does not occupy a character position within the data field. For example: NN▲NNN

The factional portion to the right of the decimal point should always be rounded to the last significant digit. For example, 11 2/3 should be entered as | 11▲666 | . Under no circumstances must a portion of a whole number be expressed in fractional notation for any numeric data field. Rather, use the decimal representation, as

illustrated by the preceding example of a percentage. For example, never enter 12 1/3 in a schedule; instead enter 12▲33, assuming two decimal positions are requested.

G. SPECIAL CHARACTERS

As illustrated in the preceding section, all of the public use schedules have been designed with preprinted decimal point locators, where applicable. The respondent is specifically requested not to enter dollar signs, decimal points (.), commas (,), parentheses, technical symbols, or any other special characters on the schedules unless called for by the Detailed Instructions. For example, the number $53,429.48 would be entered as 53429▲48 and the number $45,237 would be entered as 45237▲00.

H. MULTIPLE PAGES

Multiple pages may often be necessary for the respondent to provide all of the data for a particular schedule. Additional pages may be requested of the Commission at any time. To minimize such requests, the Commission will analyze historical submission patterns and volumes for each schedule and attempt to tailor the number of pages mailed out with the number of pages submitted in the past. Each page of a schedule must be numbered in the upper right hand corner.

I. LISTS OF LEGITIMATE VALUES

A copy of the Register of Data Standards will be made available to each respondent. The Register must be a standard reference tool for personnel completing the schedules to assure valid data entries. Respondent-entered data that is inconsistent with values contained in the Register will be rejected, since validation procedures are also based on the Register.

Normally, the Detailed Instructions will not contain the lists of legitimate values, but will refer to the Register of Data Standards. However, certain data item lists were incorporated directly in the Detailed Instructions for the convenience of the respondent. In these cases the data item list mnemonic appears in parenthesis.

The respondent must use the approved values and is also cautioned not to alter the units of measure (e.g., MMcf or KW) defined in the Detailed Instructions.

V. DATA MAINTENANCE ACTIVITIES

When preparing the public use schedules, the respondent must be familiar with the procedures necessary to modify data on the Commission's data bases and to prepare footnotes, where necessary. These topics are covered in this chapter.

A. MODIFICATION OF DATA

New data may be entered directly on any of the public use schedules by the respondent. The respondent must be certain that all data fields identified as key by the instructions are properly completed. For each new entry all data must be completed for the initial submission. For subsequent submissions of this data, the following general rules apply.

Changes to existing data residing in Commission's data bases can be entered directly on any public use schedule. To determine whether a data element has changed, the respondent is to refer to the data reported for the last submission.

For data identified by the Detailed Instructions as periodically required to be submitted, the respondent must completely resubmit all requested data regardless of whether or not the data have actually changed. In other Detailed Instructions subsequent submissions require the respondent to submit only appropriate identification (key data fields) and changed data fields. For this type of data, the Commission maintains only the latest current values in the data base, and the last reported data will continue to be propagated as the current data. To delete the current value of a data element, the respondent must enter an asterisk (*) in the left-most position of the data field, regardless of the numeric or alphabetic nature of the data. The following example illustrates how to delete any single occurrence of a data element:

Data Field Title
*

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To delete a data element in more than one logical entry, an asterisk must be entered by the respondent for each occurrence of the data element.

To delete an entire logical entry, a retired generator for instance, the respondent must type a "D" over the preprinted "D" contained to the right of each logical entry and must specify all key items necessary to uniquely identify the logical entry. The Detailed Instructions indicate which data elements are key items. When processed, all of the data for the entire logical entry will be deleted from the data base. No facility is provided for deleting, in a single action, all of the data for an entire respondent or for any major grouping of data above the logical entry level, such as the data for an entire plant. To accomplish major delete actions, the respondent must delete each logical entry separately. If such step-by-step action proves cumbersome for the respondent in view of a major delete action (a plant closure, for example), the respondent should notify the Commission in writing of the delete action and request appropriate steps to update the data bases.

B. FOOTNOTES

Footnotes cannot be places directly on any public use data schedule. Instead, a single, separate schedule (FPC Schedule Number 0000) is used for footnote entry. The preparation of a respondent supplied footnote requires both the source schedule and the footnote schedule.

All data schedules contain two blocks to signify the presence of a footnote. These footnote indicator data fields are called the General Footnote and the Specific Footnote. The General Footnote data field enables the respondent to supply additional information that pertains to either the entire schedule and/or to a particular column (all occurrences of a data element) within the schedule. The Specific Footnote may be for either a complete logical entry and/or a specific data element within any logical entry.

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The footnote number must be assigned uniquely and cannot be repeated across schedules. For example, if Schedule 0102 has footnote numbers 014 and 015 assigned, the footnotes for schedule 0103 should begin at 016. The respondent must not number the footnotes starting from 001 for each schedule. All footnote reference numbers throughout all schedules submitted in a single reporting period must have unique numbers.

VI. DATA KEYING AND VERIFICATION INSTRUCTIONS

Data keying may be utilized by respondents who submit data via magnetic tape. The following keying (and, therefore, verification) instructions apply to all redesigned public use schedules, regardless of actual data content. Keying will produce 80-character records (refer to magnetic tape submission requirements).

Each record must always contain the same control data fields in columns 1-11. These data fields are:

- Data Field A - Schedule Number (Record Position 1-4)
- Data Field B - Page Number (Record Position 5-8)
- Data Field C - Line Number (Record Position 9-10)
- Data Field D - Record Type (Record Position 11)

Data Keying and Verification Instructions are described in Figure VI-1.

When keying from the Public Use Schedules, follow the general rules given below.

- Data Field A, Schedule Number, (Record Position 1-4) and Data Field B, Page Number, (Record Position 5-8) are obtained from the header area of the schedule. The schedule number is obtained from the upper left corner of the schedule and the page number from the upper right corner of the schedule.
- Data Field C, Line Number (Record Position 9-10) is preprinted to the left of each line in the margin of the schedule (even numbers such as 2, 4, 6, etc. are the only valid entries).
- In Data Field D, (Record Type) an "A" should be keyed in Position 11 of the first record keyed for a line.
- In record positions 12-80 of the record, key all data field separators (|) and all data that has been filled in by the respondent.

DATA KEYING AND VERIFICATION INSTRUCTIONS

DATA FIELD	DATA FIELD NAME	COLUMNS FROM	COLUMNS TO	NUMBER OF COLUMNS	*	SPECIAL INSTRUCTIONS
	Common Data					
A	Schedule Number	1	4	4	N	Preprinted at the top left of all schedules
B	Page Number	5	8	4	N	Printed at top right of all schedules
C	Line Number	9	10	2	N	Preprinted on left margin of all schedules (even numbers)
D	Record Type (A = first record, B = second record)	11	11	1	A	A = First record for line B = Second record for line
E	Line Data	12	80	69		Key all data fields and their data field separators. Compress data as described in keying instructions.

* A - Alpha
N - Numeric

FIGURE VI-1. DATA KEYING AND VERIFICATION INSTRUCTIONS

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- o At the end of each line on the schedule, key a line terminator symbol (@).
  Note: In some instances, a second record (Record Type B) will be required solely for the line terminator symbol (@).
- o Normally, only one record will be required for a line. Should a second record be required for a line, duplicate Positions 1-10 from the "A" record, and key a "B" Position 11 of the second record.
- o Do not key data fields which are preprinted (in Blue), including data field separators.
- o Do not key odd numbered lines (i.e., 3, 5, 7, 9, etc.).
- o Do not key lines in which the resondent has entered no data.

In the examples shown, a lower case b represents a blank.

A. DATA FIELD CONTENTS

The data keyed into Positions 1-11 of the keyed records is keyed according to the fixed format specified above. But the data keyed in the remainder of the positions of the records (12-80) are keyed in a variable format. That is, leading and trailing blanks in data fields are not keyed. For example, if a ten-position alpha-numeric data field on the schedule contains a single letter, only that letter is keyed:

"Abbb" is keyed "A|"

B. DATA FIELD SEPARATOR (|)

The variable format explained in A above, requires that the sum of each data field (in Positions 12-80) be indicated by following the data field contents with a data field separator symbol (|).

The data field separator is the vertical bar symbol, which is to be represented by a 12-7-8 punch, and a hexidecimal 4F in EBCDIC.

See the example in A above, or those that follow, for illustrations of the use of the data field separator.

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C. LINE TERMINATOR (@)

The end of a schedule line must be represented in the keyed record. The vertical bar (data field separator) following the last data field is to be followed with a line terminator symbol. This can require that a "B" record by keyed to provide the line terminator symbol (@).

The line terminator is the "@" symbol, which is to be represented by a 4-8 punch, and a hexidecimal 7C in EBCDIC.

D. CONTINUATION RECORD

In most cases, one line on a schedule will be represented by one 80-character record, but in some cases two records will be necessary to represent a single schedule line. In the first (or only) record, an "A" is keyed into Position 11. In the continuation record (there will not be more than one per line), after duplicating Positions 1-10 from the "A" record, key a "B" in Position 11 then continue keying from the schedule line. (Note that for two-record lines, Position 80 of the "A" record may occur in the middle of a data field on the schedule.)

E. BLANK LINES

Every data field in a schedule line, including blank data fields, must be represented in the keyed records. For a blank data field, key only a data field separator symbol (|). For example, if the first three data fields on a schedule line were blank they would be represented in the keyed record by three consecutive data field separators (in Positions 12-14).

F. DECIMAL POINTS IN NUMERIC DATA FIELDS

Many numeric data fields contain decimal points, indicated on the schedules by a preprinted ▲. (The only valid indication of a decimal point is the preprinted ▲. Use of a period is an error on the part of the individual filling in the data.) Because it is preprinted, it is not keyed. In order that the data field contents be

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properly entered in the RIS data base, all positions to the right of a preprinted decimal in a data field on a schedule must be keyed.

G. CONSOLIDATED EXAMPLE

This example illustrates the rules given above, as applied to an entry on line 16 of page 2 of a hypothetical Schedule 99.

Data Field Type:
a n n n n n n n n n n

Data Field Length:
35 10 10 8.2 3.3 10 10 10 10 10 10

Data Field Contents:
MIDWESTERN INTERNATIONAL 350 * 673▲21 24▲2bb 750000 b b 550000 622490 3575829400

Keyed Records: A Record -
0099000216AMIDWESTERNbINTERNATIONAL|350|*|67321|24200|750000||550000|622490|

B Record -
0099000216B3575829400|@

H. CHARACTER SET

Keying should be accomplished using the standard EBCDIC alphabetic and numeric character set. The following are the only valid special characters which can be used:

EBCDIC SPECIAL CHARACTER

CHARACTER	EBCDIC HEX REP	CARD PUNCH	CHARACTER	EBCDIC HEX REP	CARD PUNCH
.	4B	12-3-8	-	6Ø	11
(	4D	12-5-8	/	61	Ø-1
+	4E	12-6-8	,	6B	Ø-3-8
&	5Ø	12	%	6C	Ø-4-8
$	5B	11-3-8	?	6F	Ø-7-8
*	5C	11-4-8	:	7A	2-8
)	5D	11-5-8	'	7D	5-8
;	5E	11-6-8	=	7E	6-8
			"	7F	7-8

Data Field Separator:
| 4F 12-7-8

Data Line Terminator:
@ 7C 4-8

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I. MAGNETIC TAPE SUBMISSION

The magnetic tape to be submitted shall be compatible with IBM 370/OS using 9-track standard IBM OS labels or using 9-track non-labelled tapes in EBCDIC code format at 800 or 1600 bpi. The logical record length shall be 80 characters. The blocking factor should be compatible with IBM OS tape blocking conventions.

All respondents submitting magnetic tape(s) must enclose with the tape the following information: name of company, name of contact about the magnetic tape and telephone number. Additionally the following information must be specified for labelled and non-labelled tapes:

LABELLED AND NON-LABELLED TAPES

- whether 800 or 1600 bpi
- whether labelled or non-labelled

LABELLED TAPES

- internal volume/serial number of tape
- data set name

NON-LABELLED TAPES

- block size in characters (length of physical record)
- external volume/serial number of tape

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LEVEL II

GENERAL SUBJECT INSTRUCTIONS

FOR

ELECTRIC UTILITY/INDUSTRIAL/LICENSEE SCHEDULES

TABLE OF CONTENTS

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APPENDIX 1. List of Electric Utility/Industrial/Licensee Schedules

Schedule Number	Schedule Name
0601	Plant Owner - Operator Data
0602	General Information - Plants
0603	Generating Unit Joint Ownership
0604	Hydroelectric Plant Design Data
0605	Hydroelectric Generating Unit Design Data
0606	Hydroelectric Plant Capability Data
0607	Pumped Storage Plant Design Data
0608	Pumped Storage Generating Unit Design Data
0609	Pumped Storage Plant, Separate Motor Driven Pumps, Design Data
0610	Internal-Combustion and Gas-Turbine Plant Design Data
0611	Internal-Combustion and Gas-Turbine Generating Group Design Data
0612	Steam-Electric Plant Design Data
0613	Steam-Electric Generating Unit Design Data, Turbine Design Data
0614	Steam-Electric Generating Unit Design Data (Generating Data and Cooling Facility)
0615	Boiler Design Data
0616	Common Fuel-Feeders by Boiler
0617	Boilers Served by Fuel-Feeder Systems
0618	Stack Descriptive Data
0619	Boilers Served by Stacks
0620	Stacks Associated with Boilers
0621	Flue-Gas Cleaning Equipment - Design Data
0622	Boilers Served by FGCE
0623	Boiler FGCE Equipment
0625	Plant Cooling System Characteristics
0626	Plant Cooling Water Source Data
0627	Plant General Water Use Data
0628	Plant Water Treatment Settling Pond Discharge Data
0629	Plant Sewage Effluent Treatment Design Data
0630	Combined Cycle Plant Data
0631	Steam-Electric Plant Capability Data
0632	Small Plant Design Data and Costs
0633	Small Plant Generating Group Design Data
0634	Annual Plant Capacity - Output and Fuel Data
0635	Monthly Power Plant Data
0636	Plant Fuel Cost and Quality Data
0637	Annual Large Plant Fuel Data
0638	Internal-Combustion and Gas-Turbine Plants Costs and Expenses
0641	Hydroelectric Plant Costs and Expenses
0642	Pumped Storage Plant Costs and Expenses
0643	Steam-Electric Plant Costs and Expenses

Schedule Number	Schedule Name
0644	Small Plant Costs and Expenses
0645	Annual Small Plant Fuel Data
0646	Annual Industrial Power Plant Data
0647	Annual Large Plant Unit Performance Data
0648	Annual Peak Demand Data by Plant
0649	Plant Fuel Consumption and Quality - By Month
0650	Annual Boiler Fuel Use and Operation
0651	Monthly Boiler Fuel Consumption and Peak Operation
0652	Boiler Flue-Gas Cleaning Equipment - Operational Data
0653	Chemicals Used in Plant Cooling and Boiler Water
0654	Plant Disposal of Combustion Cycle Products
0655	Plant Combustion Cycle Additives
0656	Annual Plant Environmental Data
0657	Water Temperature and Flow at Seasonal Peaks
0658	Cooling System Operational Data
0659	Plant Projection Data
0660	Plant Capacity and Generating Unit Changes
0661	Annual System Energy Accounting and Peak Load (Small Systems)
0662	System Net Dependable Capacity at Time of Annual Peak
0663	Transmission Line Data
0664	System Substation and Transformer Data
0665	Plant Transformer Design Data
0666	Conversion Apparatus and Special Equipment
0667	Distribution Transformer and Capacitor Data
0668	Electric Watthour Meter Data
0676	System Energy Transactions Between Other Systems (Small Systems)
0679	System Net Generation, Energy Transfers and Peak Loads by Month (Small Systems)
0680	System Load Data for Specified Weeks - AM
0681	System Load Data for Specified Weeks - PM
0682	System Future Changes in Firm Power Transfers
0683	System Energy and Peak Load Forecast
0684	Distribution of System Load in Service Area
0686	All-Electric Home Consumption Data
0687	Community Characteristics for Given Schedules
0688	Rate Schedules Energy Characteristics
0689	All-Electric Homes Customer and Total Bills Data
0690	All-Electric Homes Annual Bills
0691	Typical Net Monthly Bills - Commercial Service
0692	Typical Net Monthly Bills - Residential Service
0693	Typical Net Monthly Bills - Industrial Service
0694	Retail Rate Level Changes
0699	System All-Electric Home Rate Designation Data
0700	Licensed Project Recreation Data - Part I
0701	Licensed Project Recreation Data - Part II
0702	Licensed Project Recreation Data - Text
0703	Licensed Project Recreation Data - Part III
0705	Monthly Industrial Power Plant Data

Schedule Number	Schedule Name
0706	Licensed Project Recreation Data - Part IV
0708	System Generation
0709	System Purchases or Sales for Resale
0710	System Interchange Power
0711	System Transmission of Electricity For or By Others
0712	System Borderline Receipts and Deliveries
0713	System Ultimate Consumer Deliveries and Losses
0714	System Net Generation, Energy Transferred, and Associated Peak Demand By Month
0852	System Maps and Diagrams
0854	Hydroelectric Storage Reservoir Curves
0855	Hydroelectric Power Plant Diagrams and Curves
0856	Map of Distribution of System Load In Service Area
0857	Steam-Electric Plant One-Line Diagrams

I. GENERAL INFORMATION

These instructions apply to the following schedules:

- Electric system design and operation data
- Electric generating plant design and operation data
- Licensed projects data

The groups of Power System and Generating Plant schedules represent a comprehensive selection of data covering pertinent operational and technical information of the respondents.

Systems are assigned a Type code by FPC depending on the degree with which their electric generation facilities meet their own requirements and the requirements of other systems:

Type I - a system for which the operating utility owns, leases, or purchases installed capacity to meet directly that present system's total load requirements as well as any Type II or III system's load requirements by way of contract either in part or in total. The system generally has plans for additional installed capacity to meet its projected load requirements, as well as, Type II or III system's projected requirements. Bulk power transmission systems may also be designated as Type I.

Type II - a system for which the operating utility owns, leases or purchases installed capacity to meet directly that present system's load requirements only in part and generally do not plan additional installed capacity to meet projected total load requirements. These systems may be called "partial requirements customers" of other systems. Small isolated systems may also be designated as Type II.

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Type III - a system for which the operating utility does not own, lease, or purchase installed capacity to meet directly any of that present system's load requirements. These systems may be called "total requirements customers" of other systems.

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ELECTRIC POWER SYSTEMS DATA

Subgroup	Respondent Category	Schedule Number(s)	Old FPC Form	Submission Date
Event Submissions				
1	All systems with transmission/distribution facilities	0663, 0664, 0666-0668	1,1F,M 12	May 1st
2	All utilities serving cities with a population of 2,500 or more	0694	82	Within 60 days of new or changed rate schedule
Annual Submissions				
1	All Type I systems	0662, 0680-0684, 0708-0714	1,1F, 1M,12, 12A,12D	May 1st
2	All Type II and III systems	0676, 0713	1,1F, 1M,12, 12A,12D	May 1st
3	All Type II and III systems with "net energy for system" greater than 5000 MWH for the previous year.	0679	12A	May 1st
4	All Type II and III systems with "net energy for system" less than 5000 MWH for the previous year.	0661	12D	May 1st
5	FPC specified electric utilities	0686-0693, 0699	3, 3A	January 21st

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ELECTRIC GENERATING PLANT DESIGN AND OPERATION DATA

Subgroup	Respondent Category	Schedule Number(s)	Old FPC Form	Submission Date
Event Submissions				
1	All systems with generation facilities	0601-0605,0607-0633,0665	1,12, 12A,12D 67	May 1st
2	All systems with hydroelectric generation facilities	0606	12	May 1st
Annual Submissions				
1	All systems with generation facilities	0634,0648,0660	12	May 1st
2	All systems with generation facilities	0649-0659	67	May 1st
3	All systems with generation facilities	0647	New	May 1st
4	All systems with generation facilities	0637,0638,0641-0645	1,1F,1M	May 1st
5	Industrial Plants with installed capacity less than 5 MW	0646	12C	May 1st
Monthly Submissions				
1	All systems with generation facilities	0635	4	10 days after 1st of following month
2	Industrial Plants with installed capacity greater than 5 MW	0705	4	10 days after 1st of following month
3	All systems with generating facilities	0636	423	45 days after 1st of following month

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LICENSED PROJECT RECREATION DATA

Subgroup	Respondent Category	Schedule Number(s)	Old FPC Form	Submission Date
Biennial Submissions	All FPC Licensed Projects	0700-0703, 0706	80	March 1st of each odd numbered year for the two years ending as of December 31st of the previous year

Each schedule is identified by a schedule number and title (see Appendix 1, List of Electric Utility/Industrial/Licensee Schedules.

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II. STANDARD DEFINITIONS AND CODES

A. UNIFORM SYSTEMS OF ACCOUNTS

The required submissions will be prepared in conformity with the Uniform Systems of Accounts where applicable for Electric Utilities and Licensees prescribed by the Federal Power Commission, and all accounting words and phrases are to be interpreted in accordance with said classification. If the respondent is not under the jurisdiction of the Commission and does not keep its books in accordance with the above-mentioned Uniform Systems of Accounts, the schedules shall be completed with the actual accounts maintained being substituted, where necessary for the accounts listed.

B. SELECTED DEFINITIONS

The following definitions pertain to the Electric Utilities, Industrial Plant, and Licensee Schedules:

1. Ambient Temperature: The temperature of the surrounding cooling medium, such as gas or liquid, which comes into contact with the heating parts of the apparatus.

2. Border-line Deliveries: Energy delivered by a system to ultimate customers of another system with no "wheeling" involved.

3. Border-line Receipts. Energy received by ultimate customers of a respondent directly from another system for the account of the respondent with no "wheeling" involved.

4. Capability. The capability of a system, plant, or unit is defined as the load-carrying ability at the specified power factor and indicated time interval independent of the other characteristics of the load. In general, plant capability is determined by design characteristics; physical condition; adequacy of the prime mover; prime mover steam supply; operational limitations, such as cooling and circulatory water supply and temperature, ambient temperature; and head and tailwater elevations.

5. Demand Interval. The period of time over which the demand is measured. Each system shall report load data on the basis of integrated demands for 60-minute clock-hour intervals. When demand data are not available on this basis, please make adjustments, if possible, to approximate the integrated demand for 60-minute clock-hour intervals; otherwise, report demand interval used.

6. Dependable Capacity. The dependable capacity of a generating plant or group of plants is defined as the load-carrying ability for the time interval and period specified when related to the circumstances of the load to be supplied. In general, a plant's dependable capacity is influenced not only by factors affecting its capability, but by such factors as the duration of the system peak, position on the load curve where the plant is to be operated, and the plant's operating power factor.

7. Electric Repondent. Any electric utility, industrial producer, or other organization ultimately responsible for reporting of electric data to the Federal Power Commission.

8. Electric Plant. A unit or group of units of the same or different generating types as long as they can be considered at the same physical site.

9. Electric System. The physically connected generation, transmission, distribution, and other facilities operated as an integral unit under one control, management, or operating supervision.

10. Electric Utility. All enterprises engaged in the production and/or transmission and/or distribution of electricity for use by the public, including investor-owned, cooperatively-owned, government-owned (municipal systems, Federal agencies, state projects, and public power districts); and where the data are not separable, those industrial plants contributing to the public supply.

11. Generating Group. Generating units may be grouped for a number of reasons; separate powerhouses on the same pond; common header steam plants, gas-turbines

controlled through a common control house (cubical), internal-combustion units which are treated as one per group, and similar physical characteristics within generating type for small plants.

12. Generating Type. Internal-combustion, gas-turbine, steam-electric, hydro-electric, and pumped storage, are the basic generating types. Nuclear, geothermal, fossil and waste are treated as fuels for steam-electric. The combined cycle generating type is comprised of steam-electric and gas-turbine types.

13. Generating Unit. A rotary-type unit consisting of a turbine and an electric generator or a reciprocating engine and an electric generator. There may be more than one turbine or reciprocating engine mechanically coupled to one electric generator but this remains a single unit. A cross-compound steam electric plant consists of two units, since both turbine/generator combinations are mechanically separate.

14. Heat Rate. A measure of generating station thermal efficiency, generally expressed as BTU per net kilowatt-hour. It is computed by dividing the total BTU content of the fuel burned (or of heat released from a nuclear reactor) by the resulting net kilowatt-hours generated.

15. Industrial. Producers having generating plants for the purpose of supplying electric power required in the conduct of their industrial and commercial operations. Mining, manufacturing, and commercial establishments and by stationary plants of railroads and railways for active power is included.

16. Installed Capacity. Total of the capacities as shown by the nameplates of similar kinds of apparatus such as generating units, turbines, synchronous condensers, transformers, or other equipment in a plant, station, or system.

17. Large Generating Type (Large Plant). Steam-electric with installed capacity of 25 MW or greater; or hydroelectric, pumped storage, internal-combustion or gas-turbine each of 10 MW or greater.

18. Licensee. Any person, State, or municipality licensed under the provisions of Section 4 of the Federal Power Act, and any assignee or successor in-interest thereof

19. Load Factor. The ratio of the average load over a designated period to the peak-load occurring in that period.

20. Municipality. A city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

21. Net Dependable Capacity. Includes dependable capacity of a systems generating plants plus the net of firm power purchases.

22. Net Energy for System. The sum of system net generation and energy received from other systems, less the energy delivered to other systems for resale and equal to the sum of system losses, unaccounted for energy, and ultimate consumer sales.

23. Other Electric Respondents. Any other person or organization required to report electric plant, system, or licensed project data. A formal power pool falls in this category.

24. Pumping Energy. That energy measured as input to a pumped storage plant for pumping purposes.

25. Run-of-river. Those hydroelectric plants whose operation cannot be regulated over a period of more than a few hours, either from storage at site or above, but whose operation is, in general, controlled by the volume of flow which must be utilized as it occurs, or be wasted.

26. Small Generating Type (Small Plant). All steam electric with installed capacity less than 25 MW; or hydroelectric, internal-combustion or gas-turbine each less than 10 MW.

27. Source of Water. This refers to the proper name and type of the natural water body from which water is withdrawn for the stated purpose. It is not limited

solely to the nature of the water body. Thus, the Mississippi River as a source of water should be reported as "Mississippi River" and NOT as "river water".

28. Storage. Those hydroelectric plants whose operations can be varied as desired because of storage at site or above. Such regulation may be weekly, monthly, or seasonal.

III. GENERAL INSTRUCTIONS

A. GENERATING GROUP CONCEPTS

The term "generating group" appears in the schedules in reference to steam-electric, hydroelectric, internal-combustion, gas-turbine, and small plant design data.

- Steam-Electric Generating Group is defined as those generating units grouped by virtue of being served by a common steam header, or a cross-compound configuration, or the simple case of a single boiler and generating unit combination. Data must be submitted for each generating unit even though some units may be similar in design.
- Gas-Turbine and Internal-Combustion Generating Group. For gas-turbine units, a generating group is defined as any collection of gas-turbine generating units that are controlled from the plant control room through a single control house (cubicle). In the case of a single unit having unique characteristics, assign a generating group I.D., then complete the schedule for that unit. Internal-combustion units are reported as a single unit to the group.
- Power House Generating Group is defined as those hydroelectric and pumped storage generating units grouped within a single power house at a plant site. Two power houses on the same pond are two groups. The majority of hydroelectric and pumped storage generating units are within only one powerhouse. Grouping of units is not by like unit design and design data must be submitted for each unit.
- Small Plant Generating Group is defined as those generating units grouped by virtue of like unit design under all generating types and design data is only submitted once for one unit within the group. A group may contain only one unit.

B. RESPONDENT ASSIGNED UNIQUE CODING

The majority of schedules which require submission of generating plant data call for the use of codes to identify components or groups of components within a plant. Most of the codes defined as "respondent assigned" are to be the respondents commonly used designation if such a designation exists. These codes must be unique within the type of equipment being defined within a plant. If necessary the respondent must assign a new code to establish this uniqueness. If a component (or group of components) is referenced in more than one schedule, it is essential that the same code be used to identify the component (or group of components) on all schedules. It is also necessary that the same code be used in reporting from year to year. Because of this, the respondent must maintain a record of the assigned codes to achieve consistent reporting.

Examples of components or groups of components which require respondent assigned codes are shown below:

- Generating Group I.D.
- Generating Unit I.D.
- Boiler I.D.
- Flue-Gas Cleaning Equipment I.D.
- Fuel Feeder I.D.
- Stack I.D.
- Cooling Facility I.D.
- Transformer Bank I.D.

Each I.D. above is unique within the generating type except Transformer Bank I.D. which is unique within a plant. For each plant (or given geographic site) there may be one or more generating types (e.g., steam-electric, gas-turbine, etc.). Most of the respondent assigned I.D. codes are for the steam-electric generating type.

In a few cases specified in the schedule Detailed Instructions, the respondent is requested to assign numeric sequencial codes and maintain these codes from year to year.

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I. DESCRIPTION

This schedule shall be used to identify the schedules which were submitted by each respondent.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all Federal Power Commission respondents.

B. This schedule shall be completed for each submission of schedules to the Federal Power Commission.

C. The report period date required on line two of this schedule shall be the final date of the period covered by the submission i.e., if data is reported on a calendar year basis, the date to be reported is December 31, 1976, in the format MMDDYY
123176.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1	Date Received in Mail Room (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
2	Date Received in DBCG (N6): This data field is for Federal Power Commission internal processing only. (TMDATE)
3 (Key)	Schedule Number (N4): Enter the schedule number of each schedule being submitted in this submission.
4	Schedule Contact Name (A35): Enter the name of the individual to contact about the schedule number reported in data field 3 above. The format for the name is: Last Name, First Name or Initial, Middle Initial. (IDNAME)
5	Schedule Contact Telephone Number (A12): Enter the area code and telephone number, in the format NNN-NNN-NNNN. Be certain to over strike the preprinted hyphens (-).
6	Number of Pages (N4) NO: Enter the number of pages submitted for the schedule reported in data field 3 above.
7	Indicate Primary Reporting Media, Hardcopy or Tape (N1): Enter "1" if hardcopy is being submitted; or enter "2" if tape is being submitted. (INETOR)

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DETAILED INSTRUCTIONS: SCHEDULE 0100	INDEX OF FPC PUBLIC USE SCHEDULES SUBMITTED	2 of 2

Data Field Number	Instructions
8	Name of Attestor: Enter the legal name of the individual who is attesting to the validity of the data content being submitted on each of the schedules reported in data field 3 above. (IDNAME)
9	Signature of Attestor: Enter the attestors legal signature in this data field. (IDNAME)
10	Date of Attestation: Enter the date of attestation, in the format MMDDYY. (TMDATE)

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DETAILED INSTRUCTIONS: SCHEDULE 0663	TRANSMISSION LINE DATA	1 of 5

I. DESCRIPTION

This schedule is used to collect data relevant to transmission line design characteristics, costs, and dates of service.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all electric utility systems with transmission lines operating at 115 KV or above, or designed to operate at 115 KV or above. However, all international lines are to be included.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions. However, the identification (key data fields) and data fields 37-40 must be submitted annually.

C. Transmission line costs include such costs as are within the definition of transmission system plant in the Uniform System of Accounts. Substation costs are not to be included in the costs reported for this schedule.

D. Exclude from this schedule any transmission lines for which plant costs are included in Account 121, Nonutility Property.

E. Transmission line structures which also support a line of lower voltage should be included with the line of higher voltage.

F. Transmission lines are generally considered to run from substation to substation, and are therefore to be reported in this manner. However, various sections of some lines change ownership, shift from overhead to underground, or are otherwise altered in some important characteristic. These lines are to be reported on a section basis with a substation being designated at the terminus of each section. Report structure numbers, or other such designations, to indicate junction points where no actual substation codes or names are available.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the code, from the Register of Data Standards, IDSYST.
2 (Key)	ID Substation Code From (A5): Enter the substation code from which line originates, from the Register of Data Standards, IDSUBS.
3 (Key)	ID Substation Code To (A5): Enter the substation code for substation where line terminates, from the Register of Data Standards, IDSUBS.

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Data Field Number	Instructions
4	Circuit ID (A4): Enter the identification of the circuit, as used by the respondent. (IDEQPT)
5	Number Other Lines (N1) NO: Enter the number of other lines of the same voltage with the same origin and terminus points as the lines coded in data fields 2-4 above.
6	Substation Name From (A16): Enter the officially designated name of the substation from which the line originates. Abbreviate if necessary. If ownership changes, the line changes from overhead to underground, or other characteristics change, list each section individually with the change point being designated a substation. (IDNAME)
7	State Abbreviation From (A2): Enter state abbreviation for the substation reported in data field 6 above, from the Register of Data Standards, IDSTAT.
8	County Code From (N3): Enter county code for the substation reported in data field 6 above, from the Register of Data Standards, IDCNTY.
9	Number of Sections Included (N2) NO: If the line between two officially designated substations is sectionalized according to instructions for data field 6 above (also see General Information F) then enter the number of sections. Note that each section is reported as a separate line.
10	Section Number (A2): If it is necessary to identify a line section according to the instructions for data field 6 above, enter the section number in this data field. (IDDESC)
11	Substation Name To (A16): Enter the officially designated name of the substation at which the line terminates. If sections of a line are being reported as per the instructions for data field 6 above, enter the identification of the section terminus in this data field. (IDNAME)
12	State Abbreviation To (A2): Enter state abbreviation for the substation reported in data field 11 above, from the Register of Data Standards, IDSTAT.
13	County Code To (N3): Enter county code for the substation reported in data field 11 above, from the Register of Data Standards, IDCNTY.
14	Indicate Overhead or Underground (N1): For each line enter "1" for overhead, or "2" for underground. (INETOR)

Data Field Number	Instructions
15	Type Supporting Structure (A4): Enter the predominant type of structure on this line or line section, from the Register of Data Standards, TYSPRT.
16	Structure Material (A2): Enter the material of the supporting structure from the following: (TYMATL) AL - Aluminum ST - Steel, Galvanized WD - Wood CO - Concrete RS - Steel, A242 LW - Laminated Wood FG - Fiberglass PS - Painted Steel OT - Other
17	Average Number Per Mile (N3.2) NO: Enter the average number of supporting structures per mile of line.
18	Length of Line (N4.1) MI: Enter the total length in miles of line, or line section as appropriate.
19	Length on Another Line's Structure (N6) MI: Enter the length of the line, in structure miles, as supported on structures of a line described in another entry to this schedule, or on structures belonging to another reporting utility.
20	Present Number of Circuits Per Structure (N1) NO.
21	Ultimate Circuits Per Structure (N1) NO: Enter the ultimate planned number of circuits per nominal supporting structure on this line.
22	Conductors Per Phase (N1) NO: Enter the number of conductors per phase.
23	Conductor Bundle Spacing (N3) IN: If conductors are bundled, enter the spacing of the subconductors, in inches. Leave blank if not bundled.

NOTE: The following three data fields (24-26) apply to data concerning line impedance characteristics. Enter positive sequence line data characteristics of this line or line section in per cent, on a 100 MVA per unit base. Round all values to the nearest tenth. (These values should be identical to those used in interregional power flow studies).

24	Conductor Resistance (N3.1) PCT: See note above.

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DETAILED INSTRUCTIONS: SCHEDULE 0663	TRANSMISSION LINE DATA	4 of 5

Data Field Number	Instructions
25	Inductive Reactance (N3.1) PCT: See note above.
26	Capacitive Reactance (N3.1) PCT: See note above.
27	Operating Voltage (N4) KV: Enter the operating nominal voltage of the line in kilovolts.
28	Design Voltage (N4) MV: Enter the designed nominal voltage of the line in megavolts.
29	Shield Wire (A2): Enter one of the following codes to show whether or not a static shield conductor is used on the line: (TYCDSC) GS - Grounded Static Conductor IS - Insulated Static Conductor NS - No Static Wire
30	Frequency (N2) HZ: Enter the system design frequency of the power flowing on the line, in hertz.
31	Thermal Capacity (N4) DEGC: Enter the design temperature of the line, in degrees Celsius, above ambient temperature.
32	Type of Interconnection (A1): Enter one of the following codes: (TYINTC) I - Line crosses international border S - Line crosses state border P - Primary line under license by FPC B - Line is part of respondents bulk power system T - Line is a tap line 0 - None of the above apply
33	Indicate Single or Multiple Ownership (N1): Enter "1" for single ownership, "2" for multiple ownership. (INETOR)
34	Conductor Size (A6): All conductor sizes through A/0, to be entered in American Wire Guage. Larger conductors are to be entered in thousands of circular miles (K(MIL)); 1/0 conductors to be entered as 0; 2/0 conductors to be entered as 00; 3/0 conductors to be entered as 000; and 4/0 conductors to be entered as 0000. (IDDESC)
35	Conductor Material (A4): Enter the code, from the Register of Data Standards, TYCOND. If abbreviation, OTHR is entered, please explain in a footnote.

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DETAILED INSTRUCTIONS: SCHEDULE 0663	TRANSMISSION LINE DATA	5 of 5

Data Field Number	Instructions
36	Map Tie-In Number (N2): For 115 KV lines new in service, removed from service, changes in existing lines and lines under construction during the reporting year, enter the map tie-in number using a unique respondent assigned identification number which corresponds with the reference on map supplied per instructions on Schedule 0852. (NRCADL)
37 (Key)	Type of Date (A1): This data field defines the status of the line as of the date to be entered in data field 38 below. Enter one of the codes, from the Register of Data Standards, TYDATE.
38	Date of Line (N6): Enter the date as qualified by data field 37 above, in the format MMDDYY. (TMDATE)
39 (Key)	Land Cost (N8) DOL: Enter all land acquisition costs for the line being described. Enter accumulated costs relevant to the reporting year, in dollars, if line is in planning or construction stages.
40	Construction and Other Costs (A8) DOL: Report all construction and other costs for the line being described (end of year book costs). Enter accumulated costs relevant to the reporting year, in dollars, if line is in planning or construction stages.
41	Total Cost (N8) MDOL: Report total accumulated costs (in 1000 dollars) for the line being described.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0664	SYSTEM SUBSTATION AND TRANSFORMER DATA	1 of 4

I. DESCRIPTION

This schedule is used to collect information concerning the transmission, distribution and industrial substations of the respondent and system substation transformer data.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all electric utility systems owning transmission, distribution and industrial substations.

B. Repondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

C. Each transformer bank in a substation is to be entered separately with common entries in data fields 1-7 and specific entries in all data fields after 7. Data for as many as 6 transformers for one substation can be reported on this schedule. If the substation has more than 6 transformers, use second sheet of schedule and repeat first line of information.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by the data field number:

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the code, from the Register of Data Standards, IDSYST.
2 (Key)	Substation Code (A5): Enter the unique substation identification code (assigned by the respondent). (IDSUBS)
3	Number of Transformers (N2) NO: Enter the number of three-phase transformer banks in the substation.
4	Substation Name (A16): Enter the name of the substation (related to substation code in data field 2 above). Abbreviate if necessary. (IDNAME)
5	Subs ation State Abbreviation (A2): Enter the abbreviation for the state in which substation is located, from the Register of Data Standards, IDSTAT.
6	Substation County Code (N3): Enter the code for the county in which substation is located, from the Register of Data Standards, IDCNTY.
7	Function Type (A4): Enter the abbreviation from the following list for the functional character of each substation: (TYSSOP)

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0664	SYSTEM SUBSTATION AND TRANSFORMER DATA	2 of 4

Data Field Number	Instructions
	TRAT - Transmission Attended DSAT - Distribution Attended TRNT - Transmission Unattended DSNT - Distribution Unattended INAT - Industrial Attended INNT - Industrial Unattended OTHR - Other
NOTE:	Specific data for each transformer bank begins:
8 (Key)	Bank ID (N5): Enter designation of each transformer bank (i.e., Bank 1, 2, etc) assigned by the respondent. (NRCADL)
9	Bank Type (A4): Enter the abbreviation for each transformer bank from the following list: (TYTRBK) 2WND - Two Winding 3WND - Three Winding AUTO - Auto Transformer OTHR - Other
10	Number in Service (N2) NO: Enter the total number of transformers in service for this transformer bank.
11	Spare Transformers at This Location (N2) NO: Enter the total number of spare transformers at this location, for this transformer bank.
12	Spare Transformers at Other Location (N2) NO: Enter the total number of spare transformers at other location for this transformer bank.
13	Phase (N1) NO: Enter "3" if this transformer bank is a three-phase unit, otherwise leave blank.
14	Frequency (N2) HZ: Enter the frequency for this transformer, in hertz.
15	Automatic Tap Changing (A3): Enter "LTC" if this transformer bank has load tap changing capability, otherwise leave blank. (IDDESC)
16	Phase Shift (A6): Enter "PSHIFT" if this transformer has angular phase shifting capability, otherwise leave blank. (IDDESC)
17	Forced Cooling Rating (A3): Enter one of the following abbreviations if this transformer bank has forced cooling equipment installed, otherwise leave blank. (TYCLTR)

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0664	SYSTEM SUBSTATION AND TRANSFORMER DATA	3 of 4

Data Field Number	Instructions
	FA - Forced Air Only FOA - Forced Oil and Air FO - Forced Oil Only WC - Water Cooled OTH - Other
18	Approximate Weight Bank in Service (N6) LB: Enter the approximate weight of the transformer bank in service.
19	Shipping Weight (N6) LB: Enter the shipping weight of the transformer bank in service.
20	Primary Voltage (N6) KV: Enter the primary nameplate voltage rating for the transformer.
21	Secondary Voltage (N6) KV: Enter the secondary nameplate voltage rating of the transformer.
22	Tertiary Voltage (N6) KV: Enter the tertiary nameplate voltage rating of the transformer.
23	Primary Connection (A1): Enter proper abbreviation for the type of bank connection, from the following list: (TYTRCN) Y - Wye D - Delta V - Vee G - Wye Grounded Z - Zig Zag O - Other
24	Secondary Connection (A1): Enter the abbreviation for type of secondary bank connection, from same list as data field 23 above. (TYTRCN)
25	Tertiary Connection (A1): Enter the abbreviation for type of tertiary bank connection, from same list as data field 23 above. (TYTRCN)
26	Primary Winding Capability (N6) MVA: Enter current primary winding capability in MVA.
27	Secondary Winding Capability (N6) MVA: Enter current secondary winding capability in MVA.
28	Tertiary Winding Capability (N6) MVA: Enter current tertiary capability in MVA.
29	Primary Temperature Rise (N2) DEGF: Enter temperature rise, in degrees Fahrenheit, for the rating provided in data field 26 above.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0664	SYSTEM SUBSTATION AND TRANSFORMER DATA	4 of 4

Data Field Number	Instructions
30	Secondary Temperature Rise (N2) DEGF: Enter temperature, in degrees Fahrenheit, for the rating provided in data field 27 above.
31	Tertiary Temperature Rise (N2) DEGF: Enter the temperature, in degrees Fahrenheit, for the rating provided in data field 28 above.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0666	CONVERSION APPARATUS AND SPECIAL EQUIPMENT	1 of 2

I. DESCRIPTION

This schedule is used to collect data concerning special equipment such as rotary converters, rectifiers, shunt capacitors, shunt reactors, etc.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all electric utility systems which own conversion apparatus and special equipment.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by the data field number:

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the code, from the Register of Data Standards, IDSYST.
2 (Key)	Substation Code (N5): Enter the unique identification code assigned (by the respondent) to each substation. (IDSUBS)
3 (Key)	Equipment Type (A4): Enter one of the following abbreviations for the type of transformer equipment from the following list: (TYTREQ) RCNV Rotary Converter RECT Rectifier PCAP Shunt Capacitor PREA Shunt Reactor SCAP Series Capacitor SREA Series Reactor SCON Synchronous Condenser OTHR Other
4	Phase (N1) NO: Enter number of phases for equipment reported.
5	Frequency Cycles (N2) HZ: Enter frequency for equipment reported.
6	Design Voltage (N6) KV.
7	Number Units (N7) NO: Enter physical number of equipment (i.e., a three-phase unit is entered as "1", whereas two three-phase installations employing six single-phase units is entered as "6").

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0666	CONVERSION APPARATUS AND SPECIAL EQUIPMENT	2 of 2

Data Field Number	Instructions
8	Operating Voltage (N6) KV.
9	Normal Capacity (N6) MVA: Enter, in MVA, the normal rating capacity of each item.
10	Maximum Continuous Capacity (N6) MW: Enter the maximum continuous rating capacity, in MW. If forced cooling equipment is installed, this entry should be the maximum continuous rating capacity with forced cooling.
11	Total Capacity (N6) MVA: Enter the total capacity.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0667	DISTRIBUTION TRANSFORMING AND CAPACITOR DATA	1 of 1

I. DESCRIPTION

This schedule is used to collect distribution transformers and capacitor data.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all electric utility systems with distribution transformer units which meet the following specifications:

Primary Voltage - 50 KV or less
Secondary Voltage - 2000 Volts or less
Single Phase Units - 600 KVA or less
Three Phase Units - 2500 KVA or less

NOTE: All other transformer units should be listed on Schedule 0664 (System Substation and Transformer Data). Distribution Capacitors to be listed are all units that are installed on distribution lines, purchased for distribution lines, or retired from service on distribution lines.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by the data field number:

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the code, from the Register of Data Standards, IDSYST.
2 (Key)	Type Transformer Capacitor (A20): This data field will be preprinted. Data for data fields 3-6 below, should be referenced to the information printed in this data field. All values should be listed as totals as of the end of the subject year. (IDDESC)
3	Pole Mounted (N8) NO: Enter the number of pole mounted distribution transformers and capacitors as referenced to data field 2 above.
4	Above Ground Pad Mounted (N8) NO: Enter the appropriate number as referenced to data field 2 above.
5	Subsurface and Vault (N8) NO: Enter the appropriate number as referenced to data field 2 above.
6	Capacitors (N8) NO: Enter the appropriate number as referenced to data field 2 above.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0668	ELECTRIC WATTHOUR METER DATA	1 of 2

I. DESCRIPTION

This schedule is used to collect the data concerning respondent's electric watthour meters.

II. GENERAL INFORMATION

A. This schedule will be submitted by all electric utility systems having watthour meters.

B. Respondents shall complete all data fields on this schedule in their first submission. On subsequent submissions, respondents shall submit only appropriate identification (key data fields) and changed values, additions, and deletions.

C. Include test meters, etc., in utility service category.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by the data field number:

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the code, from the Register of Data Standards, IDSYST.
2	Meter Period Code (N1): Enter, one at a time, each of the following categories in this data field and report the data for each category in data fields 3-11 below. (TYSTAN) 1 - Beginning of the year 2 - Additions during the year 3 - Reductions during the year 4 - Total end of the year
3	Commercial Single Phase (N10) NO: Enter the total number of single phase watthour meters in active commercial service.
4	Commercial Polyphase (N10) NO: Enter the total number of indicating poly phase watthour meters in active commerical service.
5	Commerical Polygraph (N10) NO: Enter the total number of graphic poly phase watthour meters in active commercial service.
6	Utility Single Phase (N10) NO: Enter the total number of single phase watthour meters in utility service.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0668	ELECTRIC WATTHOUR METER DATA	2 of 2

Data Field Number	Instructions
7	Utility Polyphase (N10) NO: Enter the total number of indicating watthour meters in utility service.
8	Utility Polygraph (N10) NO: Enter the total number of graphic poly phase watthour meters in utility service.
9	Inventory Single Phase (N10) NO: Enter the total number of single phase watthour meters in inventory.
10	Inventory Polyphase (N10) NO: Enter the total number of indicating poly phase watthour meters in inventory.
11	Inventory Polygraph (N10) NO: Enter the total number of graphic phase watthour meters in inventory.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0852	SYSTEM MAPS AND DIAGRAMS	1 of 4

I. DESCRIPTION

This schedule is used to collect system facility maps, single-line diagrams, and maps denoting changes in transmission line systems.

II. GENERAL INFORMATION

A. This schedule shall be submitted by all electric utilities who operate Type I, Type II, or Type II Electric systems. See General Subject Instructions for definition of Type I, Type II, and Type III systems.

B. All respondents shall submit this schedule with system maps and straight-line diagrams included, on initial submission for each system. Thereafter, all respondents shall submit this schedule annually, with maps and diagrams showing changes in the system that occurred during the reporting period, or indicating that no changes have occurred.

C. Respondents with transmission lines operating, or designed to operate, in the classes listed below shall annually submit maps showing changes in these transmission lines occurring during the reporting period.

1. High voltage lines of 115 KV or above in the contiguous United States.

2. High voltage lines of 69 KV or above in Alaska, Hawaii, the Virgin Islands, and Puerto Rico.

These maps must be submitted in duplicate.

D. The schedule reference and page reference data fields in the heading line of Schedule 0852 are designed to tie maps and diagrams to other FPC schedules. If an FPC schedule requires a tie-in reference, or the respondent wishes to reference a system map or single-line diagram, enter the schedule number and page number where the reference is made on Schedule 0852.

III. DETAILED INSTRUCTIONS

Data Field Number	Instructions
1 (Key)	System Code (N6): Enter the system code, from the Register of Data Standards, IDSYST. Note: A separate Schedule 0852 must be completed for each system.
2 (Key)	System Name (A35): Enter the system name, from the Register of Data Standards, IDSYST.

Note: When completing data fields 3, 4, and 5, only one of the three shall contain a "1". The other two data fields shall contain a "0".

3	Indicator Initial Submission (N1): Enter "1" if systems maps and single-line diagrams are included as an initial submission for the system; if not, enter "0". (INYONO)

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0852	SYSTEM MAPS AND DIAGRAMS	4 of 4

Data Field Number	Instructions
6 (cont'd)	f. Conductor material and size. 8. Existing maps and diagrams prepared for administrative purposes, load dispatching, or other operating uses may be furnished but shall be supplemented by such ink or color notations, or tables required for a complete and accurate submission. 9. Maps and diagrams of systems with no transmission of 69 KV or above must still show the information required by paragraph 5 and sub-paragraph 6b. C. Specific Requirements for Maps of Transmission Line Changes 1. A system map shall be provided which shows, on a geographic basis, the following types of transmission line changes occurring during the reporting period: a. A transmission line placed in service. b. A transmission line started under construction. c. A transmission line removed or retired from service. d. A transmission line right of way altered. 2. Maps of system transmission line changes shall use color coded lines to denote the types of changes. The color coding scheme is the respondent's choice, but must be described in the legend. 3. Each individual change shall be annotated with a map tie-in number, from 01 through 99, which corresponds to the map tie-in number entered in Schedule 0663. The schedule number "0663" shall be entered in the Schedule Reference data field in the heading of Schedule 0852, and the appropriate page number of Schedule 0663 shall be entered in the Page Reference data field in the heading of Schedule 0852.

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RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000	FOOTNOTES TO FPC PUBLIC USE SCHEDULES	1 of 2

I. DESCRIPTION

This schedule is used to collect the text for all footnote references for a respondent submission.

II. GENERAL INFORMATION

A. This schedule shall be submitted when applicable by all respondents for reporting footnotes to FPC Public Use Schedules.

B. The footnote reference numbers must be unique within a particular submission.

C. The respondent has to indicate two major types of footnotes.

1. General Footnote - The General Footnote can refer to either the entire schedule or one data field on the schedule, i.e. all data which is reported for data field 5 on the schedule not just one specific value for data field 5.

2. Specific Footnote - The Specific Footnote can refer either to an entire logical entry, i.e. group of related data which separates as an entity on a schedule or a data item within the logical entry.

The following entries are provided as an example:

Type Footnote	Data Field 2 (Footnote No.)	Data Field 3 (Ref. ID)
1. General Footnote		
a. Entire schedule	001	GEN
b. All data values for data field 5 entries on this schedule	001	005
All data values for data field 6 entries on this schedule	001	006
2. Specific Footnote		
a. Entire logical entry	002	GEN
b. Data item entry	002	004
	002	006
	002	008

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number.

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Data Field Number	Instructions
4	Indicator Annual Submission, With Changes (N1): Enter "1" if maps and diagrams showing changes are included as an annual submission; if not, enter "0". (INYONO)
5	Indicator Annual Submission, Without Changes (N1): Enter "1" if no changes have occurred during the reporting period; if they have, enter "0". (INYONO)
6	Maps and Diagrams: Maps and diagrams shall conform to the following requirements to insure a complete and accurate submission: A. General Requirements 1. Each map and single-line diagram shall indicate: a. The graphic scale to which it is drawn. b. The effective date of the information shown. c. A legend of all symbols and abbreviations used. 2. Maps and diagrams shall be of such a scale as to be easily read. 3. Maps and diagrams shall be folded to 8½" x 11". Diagrams may be drawn directly on this schedule, if space permits. B. Specific Requirements for System Maps and Single-Line Diagrams 1. Maps and diagrams shall show all lines, and all substations supplied by them, that operate at 69 KV and above. Include, however, radial and low capacity distribution circuits in metropolitan areas. 2. System maps or diagrams, or both, shall show: a. The location and name of all generating plants, substations, and switching stations required by this schedule. b. The names of the communities served by the respondent. c. The location and name of each interconnection with other utility systems. d. The location and nominal voltage of each high voltage line of 69 KV or above. e. Any line, regardless of voltage, which consitutes the tie-line between generating stations, or from generating stations to high voltage systems, of 69 KV or above. f. The frequency and number of cycles of any line shown that is not 60 cycle or 3 phase.

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Data Field Number	Instructions
6 (cont'd)	3. System maps shall show geographical location of generating stations, electric power lines, switching stations, substations, and points of interconnection with electric utility systems and industrial plants having a generating capacity of 5 megawatts or greater. 4. Single-line schematic switching diagrams shall show the electrical connections of lines and facilities outlined on the system maps. 5. Substations and switching stations in the following classes, together with facilities for supply from the main system, should be shown on both the map(s) and diagram(s) even though the voltage of the supply lines may be below 69 KV. a. Principal substations and switching stations within metropolitan areas. b. Substations and switching stations connecting with other utility systems or to industrial plants having generating capacity of 5 megawatts or over (connections for minor "border-line deliveries" need not be shown). 6. The following information should be shown on single-line schematic diagram(s) or on supplemental tabulation for substations and switching stations specified in 1. and 5. above and for generating plants of 5 megawatts capacity or greater: a. Connections of major electrical equipment such as generators, conversion equipment, main and auxiliary buses, circuit breakers, disconnecting switches (other than for instrument transformers), power transformers (specify , Y, Y, or Y grounded, etc.), voltage regulators, phase shifters, high voltage lines of 69 KV or above. b. Principal connections from generating stations and principal substations, regardless of voltage. c. Nominal voltage of buses and equipment. Meter, control and house circuits need not be shown. Characteristics of station step-up transformers need not be repeated to comply with this instruction. 7. The following information should be shown for high voltage, tie, and substation supply lines: a. Number of circuits installed (if space for additional circuits, so note). b. Operating voltage (and design voltage if different) c. Length of right-of-way between terminal points. d. Type of constructions, i.e., overhead, underground or submarine cable. e. Type of structure, i.e., steel tower, wood H-frame, steel or wood pole and equivalent spacing of conductors.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0000	FOOTNOTES TO FPC PUBLIC USE SCHEDULES	2 of 2

Data Field Number	Instructions
1 (Key)	Schedule Number (N4): Enter the number of the schedule on which the footnote reference number was assigned, e.g., 0501 or 0505.
2 (Key)	Footnote Number (N3): Enter the unique footnote reference number from 001-999 for each particular submission.
3 (Key)	Reference Identification (A3): Enter "GEN" for Type 1a and 2a footnotes, i.e., footnotes that apply to the entire schedule (or to an entire logical entry) or enter the appropriate data field number for the specific data field value being footnoted (Type 1b or 2b).
4 (Key)	Line Sequence Number (N2): Enter 01, 02 etc., for each successive line of text.
5 (Key)	System Code (N6): This data field applies only to Electric respondents reporting data by system. Enter the six digit number code for the system, from the Register of Data Standards, IDSYST.
6 (Key)	Plant ID (N5): This data field applies only to Electric respondents reporting data by plant. Enter the five digit numeric code for the plant, from the Register of Data Standards, IDPLNT.
7 (Key)	Project Development Code (A5): This data field applies only to Electric respondents reporting data by license projects. Enter the five digit numeric code for the license project, from the Register of Data Standards, IDLPRJ.
8	Text (A72): Enter the text of the footnote. Use successive lines as required for text. Repeat Data Fields 1-3, 5 or 6 as applicable, and increment Data Field 4 (Line Sequence Number) by 1.

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R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 1000	SUPPORTING DOCUMENTATION	1 of 1

I. DESCRIPTION

This schedule is used to collect schedule related supporting documentation not required by the Public Use Schedules.

II. GENERAL INFORMATION

A. This schedule shall be submitted by any Federal Power Commission respondent who desires to provide supportive documentation or any additional information relating to the Public Use Schedules.

B. This schedule shall be completed only as deemed necessary by the respondent or where specifically requested by detailed instructions for other schedules.

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Cross-Reference
Form No. 157

Schedule 663

Transmission Line Data
Source: Form 1, 12, 12P

Schedule 664

System Substation and Transformer Data
Source: Form 1

Schedule 666

Conversion Apparatus and Special Equipment
Source: Form 1, 12

Schedule 667

Distribution Transformer and Capacitor Data
Source: Form 1

Schedule 668

Electric Watthour Meter Data
Source: Form 1

Schedule 852

System Maps & Diagrams
Source: Forms 12, 12A, 12D, 12P

ADD LIST
FORM No. 157

Schedule 663

ID Substation Code From	(A5)
ID Substation Code To	(A5)
Circuit ID	(A4)
Number of Other Lines	(N1)
Number of Sections Included	(N2)
Section Number	(A2)
Conductors Per Phase	(N1)
Conductors Resistance	(N3.1)
Inductive Reactance	(N3.1)
Capacitive Reactance	(N3.1)
Shield Wire Indicator	(N2)
Thermal Capacity	(N4)
Type of Interconnection	(A1)

Schedule 664

Identification Bank No.	(N5)
Atom Tap Change	(A3)
Phase Shift	(A6)
Approx. Weight Bank in Service	(N6)
Shipping Weight of Bank	(N6)
Temp Rise Prim Rating	(N2)
Temp Rise Secd Rating	(N2)
Temp Rise Tert Rating	(N2)

Schedule 666

Phase of Equip	(N1)
Design Voltage KV	(N6)
Operating Voltage KV	(N6)
Max Cont Rating Cap Forc Cool - MVA	(N6)
Frequency of Equip	(N2)

Schedule 667

Pole Mounted	(N8)

Schedule 668

None

Schedule 852

None

DATA STANDARDS

FORM NO. 157

IDCNTY

Desc: Identifies the counties of the U.S. Counties, as first order subdivisions of most states, are considered synonymous with parish, borough, or census division used in others. For RIS use, this list is supplemented with natural gas offshore areas.

Source: FIPS PUB 6-2, Sept. 15, 1973 and FPC

List:

Offshore, State	00990
Offshore, Federal	00995
Offshore, General	00999

(rest are FIPS)

IDEQPT

Desc: Identifies a facility or equipment unit or group as determined by the respondent or other agency for which a code list is not maintained at the FPC.

Source: (Formatting Rules to be developed.)

List: (To be supplied to individual respondent when form due.)

IDPLNT

Desc: Identifies electric power generating plants reporting to the FPC.

Source: FPC Staff

List: (To be supplied to individual respondent when form due.)

IDSTAT

Desc: Identifies the 50 states, the District of Columbia, and the outlying areas of the U.S., all of which are considered first order subdivisions of the U.S.

Source: FIPS PUB 5-1, June 15, 1970

List: (FIPS)

IDSUBS

Desc: Identifies the electric power substations reported to the FPC.

Source: FPC Staff

List: (To be supplied to individual respondent when form due.)

IDSYST

Desc: Identifies electric power systems reported to the FPC.

Source: FPC Staff

List: (To be supplied to individual respondent when form due.)

TYCOND

Desc: Indicates the type of conductor material used for electric power transmission lines.

Source: FPC staff

List;

All Aluminum Conductor	AAC
Alum. Conductor; Alum. Reinforced	ACAR
Alum. Conductor; Steel Reinforced	ACSR
Copper	CU
Copper Weld Copper	CWC
Oil Filled Copper Pipe Type Cable	OFPC
Oil Filled Alum. Pipe Type Cable	OFPA
Underground Paper & Lead Cable	UGPL
Steel	STL
Steel Supported Alum. Conductor	SSAC
Sodium	SOD
Solid Dielectric Alum. Cable	SDA
Solid Dielectric Copper Cable	SDC
Solid Dielectric Sodium Cable	SDS

TYCOND List cont'd

List:	Oil Filled Copper Cable	OFC
	Oil Filled Alum. Cable	OFA
	Gas Filled Copper Cable	GFC
	Gas Filled Amu. Cable	GFA
	Other	OTHR

TYPLPW

Desc: Indicates the types of electric power plants as characterized by motive power or financial accounting categorization.

Source: FPC Staff

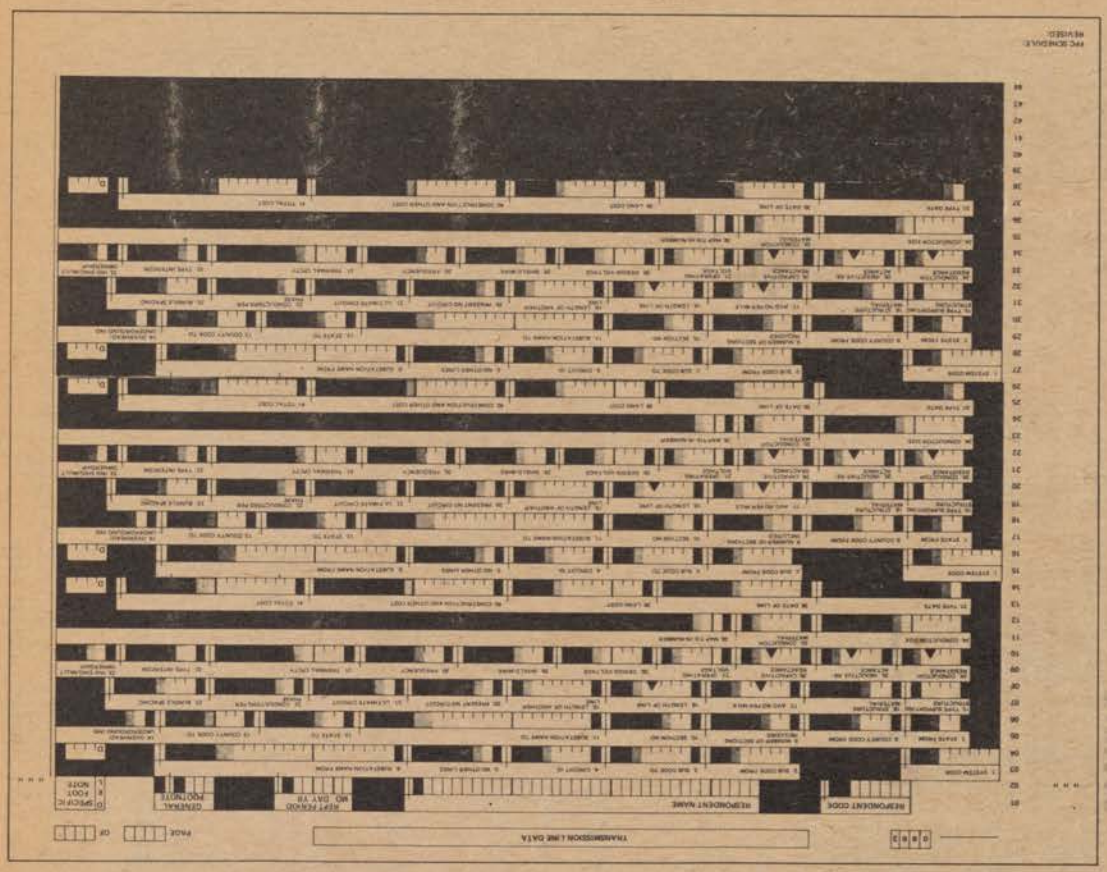
List:	Fossil Fueled Plant	FF
	Steam	ST
	Steam Turbine, Combined Cycle	CS
	Gas Turbine, Unspecified Cycle	GT
	Gas Turbine, Open Cycle	GO
	Gas Turbine, Closed Cycle	GC
	Gas Turbine, Combined Cycle	CG
	Internal Combustion Engine, Unspecified Cycle	IC
	Internal Combustion Engine, 2-Cycle	T2
	Internal Combustion Engine, 4-Cycle	T4
	Nuclear	NU
	Geothermal	GE
	Fuel Cell	FC
	Hydroelectric,Conventional	HY
	Hydroelectric, Pumped Storage	HP
	Hydroelectric, Conventional and Pumped Storage	HC
	Waterwheel	WW
	Distribution	DT
	Transmission	TR
	Intangible Plant	IN
	General Plant	PG
	Common Plant	PC
	Electric Motor	EM
	Other	OT

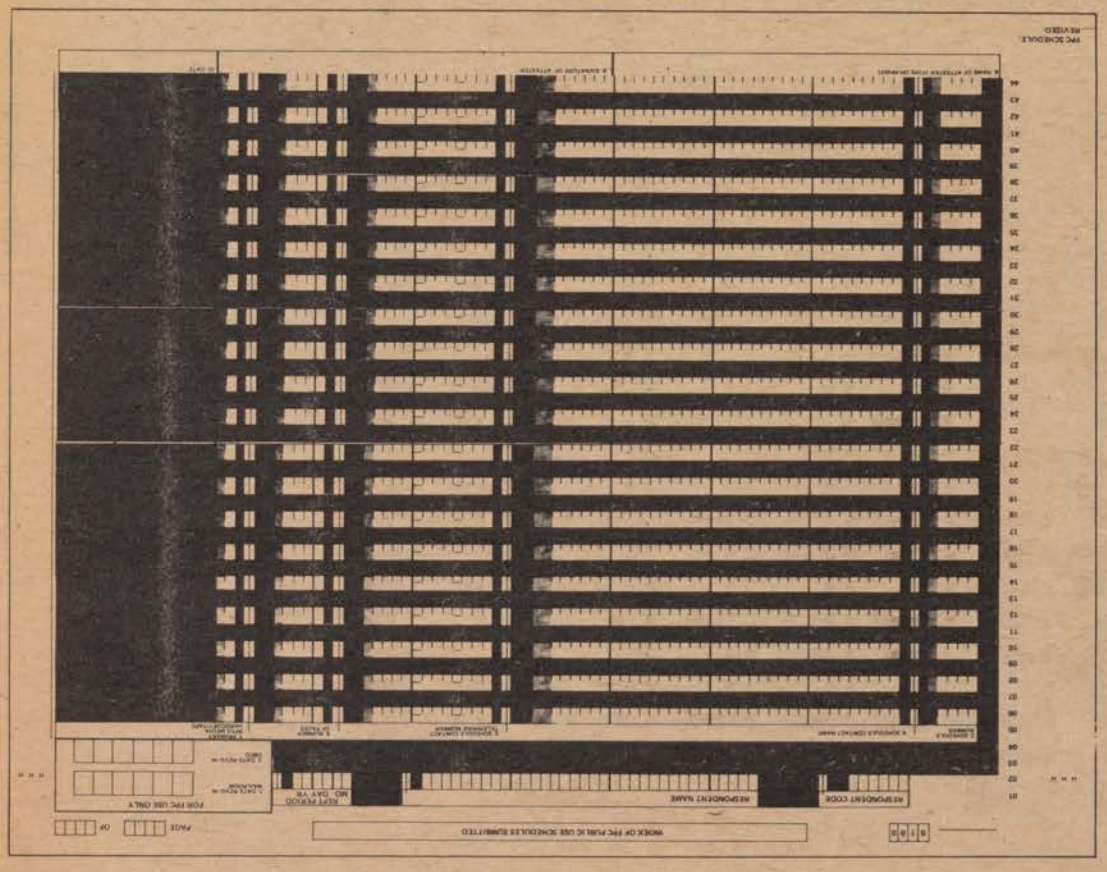
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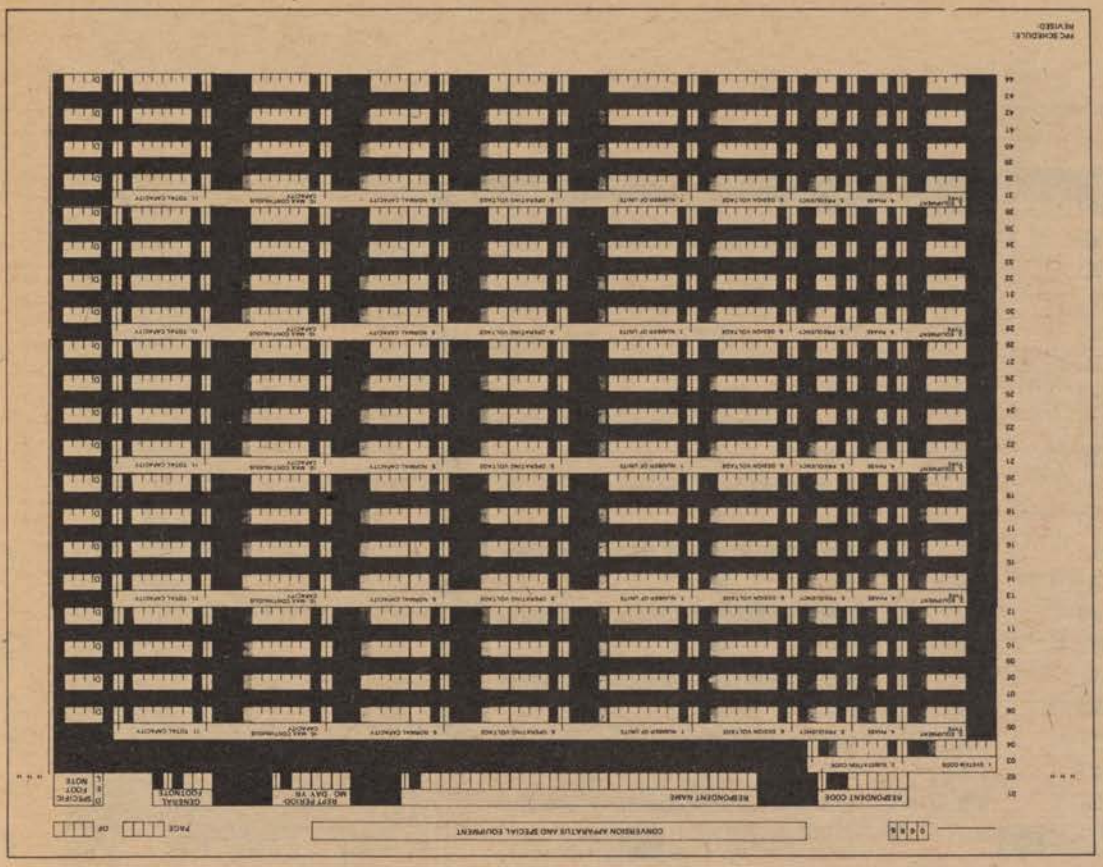
Desc: Indicates the type of structure which supports electric power transmission and distribution lines.

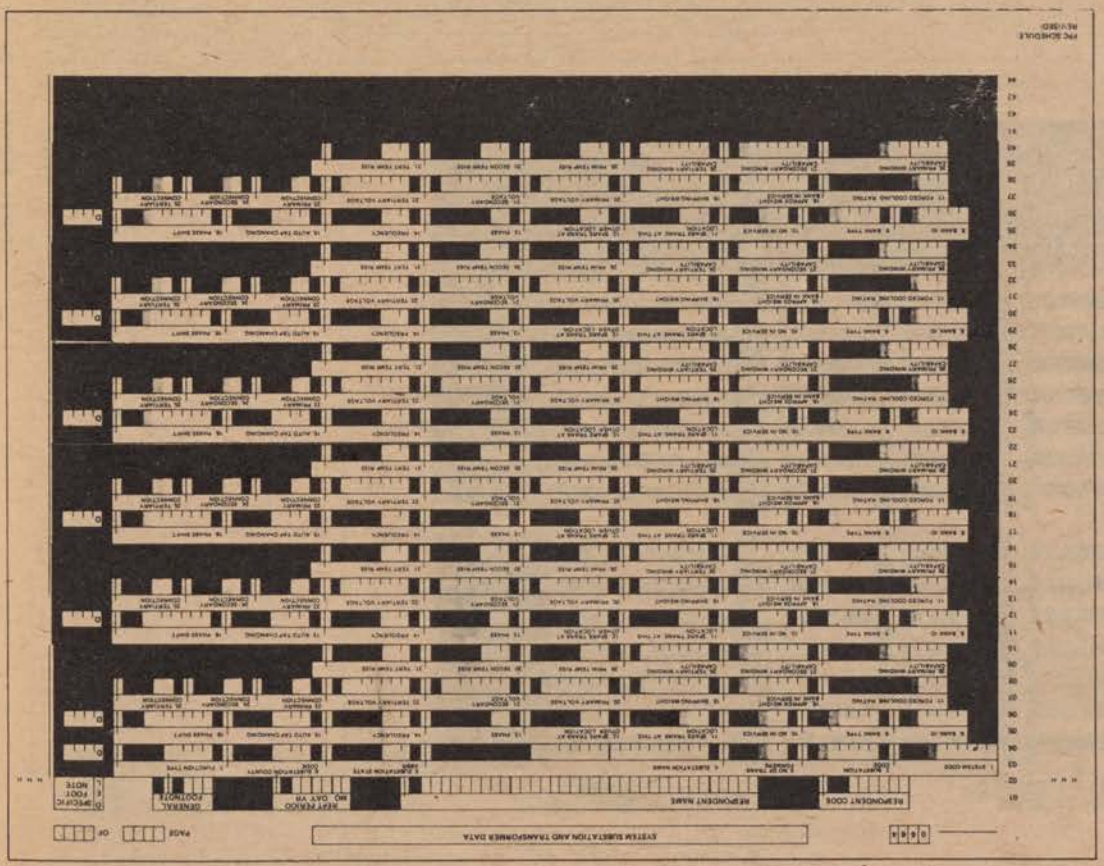
Source: FPC Staff

List:	Single Circuit, H Frame	SCHF
	Double Circuit, H Frame	DCHF
	Single Circuit, Lattice Tower	SCLT
	Double Circuit, Lattice Tower	DCLT
	Single Circuit, Steel Tower	SCST
	Double Circuit, Steel Tower	DCST
	Single Circuit, Guyed Structure	SCGS
	Double Circuit, Guyed Structure	DCGS
	Single Circuit, Guyed VEE	SCGV
	Double Circuit, Guyed VEE	DCGV
	Single Circuit, Guyed WYE	SCGY
	Double Circuit, Guyed WYE	DCGY
	Single Circuit, Wood Pole	SCWP
	Double Circuit, Wood Pole	DCWP
	Single Circuit, Steel Pole	SCSP
	Double Circuit, Steel Pole	DCSP
	Single Circuit, Underground	SCUG
	Double Circuit, Underground	DCUG
	Single Circuit, Submarine	SCSU
	Double Circuit, Submarine	DCSU

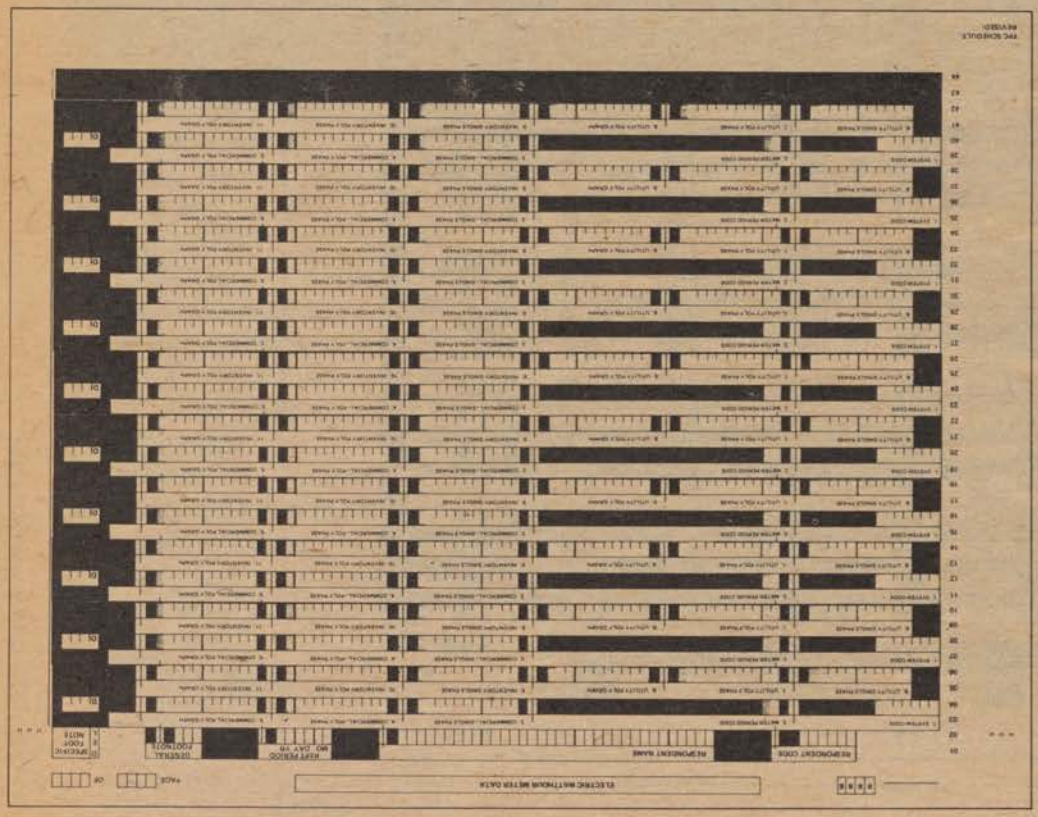


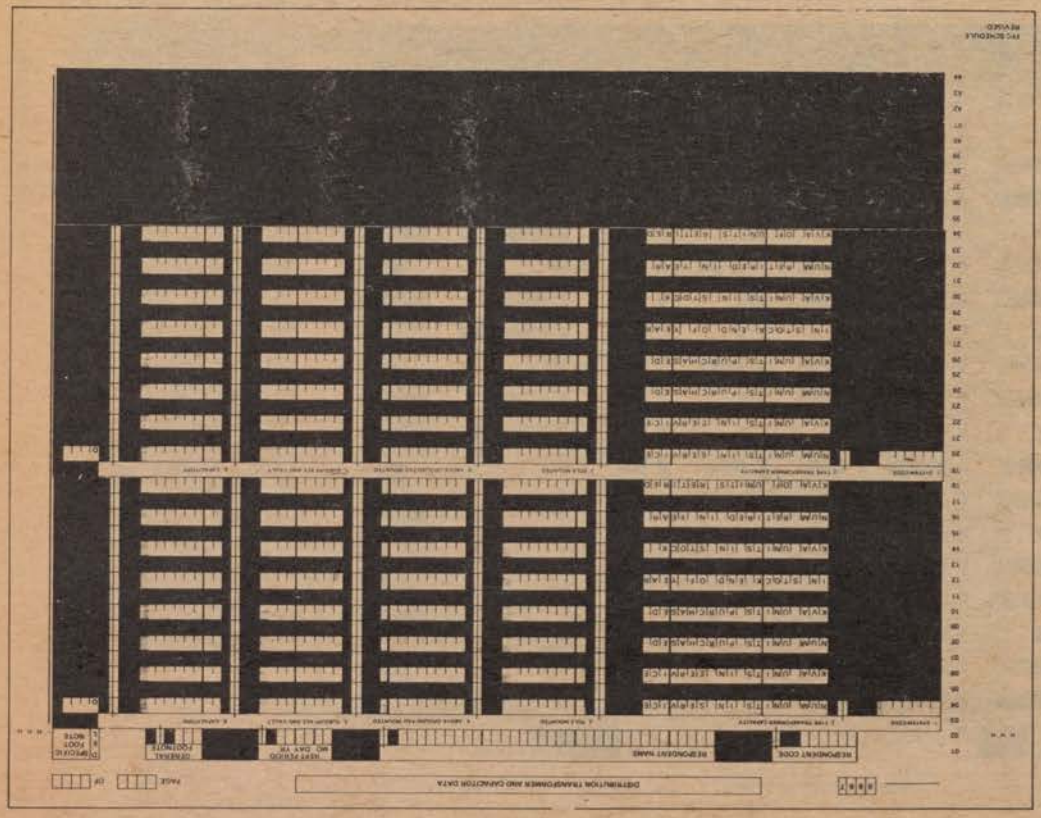


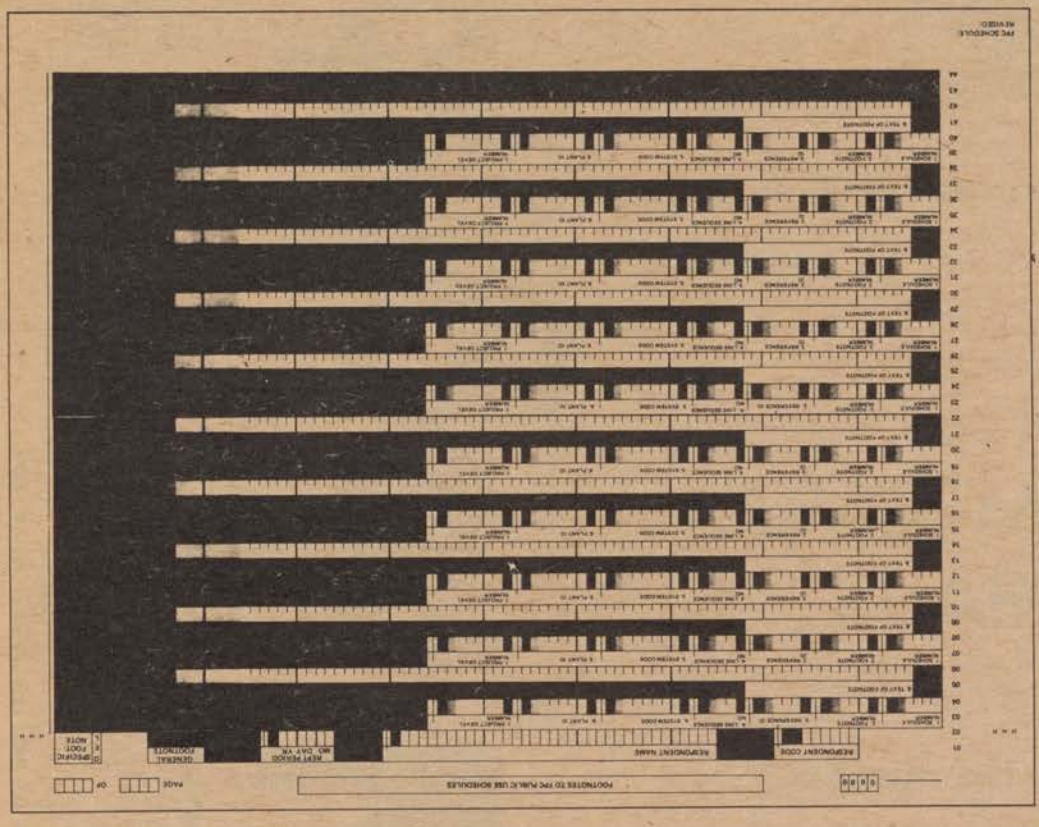


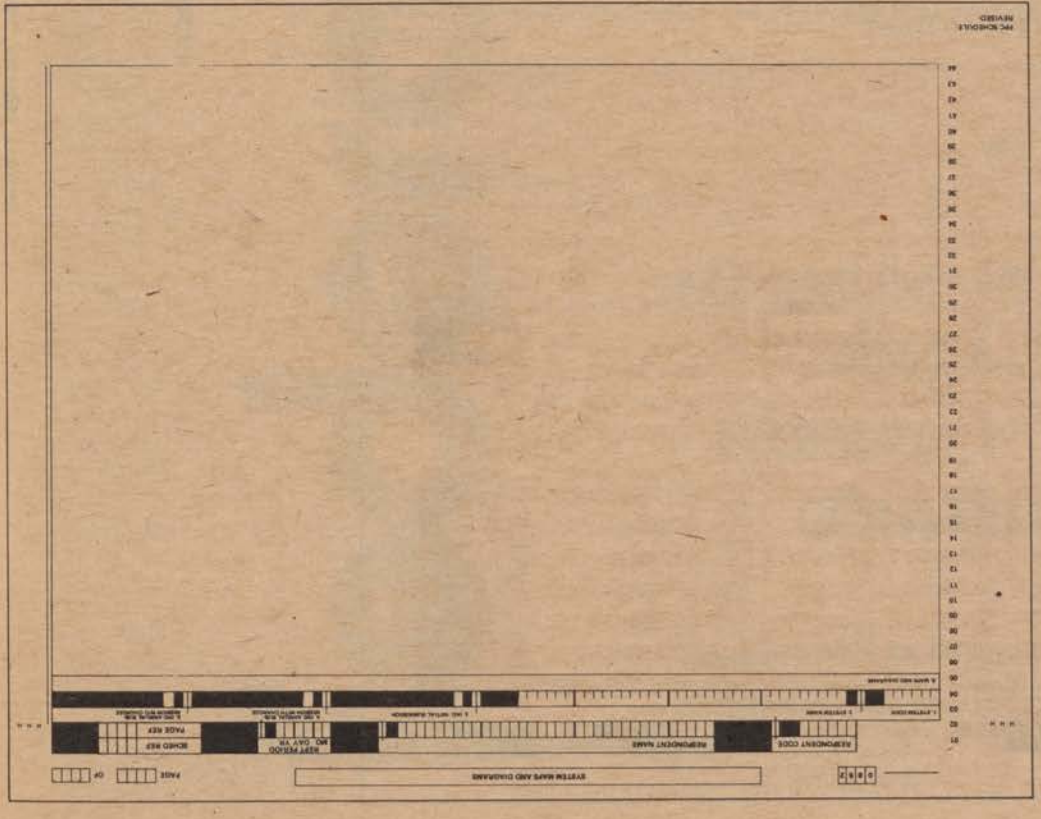


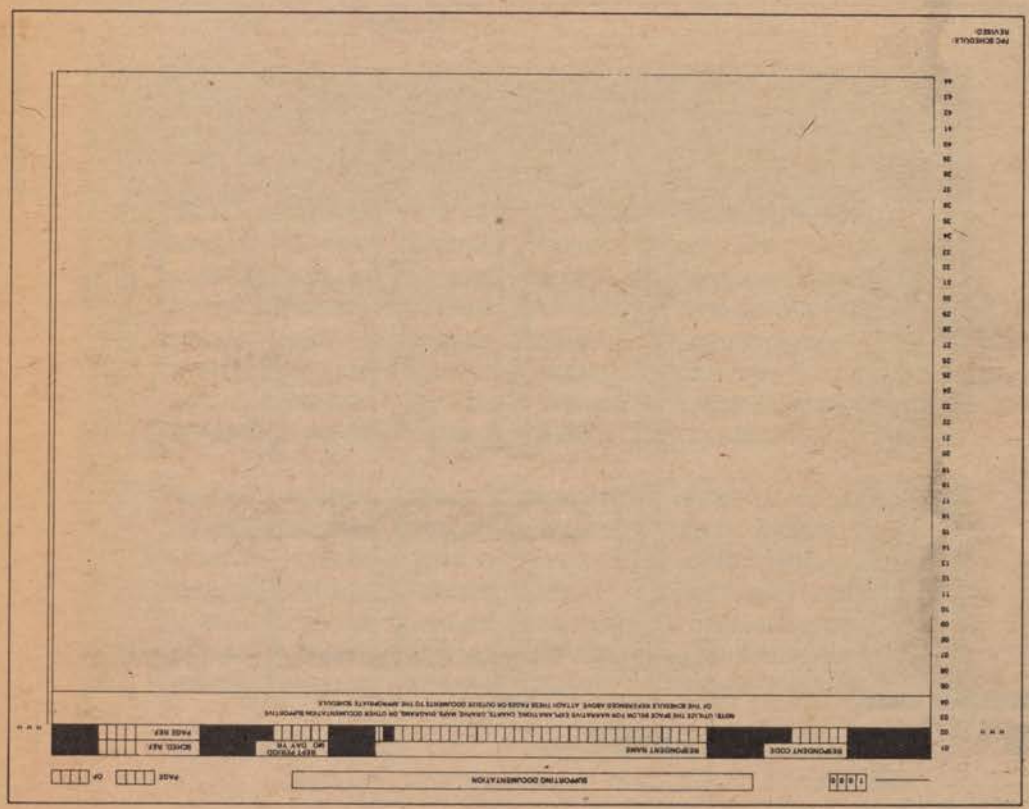
SAMPLE











[FR Doc.76-19669 Filed 7-8-76;8:45 am]

federal register

FRIDAY, JULY 9, 1976



PART V:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determination in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the deindicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedures for Predetermination of Wages Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Georgia:	
AQ–4089	Mar. 15, 1974.
AR–4037	Sept. 20, 1974.
GA76–1023	Feb. 13, 1976.
Kentucky:	
KY76–1031	Feb. 27, 1976.
Montana:	
MT76–5035	Apr. 9, 1976.
Nebraska:	
NE76–4100	June 18, 1976.
Nevada:	
NV76–5046	May 21, 1976.
North Carolina:	
AR–4031	Sept. 6, 1974.
Pennsylvania:	
PA76–3155; PA76–3156	Mar. 26, 1976.
PA76–3168; PA76–3175	May 21, 1976.
PA76–3178; PA76–3180	June 11, 1976.
PA76–3176; PA76–3181; PA 76–3182; PA76–3183; PA 76–3185; PA76–3186; PA 76–3187; PA76–3204; PA 76–3205. 3204; PA76–3205.	June 18, 1976.
Rhode Island:	
RI76–2037; RI76–2038; RI 76–2039.	Mar. 19, 1976.
Tennessee:	
TN76–1045	Apr. 2, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

North Carolina:	
AQ–4083 (NC76–1073)	Mar. 6, 1976.

Signed at Washington, D.C., this 25th day of June 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # AQ-4089 - Mod. # 2 (39 FR-10067 - March 15, 1974) Baker, Calhoun, Clay, Decatur, Doughtery, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Terrell Counties, Georgia					
Change:					
Laborers:					
Laborers (unskilled)	2.30				
Mason tenders	2.30				
Mortar mixers	2.30				
Pipelayers	2.30				
Plasterers' tenders	2.30				
Truck drivers	2.30				
Power Equipment Operators:					
Asphalt spreader	2.30				
Concrete spreader	2.30				
Tractor operator	2.30				
Decision # AR-4037 - Mod. # 2 (39 FR-33919 - September 20, 1974) Charlton, Pierce, and Ware Counties, Georgia.					
Change:					
Laborers:					
Laborers	2.30				
Truck drivers	2.30				
DECISION #GA76-1023 - Mod. #4 (41 FR-6956 - February 13, 1976) Chatham County, Georgia					
Change:					
Electricians:					
Electricians	8.95	.50	.50+1%		.2%
Cable splicers	9.20	.50	.50+1%		.2%

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # KY76-1031 - Mod. # 3 (41 FR-8699 - February 27, 1976) Boone, Campbell, Kenton, and Pendleton Counties, Kentucky					
Change:					
Electricians	11.30	.50	1%+.40		.5%
Ironworkers, Structural & Ornamental	11.08	.75	.85		.03
Ironworkers, Reinforcing	10.43	.75	1.45		.02
Linemen	11.30	.50	1%+.40		.5%

DECISION #MT76-5035 - Mod. #2
(41 FR 15264 - April 9, 1976)
Statewide, Montana

Change:
Blaine, Cascade, Chouteau, Glacier (excluding Glacier National Park), Hill, Liberty, Phillips, Pondera, Teton and Toole Counties, Montana

MODIFICATIONS P. 3

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
A-Frame Truck Crane, Winch Truck & similar	$ 9.20	.50	.50	.25	.05
Air Compressor, single	8.89	.50	.50	.25	.05
Air Compressor, two or more	9.06	.50	.50	.25	.05
Air Doctor	9.36	.50	.50	.25	.05
Asphalt Paving Machine	9.36	.50	.50	.25	.05
Asphalt Paving Machine Screed	9.36	.50	.50	.25	.05
Automatic Finegrade, Gurries and other similar types	9.49	.50	.50	.25	.05
Belt Finish Machine	9.06	.50	.50	.25	.05
Bit Grinder	9.36	.50	.50	.25	.05
Bituminous Mixer Paving, Travel Plant	9.36	.50	.50	.25	.05
Boring Machine (small), jeep, pickup or farm tractor mounted	8.95	.50	.50	.25	.05
Boring Machine (large)	9.36	.50	.50	.25	.05
Broom, self-propelled	9.03	.50	.50	.25	.05
Cableway Highline	9.07	.50	.50	.25	.05
Cement Silo	9.15	.50	.50	.25	.05
Central Mixing Plants, Concrete dam & stationary	9.61	.50	.50	.25	.05
Chain Bucket Loader	9.08	.50	.50	.25	.05
Chip or Gravel Spreader, self-propelled	9.08	.50	.50	.25	.05
Concrete Batch Plant, one & two mixers	9.36	.50	.50	.25	.05
Concrete Batch Plant, three & four mixers	9.56	.50	.50	.25	.05
Concrete Batch Plant, five mixers and over	9.76	.50	.50	.25	.05
Concrete Batch Plant Oiler, up to & incl. two mixers	8.88	.50	.50	.25	.05
Concrete Batch Plant Oiler, three mixers and over	9.19	.50	.50	.25	.05
Concrete Bucket Dispatcher	9.36	.50	.50	.25	.05
Concrete Curing Machine	9.36	.50	.50	.25	.05
Concrete Finish Machine Paving	9.36	.50	.50	.25	.05
Concrete Float-Spreader	9.36	.50	.50	.25	.05
Concrete Mixer, three bags & under	8.95	.50	.50	.25	.05
Concrete Mixer, four bags & over	9.12	.50	.50	.25	.05
Concrete Power Saw, self-propelled	9.36	.50	.50	.25	.05
Concrete Travel Batcher	9.36	.50	.50	.25	.05

MODIFICATIONS P. 4

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Concrete Conveyor under 40 feet	$ 8.94	.50	.50	.25	.05
Concrete Conveyor over 40 feet	9.69	.50	.50	.25	.05
Concrete Pump	9.69	.50	.50	.25	.05
Crane, to and incl. 80' boom	9.52	.50	.50	.25	.05
Crane, 81' to 130' boom	9.67	.50	.50	.25	.05
Crane, 131' to 150' boom	9.72	.50	.50	.25	.05
Crane, 151' boom and over	9.77	.50	.50	.25	.05
Crane Oiler	8.93	.50	.50	.25	.05
Crusher	9.36	.50	.50	.25	.05
Crusher Oiler and Helper	8.85	.50	.50	.25	.05
Crusher Conveyor, when required	8.82	.50	.50	.25	.05
Distributor	9.36	.50	.50	.25	.05
DW 10, 15 or 20 Tractor pulling roller	9.08	.50	.50	.25	.05
Electric Overhead Cranes	9.54	.50	.50	.25	.05
Elevating Grader	9.36	.50	.50	.25	.05
Farm Type Tractor, up to and incl. 50 HP Engine	8.82	.50	.50	.25	.05
Farm Type Tractor, over 50 HP Engine	8.90	.50	.50	.25	.05
Field Equipment Serviceman	9.28	.50	.50	.25	.05
Field Equipment Serviceman Helper	8.85	.50	.50	.25	.05
Fireman	8.95	.50	.50	.25	.05
Forklift, on construction job site	9.17	.50	.50	.25	.05
Form Grader	9.13	.50	.50	.25	.05
Gradall	9.36	.50	.50	.25	.05
Grade Setter	8.82	.50	.50	.25	.05
Heavy Duty Drill, all types	9.36	.50	.50	.25	.05
Heavy Duty Driller Helper	8.95	.50	.50	.25	.05
Herman-Nelson Heaters & similar type	8.90	.50	.50	.25	.05
Hoist, single drum	9.13	.50	.50	.25	.05
Hoist, two or more drums	9.36	.50	.50	.25	.05
Helicopter Hoist	9.86	.50	.50	.25	.05
Hot Plant	9.36	.50	.50	.25	.05
Hot Plant Fireman, when in Operation	9.35	.50	.50	.25	.05
Hot Plant Oiler, 100 ton per hour or over	8.85	.50	.50	.25	.05
Hydra lift and similar types	9.26	.50	.50	.25	.05
Industrial Locomotive all classes	9.36	.50	.50	.25	.05
Mechanic and/or Welder on job	9.46	.50	.50	.25	.05
Mechanic and/or Welder Helper on job	8.85	.50	.50	.25	.05
Mixermobile	9.44	.50	.50	.25	.05
Motor Patrol	9.49	.50	.50	.25	.05
Mountain Logger or similar type	9.36	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Mucking Machine	$ 9.36	.50	.50	.25	.05
Oiler-Driver, Rubber-tired Cranes	8.93	.50	.50	.25	.05
Oilers, other than Shovels and Cranes	8.85	.50	.50	.25	.05
Oiler, hoist house, dams	9.26	.50	.50	.25	.05
Pavement Breaker, Ensco and similar	9.36	.50	.50	.25	.05
Paving & Mixing Machine	9.49	.50	.50	.25	.05
Power Auger, Large Truck or Tractor mounted	9.36	.50	.50	.25	.05
Power Mixer, single or double drum	9.36	.50	.50	.25	.05
Power Saw, multiple cut, self-propelled	9.36	.50	.50	.25	.05
Pumpcrete or Grout Machine	9.36	.50	.50	.25	.05
Pumpman	8.89	.50	.50	.25	.05
Push Tractor	9.36	.50	.50	.25	.05
Quad Cat	9.66	.50	.50	.25	.05
Quad Loader & similar type	9.94	.50	.50	.25	.05
Raygo Giant	9.94	.50	.50	.25	.05
Refrigerator Plant	9.36	.50	.50	.25	.05
Retort	8.95	.50	.50	.25	.05
Roller, on blade or hot mix oil Paving	9.36	.50	.50	.25	.05
Roller, on other blade or hot mix Paving	9.06	.50	.50	.25	.05
Roller, 25 ton or over	9.36	.50	.50	.25	.05
Ross & similar type Carriers, on construction site	9.36	.50	.50	.25	.05
Rubber-tired Dozer	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yd. & under	9.07	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yd. to & incl. 3 yds.	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, over 3 yds. to & incl. 5 yds.	9.48	.50	.50	.25	.05
Rubber-tired Front End Loader, over 5 yds. to & incl. 10 yds	9.58	.50	.50	.25	.05
Rubber-tired Front End Loader, over 10 yds. to & incl. 15 yds.	9.68	.50	.50	.25	.05
Rubber-tired Front End Loader, over 15 yds.	9.78	.50	.50	.25	.05
Scraper, DW 15, 20, 21 & similar type if power unit is not used	9.36	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Scraper, single or twin engine pulling belly dump trailer	$ 9.74	.50	.50	.25	.05
Scraper, single engine	9.49	.50	.50	.25	.05
Scraper, twin engine	9.59	.50	.50	.25	.05
Scraper, tandem engine	9.85	.50	.50	.25	.05
Self-propelled Sheepfoot & similar type	9.36	.50	.50	.25	.05
Shovels, incl. all attachments, under 1 cu. yd.	9.36	.50	.50	.25	.05
Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yds.	9.54	.50	.50	.25	.05
Shovels, incl. all attachments, over 3 cu. yds. to & incl. 5 cu. yds.	9.81	.50	.50	.25	.05
Shovels, incl. all attachments, over 5 cu. yds.	9.94	.50	.50	.25	.05
Shovel Oiler, 3 yds. & under	8.85	.50	.50	.25	.05
Shovel Oiler, over 3 cu. yds.	9.06	.50	.50	.25	.05
Slip Form Paver	9.49	.50	.50	.25	.05
Stiff Leg Derrick & Guy Derrick	9.81	.50	.50	.25	.05
Track-type Front End Loaders; up to & incl. 5 cu. yds.	9.36	.50	.50	.25	.05
Track-type Front End Loaders; over 5 cu. yds. to & incl. 10 cu. yds.	9.59	.50	.50	.25	.05
Track-type Front End Loaders, over 10 cu. yds. to & incl. 15 cu. yds.	9.69	.50	.50	.25	.05
Track-type Front End Loaders, over 15 cu. yds.	9.79	.50	.50	.25	.05
Track-type Tractor w/wo attachments	9.36	.50	.50	.25	.05
Track-type Tractor, on Euclid Loader	9.54	.50	.50	.25	.05
Trenching Machine	9.36	.50	.50	.25	.05
Turnhead Conveyor, or Head Tower on Batch Plant	9.36	.50	.50	.25	.05
Wagner Roller & similar type	9.36	.50	.50	.25	.05
Whirley Crane	9.89	.50	.50	.25	.05
Whirley Crane Oiler	9.26	.50	.50	.25	.05
Water Pull when used for compaction	9.36	.50	.50	.25	.05
Washing & Screening Plant	9.36	.50	.50	.25	.05
Washing & Screening Plant Oiler	8.85	.50	.50	.25	.05

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NE76-4100 - Mod. #1 (41 FR 24847 - June 18, 1976) Douglas & Sarpy Counties, Nebraska					
Change:					
Marble Setter, Tile and Terrazzo Workers	$ 8.10	b	.25		
Marble, Tile and Terrazzo Workers Helpers'	7.15	b	.25		
DECISION #NV76-5046 - Mod. #3 (41 FR 21108 - May 21, 1976) Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada					
Change:					
Asbestos Workers:					
Remaining Counties	$13.06	.90	$1.02		.06
Lathers:					
Clark, Esmeralda, Lincoln, Nye Counties	8.55	.50	1.00	1.00	.06
Painters:					
Nye County (north half), and Remaining Counties including Lake Tahoe Area:					
Brush	10.95	.70	.75		
Paperhangers; Spray; Structural Steel; Swing Stage; Sandblaster; Tapers	11.20	.70	.75		
Truck Drivers:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy.#6):					
Group 1	8.45	.40	.60		
Group 2	8.56	.40	.60		
Group 3	8.61	.40	.60		
Group 4	8.77	.40	.60		
Group 5	8.95	.40	.60		
Group 6	9.45	.40	.60		
DECISION # AR-4031 - Mod. # 1 (39 FR-32441 - September 6, 1974) Brunswick, New Hanover, & Pender Counties, North Carolina					
Omit:					
Onslow County					

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3155 - Mod. #5 (41 FR 12862 - March 26, 1976) Elk, Forest, McKean & Warren Counties, Pennsylvania					
Change:					
Painters					
Zone 2					
Commercial:					
Brush & Roller	$ 9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial:					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		
Roofers					
Zone 1	10.53	.77	1.50		.06
DECISION #PA76-3156 - Mod. #4 (41 FR 12868 - March 26, 1976) Lawrence & Mercer Counties, Pennsylvania					
Change:					
Cement Masons:					
Mercer County	$ 9.93	.60	1.59		
Painters:					
Commercial:					
Brush & Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial:					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		
Plumber & Steamfitters					
Mercer County	11.00	.45	.60		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3168 - Mod. #2 (41 FR 21122 _ May 21, 1976) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
Change:					
Cement Masons:					
Zone 1	$ 9.93	.60	1.59		
Zone 2	9.25	12%	6%		
Laborers:					
Zone 5					
Class 1	6.95	10%	8%		
Class 2	7.45	10%	8%		
Class 3	7.55	10%	8%		
Class 4	7.45	10%	8%		
Class 5	5.95	10%	8%		
Zone 6					
Class 1	7.10	10%	8%		
Class 2	7.60	10%	8%		
Class 3	7.70	10%	8%		
Class 4	7.60	10%	8%		
Class 5	6.10	10%	8%		
Painters:					
Zone 3					
Commercial					
Brush & Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		
Plasterers	9.00				.01
Roofers:					
Zone 2	10.53	.77	1.10		.06
DECISION #PA76-3175 - Mod. #2 (41 FR 21137 - May 21, 1976) Cumberland, Dauphin, Perry, Junita, New Cumberland Depot in York County, Pennsylvania					
Change:					
Line Construction					
Linemen	$10.28	.30	1%		3/8 of 1%
Groundman	6.17	.30	1%		3/8 of 1%
Cable Splicers	10.28	.30	1%		3/8 of 1%
Winch Truck op.	7.20	.30	1%		3/8 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3176 - Mod. #1 (41 FR 24853 - June 18, 1976) Lebanon County, Pennsylvania					
Change:					
Line Construction:					
Linemen & Cable Splicers	$10.93	.25	1%		3/4 of 1%
Groundman	6.56	.25	1%		3/4 of 1%
Winch Truck Op.	7.65	.25	1%		3/4 of 1%
DECISION #PA76-3178 - Mod. #1 (41 FR 23919 - June 11, 1976) Berks County, Pennsylvania					
Change:					
Cable Splicers	$10.93	.25	1%		3/4 of 1%
Groundman	6.56	.25	1%		3/4 of 1%
Lineman	10.93	.25	1%		3/4 of 1%
Winch Truck	7.65	.25	1%		3/4 of 1%
DECISION #PA76-3179 - Mod. # 1 (41 FR 24855 - June 18, 1976) Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania					
Change:					
Laborers:					
Southern Part of Wyoming County					
Unskilled Laborers	$8.27	.25	.65		
Plasterers	9.30	.40	.40		
Roofers:					
Composition & Kettleman	9.81	.42	.47		
Helpers	9.58	.42	.47		
DECISION #PA76-3180 - Mod. #2 (41 FR 23922 - June 11, 1976) Luzerne County, Pennsylvania					
Change:					
Carpenters:					
Remainder of County	$10.01	.35	.40		.03

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3181 - Mod. #1 (41 FR 24858 - June 18, 1976) Schuylkill County, Pennsylvania					
Change:					
Sheet Metal Workers	$10.08	.50	.50		.02
DECISION #PA76-3182 - Mod. #1 (41 FR 24860 - June 18, 1976) Northumberland County, Pennsylvania					
Change:					
Sheet Metal Workers	$10.08	.50	.50		.02
DECISION #PA76-3183 - Mod. #1 (41 FR 24862 - June 18, 1976) Lehigh County, Pennsylvania					
Change:					
Laborers:					
Unskilled laborers	$ 6.97	.35	.45		
Operator of jackhammer paving breaking & other pneumatic & mechanical tools, wagon drills, & men handling dynamite, handling & using, cutting & burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same & cofferdams (below 10 feet	7.22	.35	.45		
Plasterers & mason tenders, scaffold builders, handling of all materials to be used by plasterers & masons, brick & blocks loaded on pallets, cement finishers tenders, gunniting and molder-D, & Sand blasters helpers	7.27	.35	.45		
Barko tamper operator	7.47	.35	.45		
Line Construction:					
Linemen & Cable Splicers	10.93	.25	1%		3/4 of 1%
Groundman	6.56	.25	1%		3/4 of 1%
Winch Truck Operator	7.65	.25	1%		3/4 of 1%

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3185 - Mod. #1 (41 FR 24864 - June 18, 1976) Lycoming County, Pennsylvania					
Change:					
Sheet Metal Workers	$10.08	.50	.50		.02
DECISION #PA76-3186 - Mod. #1 (41 FR 24866 - June 18, 1976) Lancaster County, Pennsylvania					
Change:					
Line Construction:					
Linemen & Cable Splicers	$10.93	.25	1%		3/4 of 1%
Groundman	6.56	.25	1%		3/4 of 1%
Winch Truck Operator	7.65	.25	1%		3/4 of 1%
DECISION #PA76-3187 - Mod. #1 (41 FR 24868 - June 18, 1976) Northampton County, Pennsylvania					
Change:					
Laborers:					
Unskilled laborers	$ 6.97	.35	.45		
Operator jackhammer, paving breaking and other pneumatic and mechanical tools, wagon drills, and men handling dynamite handling and using, cutting and burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same and cofferdams (below 10 feet)	7.22	.35	.45		
Plasterer and Mason Tenders, scaffold builders, and handling of all materials to be used by plasterers and masons, brick and blocks loaded on pallets, cement finishers tenders, gunniting and molder-D, and sand blasters helpers	7.27	.35	.45		
Barko Tamper Operator	7.47	.35	.45		
Sheet Metal Workers	9.76	.95	.50		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3204 - Mod. #1 (41 FR 24870 - June 18, 1976) Adams & York Counties, Pennsylvania					
Change:					
Line Construction:					
Linemen, Cable Splicer	$10.28	.30	1%		3/8 of 1%
Winch truck Operator	7.20	.30	1%		3/8 of 1%
Groundman	6.17	.30	1%		3/8 of 1%
DECISION #PA76-3205 - Mod. #1 (41 FR 24872 - June 18, 1976) Sullivan County, Pennsylvania					
Change:					
Sheet Metal Workers	10.08	.50	.50		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. RI76-2037- Mod #1 (41 FR 11771- March 19, 1976) Bristol, Kent, & Providence Counties, Rhode Island					
Change:					
Asbestos workers	$9.92	.76	.93		
Bricklayers, cement masons, and stonemasons:					
Ashton, Berkley, Central Falls, Cumberland, Lincoln, Lonsdale, Pawtucket, & Valley Falls	10.15	.50	.50		.01
Bristol & Kent Counties and Remainder of Prov. Co.:					
Bricklayers & stonemasons	9.55	.95	.65		.01
Marble, tile, and terrazzo workers	9.65	.95	.65		
Elevator constructors	9.70	.495	.32	4%+a+b	.02
Glaziers	8.88	.52	.85		.01
Laborers: Building:					
Laborers, carpenter tenders, cement finisher tenders, mason tender, wrecking laborers	7.50	.60	.70		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops, fence & guard rail erectors, setters of metal forms for roadways, mortar mixers, pipelayers, riprap and dry stonewall builders, highway stone spreaders, pneumatic tool ops, wagon drill ops, tree trimmers, barco-type jumping tampers, mechanical grinder operators	7.75	.60	.70		.10
Air track ops, block pavers, rammers, & curb setters	8.00	.60	.70		.10
Powdermen and blasters	8.25	.60	.70		.10
Plumbers	10.16	.86	1.19		.07
Steamfitters & pipefitters	10.35	.83	1.03		.07
Bricklayers & stonemasons:					
Heavy const-- entire State	9.55	.95	.65		.01

MODIFICATIONS P. 15

DECISION NO. RI76-2038- Mod #1 (41 FR 11777- March 19, 1976) Newport County, Rhode Island	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$9.92	.76	.93		
Glaziers	8.88	.52	.85		.01
Laborers: Building:					
Laborers, carpenter tenders, cement finisher tenders, mason tender, wrecking laborers	7.50	.60	.70		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops, fence & guard rail erectors, setters of metal forms for roadways, mortar mixers, pipelayers, riprap and dry stonewall builders, highway stone spreaders, pneumatic tool ops, wagon drill ops, tree trimmers, barco-type jumping tampers, mechanical grinder operators	7.75	.60	.70		.10
Air track ops, block pavers, rammers, & curb setters	8.00	.60	.70		.10
Powdermen and blasters	8.25	.60	.70		.10
Marble setters, terrazzo workers, and tile setters	9.65	.95	.65		
Plumbers	10.16	.86	1.19		.07
Steamfitters	10.35	.83	1.03		.07
Carpenters, dock builder, piledrivers (heavy, highway & marine):					
Remainder of County:					
Carpenters	8.98	.60	.60		.025
Millwrights, piledrivers, and wharf builders	9.58	.60	.60		.025
Electricians (heavy, highway, and marine):					
Remainder of County	9.40	.48	1%+.90		.02

MODIFICATIONS P. 16

DECISION NO. RI76-2039- Mod #1 (41 FR11781- March 19, 1976) Washington County, Rhode Island	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$9.92	.76	.93		
Bricklayers & stonemasons:					
Building:					
Exeter, Johnston, N.Kingstown, Narragansett (including the pier of Point Judith)	9.55	.95	.65		.01
Heavy, highway, & marine:					
Entire state	9.55	.95	.65		.01
Electricians-- heavy, highway, and marine	9.40	.75	1%+.90		.02
Glaziers	8.88	.52	.85		
Laborers: Building:					
Laborers, carpenter tenders, cement finisher tenders, mason tender, wrecking laborers	7.50	.60	.70		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops, fence & guard rail erectors, setters of metal forms for roadways mortar mixers, pipelayers, riprap and dry stonewall builders, highway stone spreaders, pneumatic tool ops, wagon drill ops, tree trimmers, barco-type jumping tampers, mechanical grinder ops	7.75	.60	.70		.10
Air track ops, block pavers, rammers, & curb setters	8.00	.60	.70		.10
Powdermen and blasters	8.25	.60	.70		.10
Marble, tile and terrazzo workers:					
Exeter, N. Kingstown, Narragansett, including the pier of Point Judith	9.65	.95	.65		
Plumbers	10.16	.86	1.19		.07
Steamfitters	10.35	.83	1.03		.07
DECISION #TN76-1045 - Mod. #1 (41 FR 14306 - April 2, 1976) Washington County, Tennessee					
CHANGE:					
Cement masons	$ 5.13				
Laborers, unskilled	2.75				

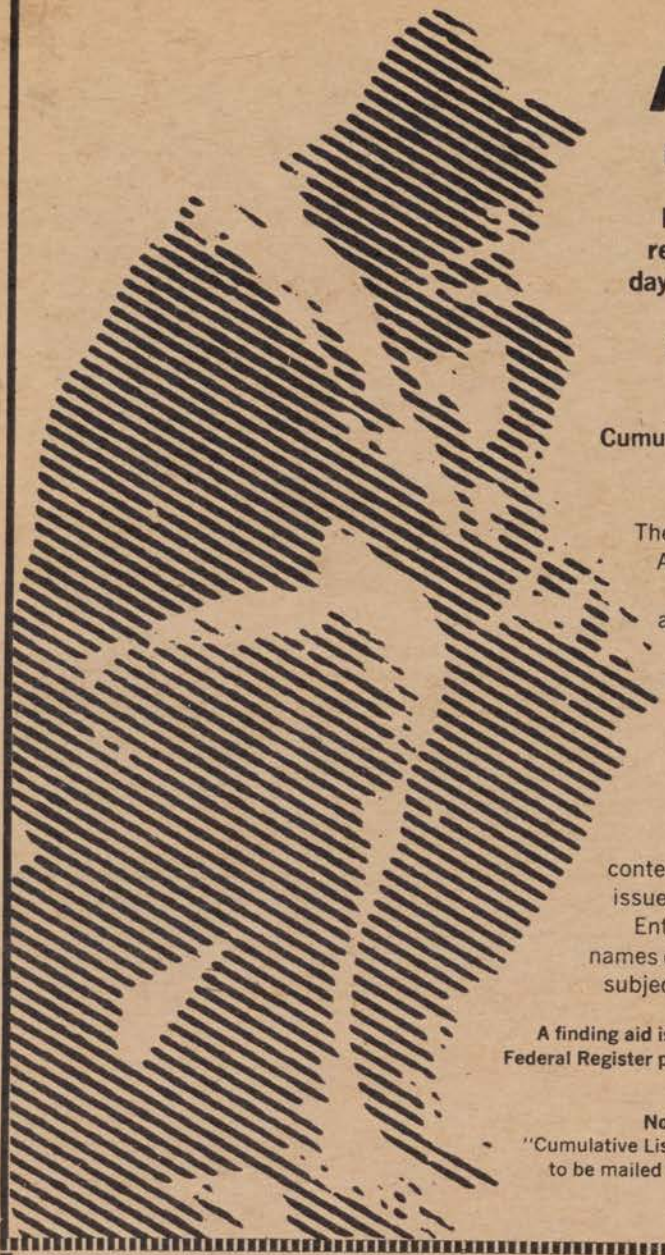
SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: See below*
DECISION NUMBER: NC76-1073 DATE: Date of Publication
Supersedes Decision No.: AQ-4083 dated March 6, 1974 in 39 FR-8101
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Craven, Carteret, Duplin Green, Johnson, Jones, Lenior, Onslow, Pamlico, and Wayne.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	4.84				
Bricklayers	5.50				
Carpenters	4.74				
Cement masons	4.24				
Dry wall finishers	5.57				
Dry wall hangers	5.45				
Electricians	4.79				
Glaziers	3.65				
Laborers:					
Laborers	2.79				
Mason tenders	3.23				
Mortar mixers	3.66				
Pipelayers	3.50				
Painters	4.21				
Plasterers	4.00				
Plumbers & Pipefitters	4.67				
Roofers	5.00				
Sheet metal workers	3.55				
Soft floor layers	5.00				
Tile setters	6.50				
Truck drivers	3.97				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt raker	4.08				
Backhoe	5.00				
Bulldozer	5.10				
Forklift	4.41				
Grader	5.00				
Loader	4.68				
Roller	3.88				
Tractor	4.50				
Trenching machine	6.50				

[FR Doc.76-19629 Filed 7-8-76;8:45 am]



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