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TUESDAY, NOVEMBER 30, 1976

highlights

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reminders

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

Rules Going Into Effect Today

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

List of Public Laws

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

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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

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 program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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

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Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 401—COST ACCOUNTING STANDARD—CONSISTENCY IN ESTIMATING, ACCUMULATING, AND REPORTING COSTS

Interpretation of Standard

Interpretation No. 1 to Part 401, Cost Accounting Standard, Consistency in Estimating, Accumulating and Reporting Costs, is being published today by the Cost Accounting Standards Board pursuant to Section 719 of the Defense Production Act of 1950, as amended. (Pub. L. 91-379, 50 U.S.C. App. 2168.)

This Interpretation culminates extensive research over a period of several years on the subject of accounting for the costs of direct materials not incorporated in end items. This research indicated that, as a general rule, the cost of such materials is being allocated properly to cost objectives. Accordingly, the Board concluded that a Cost Accounting Standard on this subject was not warranted at this time. However, the research indicated that frequent questions were raised with respect to the requirements of Part 401 regarding consistency between estimating the costs of certain direct materials in pricing proposals and the accumulation and reporting of such costs. Thus, the Board concluded that it would be desirable to issue an Interpretation of Part 401 to address specifically the requirements regarding consistency between estimating and accounting for the costs of such direct materials.

Section 401.40 requires that a contractor's "practices used in estimating costs in pricing a proposal shall be consistent with his cost accounting practices used in accumulating and reporting costs." Many contractors estimate the cost of certain direct materials, such as materials that will be scrapped, as a percentage of basic direct material requirements or of some other base. A significant number of questions have been raised as to the cost accounting practices to be followed where the cost of such materials is estimated on the basis of percentage factors. The Interpretation being published clarifies the requirements of Part 401 in this regard.

A proposed Interpretation was published in the FEDERAL REGISTER of June 24, 1976, with an invitation to interested parties to submit written comments. The Board supplemented the invitation in the FEDERAL REGISTER by sending copies of the proposed Interpretation directly to over 1,000 organizations and individuals. The Board received 43 written comments, all of which have been carefully considered by the Board.

In addition to an evaluation of the written comments, conversations were held with thirteen of those commentators who indicated particular problems with the proposed Interpretation. The Board takes this opportunity to express its appreciation for the time and effort expended by those who met with the Board representatives or provided written comments.

Comments of particular significance with respect to the proposed Interpretation are discussed below.

1. NEED FOR AN INTERPRETATION

Several commentators stated that the Interpretation expands the scope and is not consistent with the intent of Part 401, which they say requires only a comparison of actual costs with estimated costs for direct material. They argued that the Defense Contract Audit Agency (DCAA) guidance to its field auditors in October 1973 satisfactorily explained the meaning of Part 401. In general, these commentators felt that an Interpretation to CAS 401 was not needed.

The Board's research indicates that an Interpretation is needed. Numerous and widespread questions have been raised concerning whether application of a percentage factor to a base as a means of estimating the costs of certain additional direct material requirements is in compliance with Part 401 when the contractor accumulates direct material costs in an undifferentiated account. The Board notes that a similar question with respect to direct labor is specifically addressed in Part 401, Paragraph 401.60(b)(5). In that Illustration, the accumulation of total engineering labor in one undifferentiated account is not in compliance with Part 401 where the contractor estimates engineering labor by cost function. Part 401 does not, however, specifically address the consistency requirement for direct materials, nor did the DCAA guidance specifically cover this matter. Accordingly, the Board concludes that this Interpretation is needed.

In view of the fact that the Interpretation clarifies what is already required by Part 401, the Board does not agree that it expands the scope of the Standard.

2. MATERIALITY

A number of commentators maintained that the cost of the materials estimated by means of a percentage factor was usually insignificant. These commentators were concerned that extensive records or analyses would have to be developed for insignificant amounts. The Board, of course, has always been concerned about the question of materiality and is on record as stating that the administration of its rules, regulations, and Cost Accounting Standards should be reasonable and not seek to deal with insignificant amounts of cost. To assure the application of the materiality criterion in this instance, specific language has been introduced which provides that the Interpretation applies only where "a significant part of costs" is estimated by means of a percentage factor. Furthermore, the Interpretation being published today recognizes that the accounting requirements of Part 401 depend on "the significance of each situation."

3. ESTIMATING TECHNIQUE VERSUS PRACTICE

Several respondents were of the opinion that the proposed Interpretation was inappropriate because they felt that the use of percentage factors to estimate the cost of certain direct materials is an estimating "technique," rather than an estimating "practice." Thus, they contended, the Interpretation is improperly covering an area not subject to 401, i.e., "estimating techniques," and would limit the use of estimating factors as quantitative estimating tools. Some of these respondents noted that the Board recognized the difference between techniques and practices in the prefatory comments to Part 401, as published in the FEDERAL REGISTER of February 29, 1972. In that publication, the Board noted the concern of some commentators that the term "practices" in the phrase "practices used in estimating costs in pricing proposals" could be confused as including estimating techniques relating to quantitative determinations. In response to those comments, the Board stated that "nothing in the Standard precludes the use of any quantitative estimating tools."

The Board reaffirms this conclusion. However, the Board did not intend to deny all interest in practices so readily subject to abuse. There are cases in which contractor percentage estimates are not adequately supported either by data as to relevant past experience or in any other manner. In such cases, particularly, the Board feels that the use of a percentage factor as a means of estimating the costs of additional direct materials is an estimating practice which must be consistent with the practices used in accumulating and reporting costs.

4. RETROACTIVITY

A few commentators were concerned about the possible retroactive application of this Interpretation. They noted that the requirement of Part 401, as interpreted, would apply as of the date a contractor was first required to use that

Standard. The commentators were concerned that those contractors who have not accounted for material costs in accordance with the Interpretation could be held to have been in noncompliance with Part 401, and therefore subject to a downward price adjustment in accordance with paragraph a(5) of the Cost Account Standards clause (4 CFR 331.50). These commentators urged that the Interpretation be effective on a prospective basis only. Some of these commentators suggested that the substance of the Interpretation should be a new Standard, with the opportunity for an equitable adjustment under a(4)(A) of the Cost Accounting Standards clause.

As already noted, the Board has carefully considered whether the subject of the Interpretation should be encompassed in a new Standard. The Board has concluded that the accounting for direct material cost as explained by this Interpretation is required by Part 401 and therefore should have been accomplished as of the date that Standard first became applicable to a contractor. Nevertheless, the Board recognizes that there has been widespread uncertainty about the application of Part 401 in situations where certain material costs are estimated on the basis of percentage factors. In addition, the Board believes that the determination of the cost impact of a contractor's failure in the past to follow Part 401 as interpreted would be extremely difficult. Under the circumstances, the Board believes that the effort to seek contract price adjustments as a result of this Interpretation would, in most cases, be counterproductive. Accordingly, the Board believes that, in most cases, the process of attempting to determine price adjustments as a result of the retroactive application of Part 401 as interpreted would not be warranted.

5. Cost Accounting Practices

The proposed Interpretation stated that contractors who use a percentage factor to estimate certain direct material costs for a contract must "for that contract" maintain an adequate record or prepare an analysis of the actual cost. A number of commentators understood this sentence to require the recording or analysis on a contract-by-contract basis of the actual cost of materials represented by an estimated percentage factor. Many of these commentators noted that it would be difficult, if not impossible, to comply with this requirement. Other commentators questioned what was meant by an adequate record or an analysis.

As noted above the use of percentage factors for estimating direct material costs is an estimating practice which, pursuant to Part 401, must be consistent with the cost accounting practices used in accumulating and reporting costs. The Board notes however that Part 401 neither prescribes nor precludes any particular cost accounting practice. The Board recognizes that the consistency requirement of Part 401, as it pertains to direct material costs, could be met in a variety of ways. The Board is therefore of the view that it would be neither appropriate nor practical to prescribe by means of this Interpretation the amount of detail in accumulating and reporting costs which is deemed to be consistent with the use of percentage factors in estimating costs. The Board believes that the amount of detail which should be maintained with respect to direct material costs is a matter which is best left for decision by the appropriate Government procurement authorities on the basis of facts and circumstances of each situation. The Interpretation being published today has been revised accordingly and all references to the type of records to be maintained or analyses to be performed have been deleted.

6. Application to Developmental and Research Type Contracts

Many commentators urged that this Interpretation not apply to developmental and research type contracts. They said that since only material issued to these kinds of contracts is charged to such contracts, there would be no overstatement of material costs. They urged further that it would be impossible to maintain actual cost records by contract to record the additional material required and that it was extremely difficult to estimate additional material requirements because of the lack of past experience. Also, the commentators contended that material requirements on such contracts were not significant. Other commentators suggested that this Interpretation should not apply to cost type contracts.

It appears that these comments were generated mainly by the impression that the proposed Interpretation required records or analyses to be maintained by individual contract. As noted above, the Interpretation has been revised to make clear that no particular record or analysis is required by Part 401. The requirement for consistency in estimating, accumulating and reporting costs, however, applies to all contracts. The fact that a development contract or cost-type contract is involved does not remove this requirement. The Board feels that the changes made in the Interpretation should serve to minimize the problems described by these contractors.

7. Application to Standard Cost Accounting Systems

Several commentators suggested that this Interpretation not apply to standard cost systems. They argued that costs are not accumulated by contract or product and, therefore, compliance with the Interpretation would require a complicated and expensive recording system. They felt further that in setting standards, they use past experience plus engineering adjustments and could be charged by the Government with the need to comply with the records requirement of the Interpretation for each of their Standards.

Contractors using standard costs for material must comply with Part 407, the Use of Standard Costs for Direct Material and Direct Labor, which addresses the accounting for direct material and variances from standard costs of material. In the opinion of the Board, these contractors will be in compliance with Part 401 as interpreted.

8. Application to Specific Factors

Various commentators inquired about the application of this Interpretation to certain specific factors used in estimating contract price prosposals, not necessarily related to the cost of additional direct materials. Among the factors mentioned were those to provide for inflation, contingencies resulting from indefinite or incomplete bills of material, losses in common inventory accounts, and miscellaneous small parts and hardware items.

As noted in the Interpretation, its need was prompted by questions about the use of percentage factors to estimate the costs of "additional direct materials"; i.e., generally those direct materials not incorporated in end items. Factors such as those used to provide for inflation or allowances for incomplete bills of material do not represent costs of "additional direct materials," as that phrase is used in the Interpretation. In the opinion of the Board, this interpretation does not apply to the costs represented by such factors.

Factors used in a proposal to provide for inventory losses represent the costs of additional materials which are governed by this Interpretation. With respect to factors for small parts, the Board notes that in accordance with Part 401, Paragraph 401.60, Illustrations, a practice of estimating an average cost for a minor standard hardware item is considered to be consistent with the practice of recording the actual costs of such items.

The amount of detail to be used in accumulating and recording such costs, however, is a matter to be decided in accordance with this Interpretation.

9. Application of Interpretation to Direct Labor

A number of commentators raised questions concerning the applicability of the Interpretation to direct labor. Several commentators said it should not apply to such labor but should be clearly limited to direct materials. One commentator felt that the Interpretation was equally applicable to direct labor and should so state.

As already noted in paragraph 1, above, Part 401 includes specific provisions on the consistency requirements regarding direct labor. Accordingly, the Board is of the opinion that no further specific coverage of direct labor is required in this Interpretation.

Therefore, the following Appendix is added to Part 401:

Appendix—Interpretation No. 1

Part 401, Cost Accounting Standard, Consistency in Estimating, Accumulating and Reporting Costs, requires in § 401.40 that a contractor's "practices used in estimating costs in pricing a proposal shall be consistent with his cost accounting practices used in accumulating and reporting costs."

In estimating the cost of direct material requirements for a contract, it is a common practice to first estimate the cost of the actual quantities to be incorporated in end

items. Provisions are then made for additional direct material costs to cover expected material losses such as those which occur, for example, when items are scrapped, fail to meet specifications, are lost, consumed in the manufacturing process, or destroyed in testing and qualification processes. The cost of some or all of such additional direct material requirements is often estimated by the application of one or more percentage factors to the total cost of basic direct material requirements or to some other base.

Questions have arisen as to whether the accumulation of direct material costs in an undifferentiated account where a contractor estimates a significant part of such costs by means of percentage factors is in compliance with Part 401. The most serious questions pertain to such percentage factors which are not supported by the contractor with accounting, statistical, or other relevant data from past experience, nor by a program to accumulate actual costs for comparison with such percentage estimates. In the opinion of the Board the accumulation of direct costs in an undifferentiated account in this circumstance is a cost accounting practice which is not consistent with the practice of estimating a significant part of costs by means of percentage factors. This situation is virtually identical with that described in Illustration 401.60(b)(5), which deals with labor.

Part 401 does not, however, prescribe the amount of detail required in accumulating and reporting costs. The Board recognizes that the amount of detail required may vary considerably depending on the percentage factors used, the data presented in justification or lack thereof, and the significance of each situation. Accordingly, the Board is of the view that it is neither appropriate nor practical for the Board to prescribe a single set of accounting practices which would be consistent in all situations with the practices of estimating direct material costs by percentage factors. The Board considers, therefore, that the amount of accounting and statistical detail to be required and maintained in accounting for this portion of direct material costs has been and continues to be a matter to be decided by Government procurement authorities on the basis of the individual facts and circumstances.

(Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168))

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.76-35245 Filed 11-29-76;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agency for International Development

Section 213.3368 is amended to reflect a change in title from Private Secretary to the Deputy Administrator to Executive Assistant to the Deputy Administrator.

Effective on November 30, 1976 § 213.3368(a)(4) is amended as set out below:

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* * * *

(4) One Executive Assistant to the Deputy Administrator.

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

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

[FR Doc.76-35025 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3106 is amended to show that positions of Assistant Dean on the staff of the Uniformed Services University of the Health Sciences are excepted under Schedule A.

Effective on November 30, 1976, § 213.3106(b)(8) is amended as set out below:

§ 213.3106 Department of Defense.

* * * * *

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy and Air Force.* * * *

(8) The Dean, Associate Dean, Assistant Dean, faculty members, and teaching/research assistant positions on the staff of the Uniformed Services University of the Health Sciences.

(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. 76-35019 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to reflect a title change from Private Secretary to the Special Assistant to the Secretary, to Confidential Assistant to the Special Assistant to the Secretary.

Effective on November 30, 1976 § 213.3306(a)(13) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(13) One Confidential Assistant to the Special Assistant to the Secretary.

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

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

[FR Doc.76-35020 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Staff Assistant to the Secretary is established in lieu of one position of Staff Assistant to the Public Affairs Director.

Effective on November 30, 1976, §§ 213.3315(a)(1) is amended and (a)(39) is revoked as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) One Special Assistant, one Confidential Assistant, and three Staff Assistants.

* * * * *

(39) (Revoked)

(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.76-35021 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to reflect a title change from Private Secretary to the Assistant Secretary for Policy, Evaluation and Research to Confidential Assistant to the Assistant Secretary for Policy, Evaluation and Research.

Effective on November 30, 1976, § 213.3315(a)(3) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(3) One Private Secretary to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary for Policy, Evaluation and Research who has one Confidential Assistant.

(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.76-35022 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Confidential Secretary to the Director, Office of Telecommunications Policy, is reestablished under Schedule C.

Effective on November 30, 1976 § 213.3303(i)(6) is amended as set out below:

§ 213.3303 Executive Office of the President.

(i) *Office of the Telecommunications Policy.* * * *

(6) One Confidential Secretary to the 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.76-35023 Filed 11-29-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that two positions of Secretarial Assistant (Stenography) to the Secretary of State are established under Schedule C.

Effective on November 30, 1976, § 213.3304(a)(24) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(24) Two Secretarial Assistants (Stenography) to the Secretary.

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

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

[FR Doc.76-35024 Filed 11-29-76;8:45 am]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Closing Dates—Correction

In FR Doc. 75-34536 appearing at page 51582 in the FEDERAL REGISTER of November 23, 1976, paragraph (a) of § 401.103, appearing in the center column of page 51583, under the heading "TOMATOES" is corrected to read as follows:

§ 401.103 Application for insurance.

(a) * * *

(CLOSING DATES)

*	*	*	*	*

TOMATOES

All States	April 30.

Dated: November 24, 1976.

WARREN E. DIRKS,
Manager, Federal Crop Insurance Corporation.

[FR Doc.76-35115 Filed 11-29-76;8:45 am]

[Amdt. No. 81]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1968 and Succeeding Crop Years

POLICY

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, § 401.111 of the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (7 CFR Part 401, as amended), is amended effective with the 1977 and succeeding crop years in those counties where so provided on the actuarial table by adding the following at the end of paragraph 6(b):

§ 401.111 The policy.[1]

* * * * *

6. * * *

(b) * * * Notwithstanding the foregoing provisions of this paragraph (b), in counties where the actuarial table so provides: (1) The premium will be adjusted on the basis of the insured's total insuring experience on each insured crop under the contract as shown on the actuarial table.

(2) If there is no break in continuity of participation, any applicable premium adjustment shall be transferred to (i) the contract of the insured's estate or surviving spouse in case of death of the insured; (ii) the contract of the person who succeeds the insured as the insured's transferee in operating only the same farm or farms, if the Corporation finds that such transferee has previously actively participated in the farming operations involved; or (iii) the contract of the same insured who stops farming in one county and starts farming in another county.

(3) If there is a break in the continuity of participation, any premium reduction earned under the provisions of the actuarial table shall not thereafter apply. However, any increased premium adjustment factor shall apply after any break in the continuity of participation.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

The foregoing amendment is designed to provide for a more equitable system of rate distribution through a formula based on the policyholder's individual and total insuring experience with each insured crop under the contract. The premium rates for insuring crops under the proposed amendment are provided on the actuarial table for the counties where applicable. The provisions of the rate adjustment factor system will be implemented on an experimental basis for all crops in Dodge and Mower Counties, Minnesota, and some cotton counties effective with the 1977 crop year. If the results of the experimental program are successful, the program may be expanded to include other crops in other counties. Since it will be necessary to start accepting applications for the 1977 crop year soon and notification of the provisions of the proposed amendment must be given to existing policyholders as early as possible, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to the adoption of the foregoing amendment Accordingly, said amendment was adopted by the Board of Directors on November 10, 1976.

[1] Applicable only in those counties where so provided on the actuarial table.

Said amendment shall become effective November 30, 1976.

The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved on November 24, 1976.

JOHN A. KNEBEL,
Secretary.

[FR Doc.76-35199 Filed 11-29-76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

1977 NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO

Basis and purpose. Section 725.1 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to proclaim national marketing quotas for flue-cured tobacco for the 1977–78, 1978–79, and 1979–80 marketing years. Section 725.2 is issued pursuant to and in accordance with the Act to (1) determine and announce the reserve supply level and total supply for flue-cured tobacco, and (2) determine and announce for flue-cured tobacco for the marketing year beginning July 1, 1977, the amount of the national marketing quota; the national average yield goal; the national acreage allotment; the reserve for making corrections in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms; the national acreage factor; and the national yield factor. The material previously appearing in this section under centerhead DETERMINATIONS AND ANNOUNCEMENTS—1976–77 MARKETING YEAR remains in full force and effect as to the crop to which it was applicable.

Since the 1976–77 marketing year is the last of the three consecutive years for which marketing quotas, previously proclaimed on an acreage-poundage basis, will be in effect, 317(d) of the Act provides that the Secretary shall proclaim marketing quotas for flue-cured tobacco on either an acreage basis or an acreage-poundage basis for the 1977–78, 1978–79, and 1979–80 marketing years, whichever he determines would result in a more effective quota. It is hereby determined that, in view of the better supply control resulting from the acreage-poundage quota program beginning in 1965, a more effective quota would result from marketing quotas on an acreage-poundage basis.

The determinations by the Secretary contained in §§ 725.1 and 725.2 have been

made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others pursuant to a notice (41 FR 39043) given in accordance with the provisions of 5 U.S.C. 553.

Recommendations on the amount of the national marketing quota for flue-cured tobacco for the 1977–78 marketing year ranged from no reduction in the quota to a 10 percent reduction in the quota, the latter being the consensus. There were no comments with respect to changing the proposed reserve supply level, the amount of the national average yield goal, or the amount of the national reserve. One comment opposed implementation of the provision encouraging the marketing of N2 tobacco. The determinations with respect to the referendum are being set forth in a separate notice which shall deal with the comments and recommendations pertaining to the referendum. The national marketing quota of 1,116 million pounds for the 1977–78 marketing year as herein determined is 12 percent less than the quota for the 1976–77 marketing year.

Section 317(a)(1) provides, in part, that for flue-cured tobacco, the national marketing quota for a marketing year is the amount of flue-cured tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purposes of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The Act further provides that any such downward adjustment shall not exceed 15 percentum of such estimated utilization and exports.

The reserve supply level is defined in the Act as 105 percent of the normal supply. The normal supply is defined in the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined in the Act as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The yearly average domestic consumption during the 10 marketing years preceding the 1976–77 marketing year was 669 million pounds, and the yearly average exports during such period amounted to 538 million pounds. With no apparent trends, a normal year's domestic consumption then equals the 10 year average of 669 million pounds and a normal year's exports equals the 10 year average of 538 million pounds and results in a reserve supply level of 2,864 million pounds.

Total supply is defined as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The carryover of flue-cured tobacco in the inventories of manufacturers and dealers (including CCC loan stocks) on July 1, 1976 amounted to 1,874 million pounds, farm sales weight. The 1976 crop, plus producer carryover from the 1975 crop marketed during the 1976–77 marketing year is currently estimated at 1,300 million pounds. The sum of these, 3,174 million pounds, represents the total supply of flue-cured tobacco for the 1976–77 marketing year, an amount which exceeds the proposed reserve supply level by 310 million pounds.

It is estimated that 730 million pounds of flue-cured tobacco will be utilized in the United States during the 1977–78 marketing year and 500 million pounds will be exported. Because it is deemed desirable to effect an orderly reduction of supplies to the reserve supply level, the sum of these amounts, 1,230 million pounds, is adjusted downward by 114 million pounds in establishing the quota. This reduction is less than the maximum reduction of 15 percent permitted by the Act, and is the reduction which is deemed desirable under the present supply-demand situation. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1977 is determined to be 1,116 million pounds.

The "national average yield goal" has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of flue-cured tobacco and increase the net return per pound to the growers. In making this determination, consideration was given to research data of the Agricultural Research Service of the Department and one of the land-grant colleges in the flue-cured tobacco area.

The community average yields have been determined for flue-cured tobacco and published in the FEDERAL REGISTER (30 FR 6207, 9875, 14487).

The national acreage allotment is 601,941.75 acres, determined in accordance with provisions of the Act by dividing the national marketing quota by the national average yield goal.

In accordance with the Act, a national reserve, from the national acreage allotment, is established in the amount of 350 acres for making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. It is determined that the reserve acreage will be adequate.

It is determined that types 11, 12, 13, and 14 constitute one kind of tobacco for the 1977–78, 1978–79, and 1979–80 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco (30 FR 6144). Therefore, no action is being taken under section 313(i) of the Act for the 1977–78 marketing year.

Since farmers are now making their plans for 1977 production of flue-cured tobacco and need to know the acreage allotments and marketing quotas for their farms for the 1977–78 marketing year, it is hereby found that compliance with the notice of proposed rulemaking and public participation procedure in 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this revision is issued without following such procedure.

Part 725 of Title 7 is amended by revising §§ 725.1 and 725.2 and the proceeding centerheads to read as follows:

PROCLAMATION OF QUOTAS

§ 725.1 1977–78, 1978–79, and 1979–80 marketing years.

Since Marketing Quotas have been made effective for flue-cured tobacco for the 1974–75, 1975–76 and 1976–77 marketing years (38 FR 18234), and since the 1976–77 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, and since it is determined that a marketing quota program on an acreage-poundage basis will result in a more effective program for flue-cured tobacco, marketing quotas on an acreage-poundage basis are hereby proclaimed for flue-cured tobacco for the 1977–78, 1978–79 and 1979–80 marketing years.

DETERMINATIONS AND ANNOUNCEMENTS—1977–78 MARKETING YEAR

§ 725.2 Flue-cured tobacco.

For flue-cured tobacco for the marketing year beginning July 1, 1977:

(a) *Reserve supply level.* The reserve supply level is determined an announced to be 2,864 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 669 million pounds and a normal year's exports of 538 million pounds.

(b) *National Marketing quota.* A national marketing quota on an acreage-poundage basis for the marketing year, is hereby determined and announced to be 1,116 million pounds. This quota is based on estimated utilization in the United States in such marketing year of 730 million pounds and estimated exports in such marketing year of 500 million pounds, with a downward adjustment of 114 million pounds which is determined to be desirable for the purpose of effecting an orderly reduction of supplies to the reserve supply level.

(c) *National average yield goal.* The national average yield goal is determined and announced to be 1,854 pounds. This goal is based on the yield per acre which, on a national average basis, it is determined will improve or insure the usability of flue-cured tobacco and increase the net return per pound to growers.

(d) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined and announced to be 601,941.75 acres. This

allotment was determined by dividing the national marketing quota of 1,116 million pounds by the national average yield goal of 1,854 pounds.

(e) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms is determined and announced to be 350 acres.

(f) *National acreage factor.* The national acreage factor is determined and announced to be 0.88.

(g) *National yield factor.* The national yield factor is determined and announced to be .9312.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66; (7 U.S.C. 1301, 1313, 1314c, 1375).)

Effective date: November 30, 1976.

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

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-35237 Filed 11-29-76;8:45 am]

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

[Navel Orange Reg. 387, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period November 19-25, 1976. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of 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 and information submitted by the Navel Orange 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 Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 387 (41 FR 50803). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (iii) of § 907.687 (Navel Orange Regulation 387, (41 FR 50803)) are hereby amended to read as follows:

"(i) District 1: Unlimited movement;

"(iii) District 3: Unlimited movement."

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

Dated: November 24, 1976.

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

[FR Doc. 76-35202 Filed 11-29-76;8:45 am]

[Lemon Reg. 68]

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 Nov. 28-Dec. 4, 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.

§ 910.368 Lemon Regulation 68.

(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 section 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 steady early this week but is expected to ease toward the end of the week. Average f.o.b. price was $4.86 per carton the week ended November 20, 1976, compared to $4.87 per carton the previous week. Track and rolling supplies at 90 cars were the same as last week.

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

(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 section 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 section is based became available and the time when this section 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 specifid herein were promptly submitted to the Department after such meeting was held; the provisions of this section, 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 section effective during the period herein specified; and compliance with this section 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 November 23, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 28, 1976, through December 4, 1976, is hereby fixed at 200,000 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: November 24, 1976.

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

[FR Doc.76-35200 Filed 11-29-76;8:45 am]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT OF FLORIDA

Expenses and Rate of Assessment

This document authorizes expenses of $29,750 of the Interior Grapefruit Marketing Committee, under Marketing Order No. 913, for the 1976–77 fiscal period and fixes a rate of assessment of $0.0045 per standard packed box of grapefruit handled in such period to be paid to the committee by each first handler as his pro rata share of such expenses.

On Noyember 4, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 48540) regarding proposed expenses and the related rate of assessment for the period August 1, 1976, through July 31, 1977, pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice provided that all written data, views, or arguments in connection with said proposals be submitted by November 22, 1976. None were received. After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Interior Grapefruit Marketing Committee (established pursuant to said marketing agreement and Order), it is hereby found and determined that:

§ 913.212 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during the period August 1, 1976, through July 31, 1977, will amount to $29,750.

(b) *Rate of Assessment.* The rate of assessment for said period, payable by each handler in accordance with § 913.31, is fixed at $0.0045 per standard packed box of grapefruit.

(c) 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 marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1976, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: November 24, 1976.

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

[FR Doc.76-35204 Filed 11-29-76;8:45 am]

PART 984—WALNUTS GROWN IN CALIFORNIA

Marketing Percentages for the 1976–77 Marketing Year

Notice was published in the October 29, 1976, issue of the FEDERAL REGISTER (41 FR 47490), regarding a proposal to establish free and reserve percentages for the 1976–77 marketing year of 75 percent, and 25 percent, respectively, for walnuts grown in California. The 1976–77 marketing year began August 1, 1976. The proposed percentages would be established pursuant to the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984; 41 FR 31541), hereinafter referred to collectively as the "order". The order regulates the handling of walnuts grown in California and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

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

The proposed percentages were recommended by the Walnut Marketing Board pursuant to § 984.48 of the order. The Board's recommendation was based on estimates for the current marketing year of supply, and inshell and shelled trade demands adjusted for handler carryover. The total 1976–77 supply subject to regulation is estimated at 169 million pounds kernelweight. Inshell and shelled trade demands adjusted for handler carryover are estimated at 33 and 92.8 million pounds kernelweight, respectively, or a total adjusted demand of 125.8 million pounds kernelweight.

The regulation establishes the supply of merchantable walnuts available to the domestic inshell and shelled markets at maximum quantities that can be expected to be used, while also providing for an ample carryover into the 1977–78 marketing year. The reserve is for export.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that establishment of free and reserve percentages under § 984.49 of the order, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the free and reserve percentages established for a particular marketing year shall be applicable to all walnuts certified as merchantable during such year; and (2) the current 1976–77 marketing year began August 1, 1976, and the percentages hereinafter established will automatically apply to all such walnuts beginning with that date.

Therefore, the free and reserve percentages for California walnuts during the 1976–77 marketing year are established as follows:

§ 984.223 Free and reserve percentages for California walnuts during the 1976–77 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1976, shall be 75 percent and 25 percent, respectively.

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

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

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

NOVEMBER 24, 1976.

[FR Doc.76-35203 Filed 11-29-76;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

● *Purpose.* The purpose of these amendments is to amend 9 CFR 97.2 relating to administrative instructions prescribing commuted traveltime. ●

These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the

knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1976 ed.), as amended January 21, 1976 (41 FR 3074), April 16, 1976 (41 FR 16145), and July 23, 1976 (41 FR 30321), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective lists therein as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

WITHIN METROPOLITAN AREA

ONE HOUR

Add:

Los Angeles, California and Los Angeles Airport (served from Lawndale, California).

Add:

Madison, Wisconsin.

Delete:

Mobile, Alabama.

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add:

Vernon, California (served from Lawndale, California).

Add:

Los Angeles Harbor, San Pedro, California; including Long Beach, Wilmington, and Terminal Island (served from Lawndale, California).

Add:

Middleton, Wisconsin (served from Madison, Wisconsin).

Add:

Sauk City, Wisconsin (served from Madison, Wisconsin).

Add:

Watertown, Wisconsin (served from Madison, Wisconsin).

THREE HOURS

Add:

Chilton, Wisconsin (served from Markesan, Wisconsin).

Add:

Hartford, Wisconsin (served from Markesan, Wisconsin).

Add:

Mineral Point, Wisconsin (served from Madison and Wauzeka Wisconsin).

Add:

Monroe, Wisconsin (served from Madison, Wisconsin).

Add:

Ontario, California (served from Lawndale, California).

Add:

Watertown, Wisconsin (served from Markesan, Wisconsin).

FOUR HOURS

Add:

Edwards Air Force Base, California (served from Lawndale, California).

Add:

Hartford, Wisconsin (served from Madison, Wisconsin).

Add:

Hueneme, California (served from Lawndale, California).

Add:

Milwaukee, Wisconsin (served from Madison, Wisconsin).

Add:

Newport Beach, California (served from Lawndale, California).

Add:

Sheboygan Falls, Wisconsin (served from Markesan, Wisconsin).

Delete:

Juda, Wisconsin (served from Madison, Wisconsin.)

Delete:

Sheboygan Falls, Wisconsin (served from Milwaukee and Ripon, Wisconsin).

FIVE HOURS

Add:

March Field, California (served from Lawndale, California).

Delete:

Juda, Wisconsin (served from Sauk City, Wisconsin).

SIX HOURS

Add:

Antelope Wells, New Mexico (served from Roswell and Socorro, New Mexico).

Add:

Chilton, Wisconsin (served from Madison, Wisconsin).

Add:

Columbus, New Mexico (served from Roswell and Socorro, New Mexico).

Add:

San Luis Obispo, California (served from Lawndale, California).

TEN HOURS

Delete:

Barron, Wisconsin (served from Sauk City, Wisconsin).

(64 Stat. 561; 7 U.S.C. 2260.)

Effective date. The foregoing amendments shall become effective November 30, 1976.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of November 1976.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.76-35184 Filed 11-29-76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 745—PROTECTION OF HUMAN SUBJECTS

Adoption of Final Regulations

On August 17, 1976, a document entitled, "Protection of Human Subjects Proposed Regulations," (10 CFR Part 705—now 10 CFR Part 745) was published in the FEDERAL REGISTER (41 FR 34778). These proposed regulations have been altered in §§ 705.6, 105.10, 705.11, 705.16, and 705.19 (now 745.6, 745.10, 745.11, 745.16, and 745.19) as a result of comments received.

The proposed regulations intend to ensure the rights and welfare of human subjects in research activities supported by ERDA. Adequate review and approval of activities involving human subjects is primarily the responsibility of the institution which receives or is accountable to ERDA for the funds awarded.

Although ERDA intended to substantially duplicate the policies and procedures adopted by HEW (40 FR 11854, March 13, 1975), comments received in response to the proposed regulations identified differences that needed to be resolved between the two sets of regulations. The most significant issues were the membership requirements of the institutional review board (745.6) and the retention of records (745.19). To eliminate the problems caused by these differences, these and other ERDA sections have been altered to conform to the HEW regulations.

Accordingly, with the incorporated changes, the proposed regulations are adopted as set forth below.

Effective date: November 30, 1976.

JAMES L. LIVERMAN,
Assistant Administrator
for Environment and Safety.

The proposed regulations are adopted as follows:

Sec.

Sec.

AUTHORITY: Sec. 105(a) Energy Reorganization Act of 1974, Pub. L. 93-438.

§ 745.1 Applicability.

(a) The regulations in this part are applicable to all Energy Research and Development Administration (ERDA) agreements including, but not limited to, grants and contracts supporting research, development, and related activities within the United States and its territories in which human subjects are involved.

(b) For agreements supporting activities outside the United States and its territories in which human subjects are involved, the requirements of this part shall apply to the maximum extent practicable as determined by the Administrator on a case-by-case basis, taking into account the relevant laws and practices of the foreign nation in which the activity will be conducted.

(c) The Administrator may, from time to time, determine in advance whether specific programs, methods, or procedures to which this part is applicable place subjects at risk, as defined in § 745.3(b). Such determinations will be published as notices in the FEDERAL REGISTER and will be included in an appendix to this part.

§ 745.2 Policy.

(a) Safeguarding the rights and welfare of subjects at risk in activities supported under ERDA agreements is primarily the responsibility of the institution which receives, or is accountable to ERDA for, the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of ERDA that no activity involving human subjects within the United States and its territories to be supported by ERDA agreements shall be undertaken unless an Institutional Review Board has reviewed and approved such activity, and the institution has submitted to ERDA a certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether these subjects will be placed at risk, and, if risk is involved, whether:

(1) the risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) the rights and welfare of any such subjects will be adequately protected;

(3) legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part; and

(4) the conduct of the activity will be reviewed at timely intervals.

(c) No agreement involving human subjects at risk shall be awarded to an individual unless he is affiliated with or sponsored by an institution which can and does assume responsibility for the subjects involved.

§ 745.3 Definitions.

(a) "Institution" means any public or private institution or agency (including Federal, State, and local government agencies).

(b) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service.

(c) "Informed consent" means the knowing consent of an individual or his legally authorized representative so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary to such consent include:

(1) A fair explanation of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;

(2) a description of any attendant discomforts and risks reasonably to be pected;

(3) a description of any benefits reasonably to be expected;

(4) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) an offer to answer any inquiries concerning the procedures; and

(6) an instruction that the person is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject.

(d) "ERDA" means the Energy Research and Development Administration.

(e) "Administrator" means the Administrator of ERDA or any other officer or employee of ERDA to whom authority has been delegated.

(f) "Agreement" means a grant, contract, cooperative agreement, or any other instrument under which ERDA provides funds or other resources for projects or efforts involving human subjects.

(g) "Approved assurance" means a document that fulfills the requirements of this part and is approved by the Administrator.

(h) "Certification" means the official institutional notification to ERDA in accordance with the requirements of this part that a project or activity involving human subjects at risk has been reviewed and approved by the institution in accordance with the "approved assurance" on file at ERDA.

(i) "Legally authorized representative" means an individual or judicial, or other body authorized under applicable law to consent on behalf of a prospective subject to such subject's participation in the particular activity or procedure.

§ 745.4 Submission of assurances.

(a) Recipients or prospective recipients of ERDA support under any agreement involving subjects at risk shall provide written assurance acceptable to ERDA that they will comply with ERDA policy as set forth in this part. Each assurance shall embody (1) A statement of compliance with ERDA requirements for initial and continuing Institutional Review Board review of the supported activities; and (2) A set of implementing guidelines, including identification of the Board and a description of its review procedures; or, in the case of special assurance concerned with single activities or projects, a report of initial findings of the Board and of its proposed continuing review procedures.

(b) Such assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this part, and shall be filed in such form and manner as the Administrator may require.

§ 745.5 Types of assurances.

(a) *General assurances.* A general assurance describes the review and implementation procedures applicable to all ERDA-supported activities conducted by an institution, regardless of the number, location, or types of its components or field activities. General assurances will be required from institutions having a significant number of concurrent ERDA-supported projects or activities involving human subjects.

(b) *Special assurances.* A special assurance will, as a rule, describe those review and implementation procedures applicable to a single activity or project. A special assurance will not be solicited or accepted from an institution which has on file with ERDA an approved general assurance.

§ 745.6 Minimum requirements for general assurances.

General assurances shall be submitted in such form and manner as the Administrator may require. The institution must include, as part of its general as-

surance, implementing guidelines that specifically provide for:

(a) A statement of principles which will govern the institution in the discharge of its repsonsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the institution itself. It is to be understood that no such principles supersede ERDA policy or applicable law.

(b) An Institutional Review Board or Board structure which will conduct initial and continuing reviews in accordance with the policy outlined in § 745.2. Such a Board or Board structure shall meet the following requirements:

(1) The Board must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and diversity of its membership, to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must, therefore, include persons whose conerns are in these areas.

(2) The Board members shall be identified to ERDA by name; earned degrees, if any; position or occupation; representative capacity; and by other pertinent indications of experience, such as board certification, licenses, etc., sufficient to describe each member's chief anticipated contributions to Board deliberations. Any employment or other relationship between each member and the institution shall be identified, i.e., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant. Changes in Board membership shall be reported to ERDA in such form and at such times as the Administrator may require.

(3) No member of a Board shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest, except to provide information requested by the Board.

(4) No Board shall consist entirely of persons who are officers, employees, or agents of, or are otherwise associated with, the institution, apart from their membership on the Board.

(5) No Board shall consist entirely of members of a single professional group.

(6) The quorum of the Board shall be defined, but may in no event be less than a majority of the total membership duly convened to carry out the Board's responsibilities under the terms of the assurance.

(c) Procedures which the institution will follow in its initial and continuing review of applications, proposals, and activities.

(d) Procedures which the Board will follow: (1) To provide advice and counsel to activity directors and investigators with regard to the Board's actions, (2) To insure prompt reporting to the Board of proposed changes in an activity, and of unanticipated problems involving risk to subjects or others, and (3) To insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to ERDA.

(e) Procedures which the institution will follow to maintain an active and effective Board and to implement its recommendations.

§ 745.7 Minimum requirements for special assurances.

Special assurances shall be submitted in such form and manner as the Administrator may require. An acceptable special assurance shall:

(a) Identify the specific agreement involved by its full title and by the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity.

(b) Include a statement, executed by an appropriate institutional official, indicating that the institution has established an Institutional Review Board satisfying the requirements of § 745.6(b).

(c) Describe the makeup of the Board and the training, experience, and background of its members as required by § 745.6(b)(2).

(d) Describe, in general terms, the risks to subjects that the Board recognizes as inherent in the activity, and justify its decision that these risks are so outweighed by the sum of the benefit to the subject, and the importance of the knowledge to be gained, as to warrant the Board's decision to permit the subject to accept these risks.

(e) Describe the informed consent procedures to be used, and attach documentation as required by § 745.10.

(f) Describe procedures which the Board will follow to insure prompt reporting to the Board of proposed changes in the activity, and of any unanticipated problems involving risks to subjects or others, to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to ERDA.

(g) Indicate at what time intervals the Board will meet to provide for continuing review. Such review must occur no less than annually.

(h) Be signed by the individual members of the Board and be endorsed by an appropriate institutional official.

§ 745.8 Evaluation and disposition of assurances.

(a) All assurances submitted in accordance with §§ 745.6 and 745.7 shall be evaluated by the Administrator through such officers and employees of ERDA as he determines to be appropriate. The Administrator's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed Institutional Review Board in light of the anticipated scope of the applicant institution's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the institution.

(b) On the basis of his evaluation of an assurance, pursuant to paragraph (a) of this section, the Administrator shall (1) Approve, (2) Enter into negotiations to develop a more satisfactory assurance, or (3) Disapprove. With respect to approved assurances, the Administrator may determine the period during which any particular assurance or class of assurances shall remain effective or otherwise condition or restrict his approval. With respect to negotiations, the Administrator may, pending completion of negotiations for a general assurance, require an institution, otherwise eligible for such an assurance, to submit special assurances.

§ 745.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.

Any institution proposing to place any subject at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, including any release of the institution or its agents from liability for negligence.

§ 745.10 Documentation of informed consent.

The actual procedure utilized in obtaining legally effective informed consent and the basis for Institutional Review Board determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will employ one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This may be read to the subject or to his legally authorized representative, but in any event he or his legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his legally authorized representative. Sample copies of the consent form, as approved by the Board, are to be retained in its records.

(b) Provision of a "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his legally authorized representative. Written summaries of what is to be said to the subject are to be approved by the Board. The short form is to be signed by the subject or his legally authorized representative and by an auditor witness to the oral presentation and to the subject's signature. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the auditor witness. Sample copies of the consent

form and of the summaries as approved by the Board are to be retained in its records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the Board and the institution to establish: (1) That the risk to any subject is minimal, (2) That use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and (3) That any reasonable alternative means for attaining these objectives would be less advantageous to the subjects. The Board's reasons for permitting the use of modified procedures must be individually and specifically documented in the minutes and in reports and Board actions to the files of the institution. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

§ 745.11 Submission and certification of applications and proposals—general assurances.

(a) *Timely review.* Any institution having an approved general assurance shall indicate in each application or proposal for support of activities covered by this part (or in a separate document submitted with such application or proposal) that it has on file with ERDA such an assurance. In addition, unless the Administrator otherwise provides, each such application or proposal must be given review and, when found to involve subjects at risk, approval, prior to submission, or a written assurance must be submitted that a review is planned or in progress and that the results of the review will be received by the administrator no later than 60 days after the date of submission to ERDA. In the event the Administrator provides for the performance of institutional review of an application or proposal after its submission to ERDA, processing of such application or proposal by ERDA will under no circumstances be completed until such institutional review and approval has been certified. Except where the institution determines that human subjects are not involved, the application or proposal should be appropriately certified in the spaces provided on forms, or one of the following certifications, as appropriate, should be typed on the lower or right-hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the institution.

Human Subjects: Reviewed, Not at Risk

(Date)

Human Subjects: Reviewed, at Risk, Approved.

(Date)

(b) *Applications and proposals not certified.* Applications and proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the institution concerned.

§ 745.12 Submission and certification of applications and proposals, special assurances.

(a) Except as provided in paragraph (b) of this section, institutions not having an approved general assurance shall submit in or with each application or proposal for support of activities covered by this part a separate special assurance and certification of its review and approval.

(b) If the Administrator so provides, the assurance which must be submitted in or with the application or proposal under paragraph (a) of this section need satisfy only the requirements of § 745.7(a) and (b) of this Part. Under such circumstances, processing of such application or proposal by ERDA will not be completed until a further assurance satisfying the remaining requirements of § 745.7 has been submitted to ERDA.

(c) An assurance and certification prepared in accordance with this part and approved by ERDA shall be considered to have met the requirement for certification for the initial agreement period concerned. If the terms of the agreement recommend additional support periods, each application or proposal for continuation or renewal of support must satisfy the requirements of this section or 745.11, whichever is applicable at the time of its submission.

§ 745.13 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications or proposals are submitted with the knowledge that subjects are to be involved within the support period, but definite plans for this involvement would not normally be set forth in the application or proposal. These include such activities as (a) Institutional-type grants where selection of projects is the responsibility of the institution, (b) Training grants where training projects remain to be selected, and (c) Research, pilot, or developmental studies in which involvement depends upon such things as the completion of instruments, or of prior animal studies, or upon the purification of compounds. Such applications or proposals shall be reviewed and certified in the same manner as more definitive applications or proposals. The initial certification indicates institutional approval of the applications or proposals as submitted and commits the institution to later review of the plans when completed. Such later review and certification to ERDA should be completed prior to the beginning of the budget period during which actual involvement of human subjects is to begin. Review and certification to ERDA must in any event be completed prior to involvement of human subjects.

§ 745.14 Applications and proposals submitted with the intent of not involving human subjects.

If an application or proposal does not anticipate involving or intend to involve human subjects, no certification should be included with the initial submission of the application or proposal. In those instances, however, when later it becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved in accordance with the assurance of the institution prior to the involvement of subjects. In addition, no such activity shall be undertaken until the institution has submitted to ERDA: (a) A certification that the activity has been reviewed and approved in accordance with this part, and (b) A detailed description of the proposed activity (including any protocol, revised statement of work or similar document). Also, where support is provided by project grants or contracts, subjects shall not be involved prior to certification and institutional receipt of ERDA approval and, in the case of contracts, prior to negotiation and formal amendment of the contract statement of work.

§ 745.15 Evaluation and disposition of applications and proposals.

(a) Notwithstanding any prior review, approval, and certification by the institution, all applications or proposals submitted to ERDA involving human subjects at risk shall be evaluated by the Administrator for compliance with this part through such officers and employees of ERDA as he determines to be appropriate. This evaluation may take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others, and the importance of the knowledge to be gained.

(b) Disposition. On the basis of his evaluation of an application or proposal, pursuant to paragraph (a) of this section, and subject to such approval or recommendation by or consultation with appropriate councils, committees, or other bodies as may be required by law, the Administrator shall (1) Approve, (2) Defer for further evaluation, or (3) Disapprove support of the proposed activity in whole or in part. With respect to any grant or contract award or other agreement, the Administrator may impose conditions, including restrictions on the use of certain procedures or certain subject groups, or requiring use of specified safeguards or informed consent procedures when in his judgment such conditions are necessary for the protection of human subjects.

§ 745.16 Cooperative activities.

Cooperative activities are those which involve institutions in addition to the institution having an agreement with ERDA (herein referred to as, though not limited to, a grantee or prime contractor). Examples of cooperative activities are those of a contractor under a grantee or of a subcontractor under a

prime contractor. If, in such instances, the grantee or prime contractor obtains access to all or some of the subjects involved through one or more cooperating institutions, the basic ERDA policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Institutions with approved general assurances.* Initial and continuing review by the institution may be carried out by one or a combination of procedures:

(1) *Cooperating institution with approved general assurance.* When the cooperating institution has on file with ERDA an approved general assurance, the grantee or prime contractor may, in addition to its own review, request the cooperating institution to conduct an independent review, and to report its recommendations on those aspects of the activity that concern individuals for whom the cooperating institution has responsibility under its own assurance to the grantee's or prime contractor's Institutional Review Board. The grantee or prime contractor may, at its discertion, concur with or further restrict the recommendations of the cooperating institution. It is the responsibility of the grantee or prime contractor to maintain communication with the Boards of the cooperating institution. However, the cooperating institution shall promptly notify the grantee or contracting institution whenever the cooperating institution finds the conduct of the project or activity within its purview to be unsatisfactory.

(2) *Cooperating institution with no approved general assurance.* When the cooperating institution does not have an approved general asusrance on file with ERDA, ERDA may require the submission of a general or special assurance which, if approved, will permit the grantee or prime contractor to follow the procedure outlined in the preceding subparagraph.

(3) *Interinstitutional joint review.* The grantee or prime contracting institution may wish to develop an agreement with cooperating institutions to provide for an Institutional Review Board with representatives from cooperating institutions. Representatives of cooperating institutions may be appointed as ad hoc members of the grantee or contracting institution's existing Institutional Review Board or, if cooperating is on a frequent or continuing basis, as between a medical school and a group of affiliated hospitals, appointments for extended periods may be made. All such cooperative arrangements must be approved by ERDA as part of a general assurance, or as an amendment to a general assurance.

(b) *Institutions with special assurances.* While responsibility for initial and continuing review necessarily lies with the grantee or prime contracting institution, ERDA may also require approved assurance from those cooperating institutions having immediate responsibility for subjects. If the cooperating institution has on file with ERDA an approved general assurance, the grantee or prime contractor shall request the cooperating institution to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has responsibility. Such a request shall be in writing and should provide for direct notification of the grantee's or pmime contractor's Institutional Review Board in the event that the cooperating institution's Board finds the conduct of the activity to be unsatisfactory. If the cooperating institution does not have an approved general assurance on file with ERDA, it must submit to ERDA a general or special assurance which is determined by ERDA to comply with the provisions of this part.

§ 745.17 Investigational new drug 30-day delay requirement.

Where an institution is required to prepare or to submit a certification under §§ 745.11, 745.12, 745.13, or 745.14, and the application or proposal involves an investigational new drug within the meaning of The Food, Drug, and Cosmetic Act, the drug shall be identified in the certification, together with a statement that the 30-day delay required by 21 CFR 312.1(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects; or that the Food and Drug Administration has waived the 30-day delay requirement; provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to ERDA upon such expiration, or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 745.18 Institution's executive responsibility.

Specific executive functions to be conducted by the institution include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the Board's functions. Implementation of the Board's recommendations through appropriate administrative action and follow-up is a condition of ERDA approval of an assurance. Board approvals, favorable actions, and recommendations are subject to review and to disapproval or further restriction by the institution officials. Board disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of a Board described in the assurance approved by ERDA.

§ 745.19 Institution's records; confidentiality.

(a) Copies of all documents presented, or required for initial and continuing review by the Institutional Review Board, and documents such as Board minutes, records of subject's consent, transmittals on actions, instructions, and conditions resulting from Board deliberations addressed to the activity director, are to be retained by the institution permanently unless permission is obtained from the Administrator to destroy specific records.

(b) Except as otherwise provided by law, information in the records or possession of an institution acquired in connection with an activity covered by this part, which information refers to or can be identified with a particular subject, may not be disclosed except:

(1) with the consent of the subject or his legally authorized representative; or

(2) as may be necessary for the Administrator to carry out his responsibilities under this part.

§ 745.20 Reports.

Each institution with an approved assurance shall provide the Administrator with such reports and other information as the Administrator may, from time to time, prescribe.

§ 745.21 Early termination of awards; evaluation of subsequent applications and proposals.

(a) If, in the judgment of the Administrator, an institution has failed materially to comply with the terms of this policy with respect to a particular ERDA agreement, he may require that said agreement be terminated or suspended in the manner prescribed in applicable regulations.

(b) In evaluating applications or proposals for support of activities covered by this part, the Administrator may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) Whether the applicant or offeror has been subject to a termination or suspension under paragraph (a) of this section, (2) Whether the applicant, offeror, or the person who would direct the scientific and technical aspects of an activity has, in the judgment of the Administrator, failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not ERDA funds were involved, and (3) Whether, where past deficiencies have existed in discharging such responsibility, adequate steps have, in the judgment of the Administrator, been taken to eliminate these deficiencies.

§ 745.22 Conditions.

The Administrator may, with respect to any agreement or any class of agreements, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

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Title 12—Banks and Banking

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

PART 4—DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

Revision of List of Forms Currently in Use

This amendment is issued under authority of the National Bank Act, 12 U.S.C. 1 et seq., pursuant to the requirement of 5 U.S.C. 552 that each agency publish in the FEDERAL REGISTER descriptions of agency forms and instructions which are available to and which may be obtained by the public. The amendment

revises 12 CFR 4.13 which lists the numbered forms currently used by the Comptroller of the Currency.

The Administrative Procedure Act does not require public procedures and delayed effectiveness in connection with rules of agency organization, procedure or practice. The amendment will therefore become effective on November 30, 1976.

12 CFR 4.13 is amended by revising paragraph (a) to read as follows:

§ 4.13 Forms and instructions.

(a) *Numbered Forms.* The following numbered forms of the Comptroller of the Currency are currently in use:

CC 1400–OX: Officers' Direct and Indirect Indebtedness to Own and/or Other Banks.
CC 1401–OX: Verifying Balances, Public Officials.
CC 1402–OX: Verification of Collateral.
CC 1403–OX: Verification of Series E Bonds.
CC 1404–OX: Request for Detailed Statement of Account.
CC 1405–OX: Transmitting Copy of Electronic Data Processing Report of Examination Independent Servicer.
CC 1406–OX: Transmitting Copy of Electronic Data Processing Report of Examination Servicer-Bank.
CC 1407–OX: Requesting statement of Account of Correspondent.
CC 1408–OX: Request for Bank Statement.
CC 1409–OX: Cash Sheet.
CC 1410–OX: Due from Bank Reconcilement.
CC 1411–OX: Transcript of Account.
CC 1412–OX: Verification Sheet.
CC 1413–AX: Verification of Loan Participants.
CC 1413–OX: Verification Notes Forwarded for Collection.
CC 1422–OX: National Bank Examiner's Seal.
CC 1423–OX: Transmitting Copy of Report of Examination.
CC 1424–OX: Assets to be Charged off by National Bank Examiner.
CC 1425–BX: Report of Examination—Branch.
CC 1425–CL: Examiner's Checklist for Guidance in Determining Compliance.
CC 1425–CX: Examination Report (Cover).
CC 1425–FX: Branch Policies and Practices.
CC 1425–OX: Report of Examination—Main Office.
CC 1426–BX: Confidential Information of the Comptroller of the Currency—Branch.
CC 1426–OX: Confidential Memorandum to the Comptroller of the Currency—Main Office.
CC 1427–OX: Voluntary charge offs of Installment Loans.
CC 1431–OX: Examiner to Cashier Enclosing Checks.
CC 1432–OX: Special Report of Bank Examiner.
CC 1435–DP: Cashier's Report to Bank Examiner (City Banks).
CC 1435–OX: Cashier's Report to Bank Examiner (City Banks).
CC 1436–OX: Report of Status of Examinations.
CC 1440–OX: Report of the Condition of the Trust Department.
CC 1450–OX: Electronic Data Processing Examination Report.
CC 1455–OX: Examination of National Banks Receiving Electronic Data Processing Servicing.
CC 1465–OX: Report of Examination Affiliates.
CC 1485–OX: Investment Sheet (Trust Department).
CC 1486–OX: Real Estate Mortgage (Trust Department).
CC 1487–OX: Account Sheet (Individual) (Trust Department).
CC 1488–OX: Corporate Trust Work Sheet (Trust Department).
CC 1600–AX: Examiner's Credit Line Sheet.
CC 1601–OX: Personal, Farm or Ranch Statement.
CC 1602–AX: Fiscal Interim Statement.
CC 1603–OX: Financial Statement—Business (Vertical).
CC 1603–OX: Fiscal Interim.
CC 1604–OX: Real Estate Mortgage.
CC 1605–OX: Consumer Finance—Indirect Line.
CC 1606–OX: Consumer Finance—Past Due Loans.
CC 1607–OX: File Comments, Trade Checking, Credit Investigations, Average Balances, et cetera.
CC 6046–02: Bond for Lost Receiver's Certificate and in Lieu of Administration.
CC 6046–03: Affidavit of Loss of Receiver's Certificate.
CC 6046–04: Bond in Lieu of Administration.
CC 6046–05: Affidavit Relative to Death of Claimant.
CC 6046–06: Received from the Comptroller of the Currency (Receipt).
CC 6046–07: Release.
CC 6061–07: Transmittal of Analysis Record Change/s Form.
CC 6061—08: Analysis System ADP Up-Date Processing Transmittal.
CC 6061–09: Transmittal of Long Range Planning Report Master Record Change/s.
CC 6061–10: Long Range Planning Regional Data Card.
CC 6061–11: Vital Records Shipment Log.
CC 6061–12: Vital Records Identification Label.
CC 7020–01: Letter of instruction to applicant for a new bank charter.
CC 7020–02: Application to Organize a National Bank.
CC 7020–03: Confidential, Biographical, and Financial Report.
CC 7020–04: Supplement to Application to Organize a National Bank.
CC 7020–05: Confidential Memorandum to the Comptroller of the Currency on an Application for Permission to Organize a National Bank.
CC 7020–06: Confidential Memorandum to the Comptroller of the Currency—Application for Permission to Organize an Interim National Bank.
CC 7020–07: Regional Office Procedures—Charter Applications.
CC 7020–08: Regional Office Procedures—Interim Bank Applications.
CC 7020–09: Regional Office Procedures—New Bank Organization.
CC 7020–10: Washington Office Procedures—Charter Applications.
CC 7020–11: Washington Office Procedures—Interim Bank Applications.
CC 7020–12: Washington Office Procedures—New Bank in Organization.
CC 7020–13: Charter Processing Checklist.
CC 7020–14: New Bank in Organization Processing Checklist.
CC 7020–15: Charter Application—Review for Accuracy and Completeness.
CC 7020–16: New Bank in Organization—Review for Accuracy and Completeness.
CC 7020–17: Legal Notice—Application to Organize a National Bank.
CC 7020–18: Legal Notice—Application to Organize a National Bank (Interim Bank).
CC 7020–19: Instructions for Organization of a new National Bank after Receipt of the Comptroller's Preliminary Approval.
CC 7020–20: Organization Certificate.
CC 7020–21: Sample Waiver of Notice of First Meeting of Organizers.
CC 7020–22: Sample Minutes of First Meeting of Organizers.
CC 7020–23: Sample Waiver of Notice of First Meeting of Interim Board of Directors.
CC 7020–24: Sample Minutes of First Meeting of Interim Board of Directors.
CC 7020–25: Joint Oath of Interim Directors.
CC 7020–26: Oath of Interim Director.
CC 7020–27: List of Interim Directors.
CC 7020–28: Sample Stock Certificate.
CC 7020–29: Sample Subscription Offer.
CC 7020–30: Certificate of Payment of Capital Stock and Compliance with Legal Requirements.
CC 7020–31: Sample Notice of First Meeting of Shareholders.
CC 7020–32: Sample Proxy Statement—First Meeting of Shareholders.
CC 7020–33: Sample Proxy—First Meeting of Shareholders.
CC 7020–34: Sample Minutes of First Meeting of Shareholders.
CC 7020–35: Sample Waiver of Notice of First Meeting of Directors.
CC 7020–36: Sample Minutes of First Meeting of Directors.
CC 7020–37: Instructions for Pre-Opening Review.
CC 7020–38: Final Status Report.
CC 7020–39: Sample Notice (Publication of Charter).
CC 7020–40: Affidavit of Publication of Charter.
CC 7021–01: Application to Establish a Branch.
CC 7021–02: Confidential Memorandum—Branch Application.
CC 7021–03: Regional Office Procedures—Branch Applications.
CC 7021–04: Branch Processing Checklist.
CC 7021–05: Branch Application—Review for Accuracy and Completeness.
CC 7021: Application to Establish CBCT Branch.
CC 7022–01: Application to Convert to a National Banking Association.
CC 7022–02: Confidential Memorandum—Application for Permission to Convert to a National Bank.
CC 7022–03: Regional Office Procedures—Conversion Applications.
CC 7022–04: Washington Office Procedures—Conversion Applications.
CC 7022–05: Conversion Processing Checklist—State Chartered Institution to a National Banking Association (Regional Office).
CC 7022–06: Conversion Processing Checklist—State Chartered Institution to a National Banking Association (Washington Office).
CC 7022–07: Conversion Processing Checklist—National Bank to a State Chartered Institution (Regional Office).
CC 7022–08: Conversion Processing Checklist—National Bank to a State Chartered Institution (Washington Office).
CC 7022–09: Conversion Application—Review for Accuracy and Completeness.
CC 7022–10: Instructions for Preparation of Forms for Conversion.
CC 7022–11: Authority for conversion of Financial Institution.
CC 7022–12: Organization Certificate (Conversion).
CC 7022–13: Corporate Resolution—Board of Directors.
CC 7022–14: Secretary's Certificate—Shareholders' Resolution.
CC 7023–01: General Instructions and Procedures for the Preparation of an Application for Merger.
CC 7023–02: Application for Approval to (*Merge, Consolidate, Purchase*).
CC 7023–03: General Instructions and Procedures for the Preparation of an Application for Merger—Corporate Reorganization.
CC 7023–04: Application for Approval to (Merger, Consolidate, Purchase)—Corporate Reorganization.
CC 7023–05: Agreement to Merge.
CC 7023–06: Agreement of Consolidation.
CC 7023–07: Purchase Agreement.
CC 7023–08: Confidential Memorandum—Application for Approval to (Merge, Consolidate, Purchase).

CC 7023-09: Regional Office Procedure—Merger Applications.
CC 7023-10: Washington Office Procedures—Merger Applications.
CC 7023-11: Merger Processing Checklist—Regional Office.
CC 7023-12: Merger Processing Checklist—Washington Office.
CC 7023-13: Sample Publication Notice—Mergers.
CC 7023-14: Secretary's Certificate—Publication Completion.
CC 7023-15: Sample Shareholders' Meeting Notice—Mergers.
CC 7023-16: Secretary's Certificate—Shareholders' Ratification of Merger Agreement.
CC 7024-01: Application for Fiduciary Powers.
CC 7024-02: Confidential Memorandum—Application for Fiduciary Powers.
CC 7024-03: Regional Office Procedures—Application for Fiduciary Powers.
CC 7024-04: Fiduciary Powers Processing Checklist.
CC 7024-05: Fiduciary Powers Application—Review for Accuracy and Completeness.
CC 7025-01: Application to Establish an Operating Subsidiary.
CC 7025-02: Application to Acquire an Operating Subsidiary.
CC 7025-03: Confidential Memorandum—Application to Establish an Operating Subsidiary.
CC 7025-04: Confidential Memorandum—Application to Acquire an Operating Subsidiary.
CC 7025-05: Regional Office Procedures—Operating Subsidiary Applications.
CC 7025-06: Operating Subsidiary (Establishment Processing Checklist).
CC 7025-07: Operating Subsidiary (Acquisition Processing Checklist).
CC 7025-08: Operating Subsidiary Application—Review for Accuracy and Completeness (de novo).
CC 7025-09: Operating Subsidiary Application—Review for Accuracy and Completeness (Acquisition).
CC 7026-01: Application for a Change in Corporate Title.
CC 7026-02: Confidential Memorandum—Application for Title Change.
CC 7026-03: Regional Office Procedures—Title Change Applications.
CC 7026-04: Corporate Title Change Processing Checklist.
CC 7026-05: Corporate Title Change Application—Review for Accuracy and Completeness.
CC 7027-01: Application for Change in Location of Head Office or Branch.
CC 7027-02: Application for a New Head Office (New Primary Service Area).
CC 7027-03: Application for a Branch Relocation.
CC 7027-04: Confidential Memorandum—Application for a Change of Location.
CC 7027-05: Regional Office Procedures—Applications for Location Changes.
CC 7027-06: Relocation of Head Office or Branch Processing Checklist (Same Primary Service Area).
CC 7027-07: Relocation of Head Office Processing Checklist (New Primary Service Area).
CC 7027-08: Change in Location Application—Review for Accuracy and Completeness (Same Primary Service Area).
CC 7027-09: Change in Location Application—Review for Accuracy and Completeness (Change in Primary Service Area).
CC 7028-01: Application for a Change in Equity Capital.
CC 7028-02: Application for Issuance of Subordinated Notes or Debentures.
CC 7028-03: Application for Issuance of Preferred Stock.
CC 7028-04: Confidential Memorandum—Application for Subordinated Note or Debenture.
CC 7028-05: Confidential Memorandum—Application for Issuance of Preferred Stock.
CC 7028-06: Instructions to Applicant—Stock Option or Stock Purchase Plans.
CC 7028-07: Instructions to Applicant—Decrease in Common or Preferred Stock.
CC 7028-08: Certificate of Payment for Additional Common Stock.
CC 7028-09: Certificate of Payment for Additional Common Stock (For Assets).
CC 7028-10: Certificate of Payment for Subordinated Notes or Debentures.
CC 7028-11: Certificate of Payment for the Issuance of Preferred Stock.
CC 7028-12: Certificate of Declaration—Stock Dividend.
CC 7028-13: Certificate of Increase in Capital by Change in Par Value.
CC 7028-14: Certificate of Completed Reduction in Outstanding Common Stock.
CC 7028-15: Certificate of Completed Changes in Outstanding Common Stock.
CC 7028-16: Certificate of Completed Reduction in Outstanding Preferred Capital Stock.
CC 7028-17: Certificate of Conversion of Preferred Stock.
CC 7028-18: Certificate of Completed Reduction in Outstanding Subordinated Notes or Debentures.
CC 7028-19: Certificate of Conversion of Subordinated Notes or Debentures.
CC 7028-20: Certificate of Approval—Common Stock Sale, Stock Dividend, and Issue of Previously Authorized but Unissued Shares.
CC 7028-21: Certificate of Approval—Increase in Par Value.
CC 7028-22: Certificate of Approval—Reduction in Par Value.
CC 7028-23: Certificate of Approval—Issuance of Preferred Stock.
CC 7028-24: Certificate of Approval—Issuance of Debentures Approved by Shareholders.
CC 7028-25: Certificate of Approval—Issuance of Notes.
CC 7028-26: Certificate of Approval—Issuance of Notes Approved by Shareholders.
CC 7028-27: Certificate of Approval—Issuance of Debentures Approved by Board of Directors.
CC 7028-28: Regional Office Procedures—Capital Applications.
CC 7028-29: Capital Processing Checklist.
CC 7028-30: Capital Application—Review for Accuracy and Completeness.
CC 7028-31: Secretary's Certificate—Shareholders' Resolutions and Amendments.
CC 7029-01: Regional Office Procedures—Public Hearings.
CC 7029-02: Notice of Hearing.
CC 7029-03: Procedures to be Observed at Public Hearings.
CC 7029-04: Sample Articles of Association.
CC 7029-05: Sample By-Laws.
CC 7029-06: Joint Oath of Directors.
CC 7029-07: Oath of Director.
CC 7029-08: List of Directors.
CC 7029-09: Sample Resolutions and Amendments to Articles of Association.
CC 7029-10: Charge-out Card.
CC 7029-11: Protest Sheet.
CC 7029-12: Change in Ownership of National Bank.
CC 7029-13: Report of Progress of Liquidation.
CC 7029-14: Notice of Shareholders Meeting (Voluntary Liquidation).
CC 7029-15: Resolution for Voluntary Liquidation.
CC 7029-16: Resolutions for Voluntary Liquidation—Purchase and Sale.
CC 7029-17: Publication Notice of Liquidation.
CC 1029-18: Cashier's Certificate on Adoption of Amended By-Laws.
CC 7510-03: Trust Department Annual Report.
CC 7510-04: Quarterly Report.
CC 7510-05: Annual Report of Equity Securities.
CC 7610-01: Notice of International Activity.
CC 7610-02: Report of International Activity.
CC 7610-03: Correction Transmittal—Call Items.
CC 7610-04: Transmittal of Foreign Branch Changes.
CC 7610-05: Abstracting for Foreign Branches.
CC 8010-01: Subpoena.
CC 8010-02: Subpoena Duces Tecum.
CC 8010-03: Violation of Law.
CC 8010-04: Summary of Bank Shortages Reported to United States Attorney During the Year of 19____
CC 8010-05: Form F-7, Initial Statement of Beneficial Ownership of Securities:
CC 8010-06: Form F-8, Statement of Changes in Beneficial Ownership of Securities.
CC 8013-02: Disclosure Check List (Truth in Lending).
CC 8013-05: Survey of Personal Property Lease Financing Transactions Beneficial Ownership Reports Log.
CC 8015-01: Beneficial Ownership Reports Log.
CC 8015-02: Registration Record.
CC 8021-01: Correction Transmittal—For Common Trust Fund Survey.
CC 8021-02: Transmittal of Common Trust Fund Data Base Changes.
CC 8021-03: Transmittal of Trust Department Annual Changes.
CC 8022-01: Foreign Branch Report of Condition.
CC 8022-03: Computation of Weekly Average Reserve to be Carried Two Weeks Hence with Approved Reserve Agencies by Nonmember Banks and Trust Companies in the District of Columbia.
CC 8022-04: Bank Liquidity Analysis.
CC 8022-05: Consolidated Report of Condition (White) (Domestic Only).
CC 8022-06: Consolidated Report of Condition (Green) (Domestic Only).
CC 8022-07: Past Due Loans.
CC 8022-05: Form Letter for Reporting Corrections on Bank's Report of Income and Dividends.
CC 8022-09: Change Notice—Foreign Branch Master File.
CC 8022-10: Maturity Schedule of Assets and Liabilities (1-75).
CC 8022-11: Report of Reserve Held.
CC 8022-12: Schedule K Memorandum Supplement to Domestic Officers Report of Condition.

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CC 8022-13: Request for Public Documents.
CC 8022-14: Consolidated Report of Income (Including Domestic Subsidiaries).
CC 8022-18: Consolidated Report of Condition (White) (Including Domestic and Foreign Subsidiaries).
CC 8022-19: Consolidated Report of Condition (Green) (Including Domestic and Foreign Subsidiaries).
CC 8022-20: Report of Condition Schedule B Par Value of Securities Issued by the U.S. Treasury and by other U.S. Government Agencies.
CC 8022-21: Acquisition Guidance Letter Consolidated Report of Income.
CC 8022-22: Supplemental Information—Report of Condition (Form Letter).
CC 8022-23: Report of Net Deposits and Reserve Required of Nonmember banks in the District of Columbia.

CC 8022-24: Corrections to Credit Card Date.
CC 8022-25: Corrections to Bank Liquidity Analysis Data.
CC 9000-01: External Crimes Against National and District Banks.
CC 9000-02: Action Management System.
CC 9000-03: Action Management System (Sequential File).
CC 9020-01: Request for FBI Name Check.
CC 9030-01 Report of Security Devices.
CC 9030-02: Report of Crime.
CC 9030-03: Analysis of Earnings and Expenses.
CC 9030-04: Equal Opportunity Report.
CC 9030-05: Record of Defalcation.
CC 9030-06: Report of Pledged National Bank Stock.
CC 9030-07: Report of Officers' Borrowings at other Banks.
CC 9030-08: National Bank's Defalcations of $10,000 or More.
CC 9030-09: Direct Verification Deposits Negative.
CC 9030-10: Check Accounts Negative.
CC 9030-11: Loans Negative.
CC 9030-12: Closed Accounts Negative.
CC 9030-13: Deposits Positive.
CC 9030-14: Check Accounts Positive.
CC 9030-15: Loans Positive.
CC 9030-16: Visitation Report.
CC 9030-17: Examination Report Record.
CC 9030-20: Comment Sheet.
CC 9030-21: Analysis Sheet.
CC 9030-22: Liquidity Analysis Sheet.
CC 9030-25: Violation of Law.
CC 9030-27: Small Business Administration Loans.
CC 9030-28: Report of Credit and Financial Relationships of Banks and Bank Holding Companies with Real Estate Investment Trusts ("REITs").
CC 9030-29: Statement of Interest of Directors and Principal Officers of National Banks.

Effective date: These amendments are effective November 30, 1976.

Dated: November 19, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-34846 Filed 11-29-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

PART 590—RULES AND PROCEDURES OF THE FEDERAL COCHAIRMEN

SUBPART B—FOUR CORNERS REGIONAL COMMISSION

Notice is given that the Federal Cochairman of the Four Corners Regional Action Planning Commission has adopted and made applicable to the employees of the Office of the Federal Cochairman the rules of the United States Department of Commerce regarding Employee Responsibilities and Conduct. Because the employees affected have been notified of this action, the provisions of 5 U.S.C. 553 are not applicable and the following rule is effective on November 30, 1976.

Subpart B is added, as designated above, and § 590.10 under Subpart B, is added as follows:

§ 590.10 Employee responsibilities and conduct.

The Federal Cochairman of the Four Corners Regional Action Planning Commission adopts and makes applicable to employees of the Office of the Federal Cochairman the rules of the United States Department of Commerce regarding Employee Responsibilities and Conduct. These rules of the Department of Commerce have heretofore been approved by the Civil Service Commission and appear in the Code of Federal Regulations as Title 15, Subtitle A, Part O.

(42 U.S.C. 3181 et seq.)

Dated: November 15, 1976.

STANLEY WOMER,
Federal Cochairman, Four Corners Regional Action Planning Commission.

[FR Doc.76-34922 Filed 11-29-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM76-10; Order No. 556]

RATE SCHEDULE ANALYSIS ON A CONTINUING CURRENT BASIS: FPC FORM NO. 108

Miscellaneous Changes

NOVEMBER 22, 1976.

On December 17, 1975, the Commission issued a Notice of Proposed Rulemaking in which the Commission stated its intention to amend §§ 154.92, 260.6, and 3.170(a)(17) of its Regulations to require that all natural gas companies required to file, initially or as an amendment, a rate schedule with the Commission must also file new FPC Form No. 108.

The purpose of the proposed form is to provide the Commission with current information on the amount of gas flowing in interstate commerce, give a detailed breakdown of the important provisions of all rate schedules, serve as a data base for estimating the revenue impact of nationwide and/or area ratemaking proposals, and permit the determination of the potential effects of periodic price escalations and indefinite price provisions. In addition, the proposed form is intended to procure the information necessary to implement the Commission's statement of policy in Order No. 539.[1]

Proposed Form No. 108, as revised, is divided into six major schedules, numbered 501 through 505, and 507, plus Schedule 0000 for footnotes, Schedule 1000 for any supporting documentation deemed necessary by the respondent, and a schedule to identify the name of the party to contact regarding the form. Schedule 501 will show summary sales volumes and revenue data for jurisdictional sales. Schedule 502 will show the rate schedule number, the date of the contract, the location of the producing acreage, the type of filing and term of the contract, certificate information and quality specifications. Schedule 503 will elicit data pertaining to indefinite pricing clauses, contract tax reimbursement provisions, fixed periodic rate increase provisions, seller additive or buyer deductive charge provisions, actual delivery pressure and Btu content. Schedule 504 will reflect the current effective and proposed rates and their present status under the rate schedule. Schedule 505 will list any other parties whose interest is being sold under a rate schedule issued in the name of the filing party, the annual sales volumes attributable to each such party, the amount of any revenues collected by any party subject to refund, and projected deliveries for the next year. Schedule 507 will replace the form presently used for the submission of rate increase filings. Schedule 506 has been reserved for future Commission use.

With the exception of the Order No. 539-type data, information similar to that proposed to be collected on Form No. 108 had previously been gathered on various FPC forms, including contract analysis data collected pursuant to an August 1973 order in Docket No. R-478. In order to minimize the burden on respondents, the Commission has agreed to undertake the transfer of the previously filed contract analysis material to the new form, leaving the party filing the form with the obligation only to verify the information and complete the newly requested items.

The Notice provided a period for comments on the proposed rulemaking and comments were filed by forty parties. The objections to the form were of five particular types: (a) Arguments against the information to be collected in furtherance of Order No. 539, (b) opposition to the producer rather than the Staff updating the previously filed data, (c) disagreement with the requirement to file the form on magnetic tape, (d) objection to gathering information on actual gas treating and quality costs, and (e) requests for clarification or modification of the instructions and the format of the proposed submittal. As to the latter, having carefully considered all such comments, the Commission has modified and clarified Form No. 108 to conform to the requested changes.

The purpose of Form No. 108 is to provide the Commission, by a standardized format adaptable to a computerized system, with a capability for review and analysis of all rate schedules currently on file or to be filed. Most of the information to be collected on Form No. 108 is now submitted on other forms which will be eliminated. Thus, the necessary data would now be filed on one form, thereby eliminating the burdensome effort of filing individual forms containing duplicative information. This consolidation of filing will assist all parties, including the Commission, since a centrally located information base will decrease the time presently required to process rate change applications, and will substantially re-

[1] Promulgating Statement of Policy, Order No. 539, Docket No. RM76-8, ------ FPC ------ (October 14, 1975), rehearing granted, Order Granting in Part and Denying in Part Reconsideration, Clarifying Order No. 539, Denying Stay, Noticing of Proposed Rulemaking, Noticing of Oral Argument and Granting Intervention, Order No. 539-A, ------ FPC ------ (March 26, 1976), Order Clarifying Prior Orders, Deleting Regulations, and Terminating Rulemaking Proceeding, Order No. 539-B, ------ FPC ------ (July 30, 1976).

duce the extensive data gathering necessary to national and/or area rate proceedings. The form will also provide an up-to-date information source on the volume of gas flowing in interstate commerce and the contractual provisions under which these supplies are being sold.

One of the major objections to the proposed form centered on Schedule 506, which was designed to implement Order No. 539. Pursuant to the Commission's action in Order No. 539–B, Schedule 506 has been deleted in its entirety. In its place respondents will be required to submit an estimate for the up-coming year of the volumes that are expected to be delivered under the subject rate schedule, the actual sales under the rate schedule for the current year, and in the initial reporting year only, the actual annual sales under the rate schedule for the four years prior to the current year. We find that this requirement of information to be submitted represents an inconsequential change from the data sought by the original Schedule 506 as it appeared in the Notice Of Proposed Rulemaking. Therefore, no further notice of this amendment to the form is necessary, especially since the burden of filing the revised material is substantially less than as originally constituted.

The historical sales volume data will permit the Commission to compute for future periods, by rate schedule, the rate of decline or increase of deliveries under that rate schedule. The Commission can then compare the rate-time performance projection with the current year deliveries and the projected succeeding year deliveries. To the extent that the filed data does not comport with the historical trend, further investigation by the Commission may be required. In addition to the material submitted on Form No. 108, data filed on Form Nos. 15 and 40 will be used to assist the Commission in determining where a more detailed inquiry is called for by providing information on nonproducing reservoirs and shut-in wells. This information will assist us in enforcing certificated obligations pursuant to the "prudent operator standard" enunciated in Order No. 539–B.

A second reason proposed by the respondents as to why the Commission should not issue the proposed form related to the burden of filing and the requirement to update the previously filed data. Since the objections regarding burden related predominantly to Schedule 506, which has been eliminated pursuant to Order No. 539–B, and since most of the remaining information is now filed with the Commission on other forms, the burden of submitting Form No. 108 prospectively is not judged to be an impediment to the promulgation of the form. There remains, however, the problems of the updating and whether small producers should be required to file.

The objecting parties contend that the Commission, rather than the producers, should undertake to update the previously filed data, which was completed through 1972. There are presently over 12,000 rate schedules on file with the Commission, of which approximately 7,300 are large producer pre-1972 rate schedules and 1,100 are large producer post-1972 rate schedules.

The Commission will undertake the burden of completing Form No. 108, as much as is possible from information presently on file, for all rate schedules currently on file with the Commission. In implementing the new system, and in order to reduce the potential filing burden on small producers, we will give all respondents who are eligible for small producer treatment but now maintain large producer rate schedules until December 31, 1976, to apply for small producer exemption. Since producers holding small producer certificates do not submit rate schedules to the Commission, small producers that take advantage of this grace period will not have to file Form 108; however, any producer that is eligible for small producer treatment but elects to retain its large producer rate schedule will be required to file the form.

Once the system is in operation, each year by December 31st the Commission will mail Schedules 501 and 505 to all respondents for completion and return by March 31st of the following year. Furthermore, effective as of January 1, 1977, any producer filing for a large producer certificate will also file Schedules 502, 503, and 504. Also as of that date all rate change filings formerly made on FPC Form No. 280 or pursuant to the form set out in Section 157.94(f) of the Commission's Regulations will be filed on Schedule 507 of Form No. 108.

For the initial reporting year, 1977, the Commission will, by December 15, 1976, mail all respondents the instructions, code books, and copies of the schedules to be used in future filings. By March 31, 1977, the Commission will transmit to all producers that complied with our August 1973 order in Docket No. R–478 a copy of the appropriate schedules of Form No. 108 filled out with the information currently on file with the Commission. By June 30, 1977, respondents will be required to verify the data on these schedules and complete any portions of Form No. 108 that request new information. All remaining rate schedules on file with the Commission will be transferred to the appropriate schedules of Form No. 108 for verification and completion by respondents during the upcoming year. The complete system would then be in operation by January 1, 1978. The Commission will also submit to the respondents Schedules 501 and 505, formerly Form Nos. 301–A and 301–B, as of January 1, 1977, to be completed per the instructions by March 31, 1977.

The Notice of Proposed Rulemaking stated that Form No. 108 should be submitted on magnetic tape. After reviewing the comments filed by the parties, we have determined that although this method would be extremely valuable to the Commission for administrative purposes, the problems involved outweigh the benefits. Therefore, we will not require filing on magnetic tape, but we do encourage producers to do so if possible. Instead, Commission personnel will undertake to computerize the forms as they are filed.

The only objection not dealt with above is the assertion that the Commission does not need information on pipeline-incurred gas treating and quality improvement costs to bring gas to pipeline quality. We will obtain such information from the pipelines' books and records when and as required. Therefore, treating costs will not be required. However, since the determination of gas quality standards is left to individual contract negotiations in the Commission's national rates,[2] it is important in our view to maintain records of the actual quality of gas being sold. Because of its specific reference to ratemaking and the general need to know the actual quality of gas being sold, the form will continue to require that these items be submitted.

The information to be submitted on the proposed form is necessary for the Commission to satisfy its regulatory responsibilities under the Natural Gas Act. In most instances we have revised our proposed form to reflect the comments of the respondents, when those amendments were in the public interest. The remaining objections we have discussed and dealt with previously. Therefore, on the basis of the entire record in this proceeding, it is determined that Form No. 108, as modified herein, should be adopted.

The promulgation of this form will eliminate the need to comply with all or portions of the following Commission Regulations, which are herewith deleted or amended to conform to this order: (a) Section 154.94(f) and alternative FPC Form No. 280, (b) Section 154.91(b)(3), (c) Sections 157.24 and 250.5, (d) Section 260.5, and (e) Section 260.6.

Once operational, the Form No. 108 program will enable the Commission to perform rate impact studies on the following bases: (a) nationally, (b) by consuming area, (c) on a particular pipeline, (d) on a particular producer, (e) by contract date, (f) by contract type, (g) by production area or state. Other anticipated purposes include a detailed delineation of producer refund obligations on the same criteria as set out above, the ability to monitor changes in contract and gas quality conditions in contracts

[2] Opinion Nos. 699, *et al.*, 51 FPC 2212 (1974), *aff'd, Shell Oil Company* v. *Federal Power Commission*, 520 F.2d 1061 (5th Cir. 1975), cert. denied, sub nom., *California Company, et al.* v. *F.P.C.*, Nos. 75–1289, *et al.*; Opinion And Order Establishing Just And Reasonable Rates, Opinion No. 749, Docket No. R–278, ——— FPC ——— (December 31, 1975), Interim Order Granting Rehearing for Purposes of Futher Consideration, Revising Filing Requirements, Correcting Omissions, And Staying Refund Disbursements, Opinion No. 749–A, Docket No. R–478, ——— FPC ——— (February 27, 1976), Order Granting Reconsideration And Modifying Opinion No. 749–A, Opinion No. 749–B, Docket No. R–478, ——— FPC ——— (March 31, 1976).

and the effect of those changes on consumers, and a decrease in the time required to process producer applications.

Several of the parties that filed comments on the proposed rulemaking requested a conference with the Staff to discuss the proposed form. Because of the elimination of Schedule 506 as it appeared in the Notice, the fact that the form collects formation that is now being filed with the Commission on existing forms, and the modifications to the instructions and format made at the suggestion of the respondents, a conference would not serve any useful purpose. Therefore, the requests for a conference are denied.

Pursuant to the requirements of 44 U.S.C. 3512, Form No. 108 was submitted to the Comptroller General for clearance on August 19, 1976. By letter dated October 6, 1976, the Commission received conditional acceptance of the form. We have reviewed the comments of the General Accounting Office (GAO) and we have amended our procedures to conform thereto. Therefore, we now consider the GAO clearance to be unconditional.

The Commission finds: (1) The notice and opportunity to participate in this proceeding with respect to the matter presently before the Commission through the submissions in writing are consistent and in accordance with all procedural requirements as prescribed in Section 553, Title 5 of the United States Code.

(2) The amendments to Part 260 of the Commission's Statements and Reports to add amended § 260.6, to Part 154 of the Commission's Rate Schedules and Tariffs to add new § 154.92(e), and to Part 3 of the Commission's Organization; operation; information and requests; miscellaneous charges; ethical standards to substitute for the present § 3.170 (a)(17) a revised version are necessary and appropriate for the administration of the Natural Gas Act.

(3) Sections 154.94(f), 154.91(b)(3), 157.24, 250.5, and 260.5 shall be amended pursuant to the provisions of the instant order.

The Commission orders: (A) The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Sections 8, 10, 14, 15, and 16 thereof (52 Stat. 825, 826, 828, 829, 830; 15 U.S.C. 717g, 717i, 717m, 717n, 717o) hereby orders the following amendments to its Rules and Regulations, effective January 1, 1977:

(a) Subparts (a) and (b) of § 260.6 of Part 260, Statements and Reports are deleted in their entirety. Substituted therefor is a new § 260.6, which would read as set forth below:

PART 3—ORGANIZATIONS: OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

(1) Part 3, Organization; operation information and requests; miscellaneous charges; ethical standards; Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by deleting in its entirety § 3.170(a)(17) and substituting therefore:

§ 3.170(a)(17) Form No. 108[3], rate schedule analysis on a continuing current basis.

(B) As of January 1, 1977, the following sections of the Commission's Regulations are amended as noted:

PART 154—RATE SCHEDULES AND TARIFFS

(2) Part 154, Rate Schedules and Tariffs in § 154.92—Filings of rate schedules by independent producer, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new subsection (e), which would read as follows:

§ 154.92 Filing of rate schedules by independent producer.

* * * * *

(e) Any jurisdictional natural gas company that maintains a rate schedule on file with the Commission or makes application to have a rate schedule approved by this Commission or modifies any existing or proposed rate schedule must, in addition to the requirements of this or any other section, complete and submit Form No. 108, or applicable schedules thereof, pursuant to the direction of § 260.6 of this chapter.

(13) FPC Form 280, an alternative to § 154.94(f), is no longer in effect. Section 154.94(f) is amended as follows:

§ 154.94 Changes in rate schedules.

* * * * *

(f) Notice of change in rate level. (1) An independent producer who is proposing a contractual change in rates, charges, etc., shall file the information called for in Schedule 507 of Form No. 108.

* * * * *

§ 154.91 [Removed]

(4) Section 154.91(b)(3) is deleted in its entirety.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

§ 157.24 [Amended]

(5) Section 157.24(a) is amended as follows:

(a) Every application for a certificate of public convenience and necessity required under § 157.23 shall be filed with the Commission. If the application is filed by an assignee seeking authority, as successor in interest, only to render service previously authorized by the Commission or to initiate service resulting from a farmout agreement, he shall describe the service to be continued (1) under the original F.P.C. Docket No(s), granting authorization to the assignor and (2) the proposed disposition of the assignor's F.P.C. Gas Rate Schedule(s), and, if applicable, in addition to the refund obligations required by § 154.92 (d)(3) indicate if the assignor intends to file bond or undertaking to assure total refund from the date increased rate of assignor becomes effective subject to refund or from date operation commenced under assignor's temporary certificate containing a refund condition, as the case may be. In addition, the application shall set forth in the order indicated the following:

[3] Form No. 108 is filed as a part of the original document.

PART 250—FARMS

§ 250.5 [Removed]

(6) Section 250.5 is deleted in its entirety.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

§ 260.5 [Removed]

(7) Section 260.5 is deleted in its entirety.

Subparts (a) and (b) of § 260.6 are deleted in their entirety. Substituted therefor is a new § 260.6, which reads as follows:

§ 260.6 Rate schedule analysis on a continuing current basis.

(a) The form of Rate Schedule Analysis Report as FPC Form No. 108 is prescribed for natural gas companies commencing January 1, 1977.

(b) Each person found by the Commission to be a natural gas company as defined by the Natural Gas Act, as amended, 52 Stat. 821, that is required to submit a rate schedule to the Commission pursuant to § 154.92 of the Regulations shall prepare and file with the Commission an original and 3 copies of the Rate Schedule Analysis Report, FPC Form No. 108, or the applicable schedules thereof, each and every time a rate schedule is either submitted to the Commission for the first time or a rate schedule presently on file with the Commission is proposed to be amended.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35071 Filed 11-29-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 76C-0464]

PART 8—COLOR ADDITIVES

Listing of Guaiazulene for Use In Externally Applied Cosmetics

The Food and Drug Administration (FDA) is "permanently" listing guaiazulene for use in externally applied cosmetics; effective January 3, 1977, objections by December 30, 1976.

A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200) stated that a petition (CAP 8C0070) for the "permanent" listing of azulene as a color additive for use in externally applied cosmetics had been filed by the Cosmetic, Toiletry and Fragrance Association (CTFA) (1133 15th St. NW., Washington, DC 20005), c/o Hazleton Labora-

tories, Inc., PO Box 30, Falls Church, VA 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

The Commissioner has evaluated the data in the petition and concludes that the color additive is safe under the conditions set forth below for use in coloring externally applied cosmetics and that certification is not necessary for the protection of the public health. This order "permanently" lists the color additive as guaiazulene, the nomenclature that more properly identifies the color additive that was the subject of the petition, for use in externally applied cosmetics under new § 8.8010 (21 CFR 8.8010). The provisional listing of azulene for use in externally applied cosmetics under § 8.501 (g) (21 CFR 8.501(g)), which was extended to December 31, 1976 by regulation published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41856) will be deleted when this order becomes effective on January 3, 1977 unless this order is stayed by the timely filing of objections, in which case the provisional listing will continue until December 31, 1976 unless terminated or extended by regulation.

Cosmetic labeling is required, under § 701.3 (21 CFR 701.3), to list the name of each color additive present as an ingredient in the finished cosmetic. Cosmetic labeling listing the color additive guaiazulene under its formerly accepted name "azulene" may be used until current supplies are exhausted or until January 3, 1978. In a separate action published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41855) terminating provisional listing for 10 color additives, the Commissioner concluded that 1 year would be sufficient time to permit the depletion of cosmetic labeling improperly identifying the substances as color additives. The Commissioner concludes that 1 year should also be sufficient time for depletion of existing stocks of labels declaring guaiazulene as "azulene."

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 8 of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

§ 8.501 [Amended]

1. In paragraph (g) of § 8.501 *Provisional lists of color additives*, the entry for azulene for use in externally applied cosmetics is deleted.

2. In Subpart H, new § 8.8010 is added to read as follows:

§ 8.8010 Guaiazulene.

(a) *Identity.* (1) The color additive, guaiazulene, is principally 1,4-diemethyl-7-isopropyl-azulene.

(2) Color additive mixtures of guaiazulene for cosmetic use may contain the following diluent:

Polyethylene glycol-40 castor oil (PEG–40 castor oil).
Saponification No., 60 to 70.
Hydroxyl No., 63 to 78.
Acid No., <2.
Specific gravity, 1.05 to 1.07.

(b) *Specifications.* Guaiazulene shall conform to the following specifications and shall be free from impurities, other than those named, to the extent that such other impurities may be avoided by good manufacturing practice.

Melting point, 30.5° C to 31.5° C.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 99 percent.

(c) *Uses and restrictions.* Guariazulene may be safely used in externally applied cosmetics in amounts consistent with good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive for the prescribed use is not necessary for the protection of the public health and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing order may at any time on or before December 30, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 8.19 (21 CFR 8.19). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This order shall become effective January 3, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: November 23, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-35126 Filed 11-29-76;8:45 am]

[Docket No. 76C-0044]

PART 8—COLOR ADDITIVES
PART 9—COLOR CERTIFICATION

Listing of D&C Blue No. 4 for Use in Externally Applied Drugs and Cosmetics

The Food and Drug Administration (FDA) is "permanently" listing D&C Blue No. 4 for use in externally applied drugs and cosmetics; effective January 3, 1977; objections by December 30, 1976.

A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9584) stated that a petition (CAP 9C0095) for the "permanent" listing of D&C Blue No. 4 as a color additive for use in externally applied drugs and cosmetics had been filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (1133 15th St. NW., Washington, DC 20005)), c/o Hazleton Laboratories, Inc., PO Box 30, Falls Church, VA 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

The Commissioner has evaluated the data in the petition and concludes that D&C Blue No. 4 is safe under the conditions set forth below for use in coloring externally applied drugs and cosmetics and that certification is necessary for the protection of the public health. This order "permanently" lists D&C Blue No. 4 for use in externally applied drugs and cosmetics under new §§ 8.4023 and 8.7034 (21 CFR 8.4023 and 8.7034). The provisional listing of D&C Blue No. 4 for use in externally applied drugs and cosmetics under § 8.501(b) (21 CFR 8.501(b)), which was extended to December 31, 1976, by regulation published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41856), will be deleted when this order becomes effective on January 3, 1977, unless this order is stayed by the timely filing of objections, in which case the provisional listing will continue until December 31, 1976 unless terminated or extended by regulation.

This order does not list D&C Blue No. 4 for use in lakes as requested in the petition. The Commissioner notes that proposed regulations related to the use of color additives in lakes were published in the FEDERAL REGISTER of May 11, 1965 (30 FR 6490). The Commissioner advises that new proposed regulations governing the use of color additives in lakes will be published in the FEDERAL REGISTER in the near future and concludes that the listing of colors for use in lakes can best be implemented by general regulations. D&C Blue No. 4 will, therefore, continue to be approved for use in lakes for coloring externally applied drugs and cosmetics under the general provisional listing

for "Lakes (D&C)" under § 8.501(b) (21 CFR 8.501(b)).

This order establishes specifications for the certification of batches of D&C Blue No. 4 that are more restrictive than those currently prescribed under § 9.240 (21 CFR 9.240). Additionally, the identity of the color has been revised to be consistent with current chemical nomenclature. The identity nomenclature and the specifications currently prescribed in § 9.240 become obsolete upon the effective date of new §§ 8.4023 and 8.7034. However, it is necessary to retain § 9.240 to provide for the use of the color additive in lakes. Accordingly, § 9.240 is revised to reference the identity nomenclature and specifications prescribed by § 8.4023.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), (d)) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) 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 8 and 9 are amended as follows:

1. Part 8 is amended:

§ 8.501 [Amended]

a. In paragraph (b) of § 8.501 *Provisional lists of color additives*, the entry for D&C Blue No. 4 for use in externally applied drugs and cosmetics is deleted.

b. In Subpart E, new § 8.4023 is added to read as follows:

§ 8.4023 D&C Blue No. 4.

(a) *Identity.* (1) The color additive D&C Blue No. 4 is principally the diammonium salt of ethyl[4-[*p*[ethyl(*m*-sulfobenzyl)amino] - α - (*o*-sulfophenyl)benzylidene] - 2,5 - cyclohexadien] - 1 - ylidene] (*m*-sulfobenzyl) ammonium hydroxide inner salt with smaller amounts of the isomeric diammonium salts of ethyl [4-[*p*-[ethyl(*p*-sulfobenzyl) amino]-α-(*o*-sulfophenyl) benzylidene]-2,5-cyclohexadien - I - ylidene](*p*-sulfobenzyl) ammonium hydroxide inner salt and ethyl[4-[*p*-[ethyl (*o*-sulfobenzyl)amino - α - (*o* - sulfophenyl)benzylidene) - 2,5 - cyclohexadien - 1 - ylidene](*o*-sulfobenzyl) ammonium hydroxide inner salt.

(2) Color additive mixtures for use in externally applied drugs made with D&C Blue No. 4 may contain only those diluents that are suitable and that are listed in Subpart F of this part for use in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* D&C Blue No. 4 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.

Water-insoluble matter, not more than 0.2 percent.

Leuco base, not more than 5 percent.

Sum of *o*-, *m*, and *p*-sulfobenzaldehydes, ammonium salt, not more than 1.5 percent.

N-ethyl,*N*-(*m*-sulfobenzyl) sulfanilic acid, ammonium salt, not more than 0.3 percent.

Subsidiary colors, not more than 6 percent.

Chromium (as Cr), not more than 50 parts per million.

Lead (as Pb), not more than 20 parts per million.

Arsenic (as As), not more than 3 parts per million.

Mercury (as Hg), not more than 1 part per million.

Total color, not less than 85 percent.

(c) *Uses and restrictions.* D&C Blue No. 4 may be safely used in externally applied drugs in amounts consistent with good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Certification.* All batches of D&C Blue No. 4 shall be certified in accordance with regulations in Subpart A of this part.

c. In Subpart G, new § 8.7034 is added to read as follows:

§ 8.7034 D&C Blue No. 4.

(a) *Identity and specifications.* The color additive D&C Blue No. 4 shall conform in identity and specifications to the requirements of § 8.4023(a)(1) and (b).

(b) *Uses and restrictions.* D&C Blue No. 4 may be safely used for coloring externally applied cosmetics in amounts consistent with good manufacturing practice.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 8.32.

(d) *Certification.* All batches of D&C Blue No. 4 shall be certified in accordance with regulations in Subpart A of this part.

2. Part 9 is amended by revising § 9.240 to read as follows:

§ 9.240 D&C Blue No. 4.

The color additive D&C Blue No. 4 shall conform in identity and specifications to the requirements of § 8.4023(a)(1) and (b) of this chapter. D&C Blue No. 4 is restricted to use in externally applied drugs and cosmetics.

Any person who will be adversely affected by the foregoing order may at any time on or before December 30, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 8.19 (21 CFR 8.19). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This order shall become effective January 3, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: November 23, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-35127 Filed 11-29-76;8:45 am]

[Docket No. 76C-0468]

PART 8—COLOR ADDITIVES

Listing of Iron Oxides for Use in Cosmetics

The Food and Drug Administration (FDA) is "permanently" listing iron oxides for use in cosmetics, generally, including those intended for use in the area of the eye; effective January 3, 1977; objections by December 30, 1976.

A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200) stated that a petition (CAP 9C0088) for the "permanent" listing of iron oxides as color additives for use in externally applied cosmetics, including lipsticks and those for use in the area of the eye, had been filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (1133 15th St. NW., Washington, D.C. 20005), c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9534) amended the filing of this petition to include the additional use of iron oxides in all types of cosmetics subject to ingestion.

The Commissioner has evaluated the data in the petition and concludes that iron oxides are safe under the conditions set forth below for use in coloring cosmetics generally, including those intended for use in the area of the eye, and that certification is not necessary for the protection of the public health. This order "permanently" lists iron oxides for use in cosmetics, including those for use in the area of the eye, under new § 8.8009 (21 CFR 8.8009). The provisional listing of iron oxides (including hydrated iron oxides) for use in cosmetics under § 8.501(g) (21 CFR 8.501(g)), which was extended to December 31, 1976 by regulation published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41856) will be deleted when this order becomes effective on January 3, 1977, unless this order is stayed by the timely filing of ob-

jections, in which case the provisional listing will continue until December 31, 1976 unless terminated or extended by regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 8 is amended as follows:

§ 8.501 [Amended]

1. In paragraph (g) of § 8.501 Provisional lists of color additives, the entry for iron oxides (including hydrated iron oxides) for use in cosmetics is deleted.

2. In Subpart H, new § 8.8009 is added to read as follows:

§ 8.8009 Iron oxides.

(a) *Identity.* The color additives iron oxides consist of any one or any combination of synthetically prepared iron oxides, including the hydrated forms. It is free from admixture with other substances.

(b) *Specifications.* Iron oxides shall conform to the following specifications, all on an "as is" basis:

Arsenic (as As), not more than 3 parts per million.
Lead (as Pb), not more than 10 parts per million.
Mercury (as Hg), not more than 3 parts per million.

(c) *Uses and restrictions.* Iron oxides are safe for use in coloring cosmetics generally, including cosmetics applied to the area of the eye, in amounts consistent with good manufacturing practice.

(d) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

Any person who will be adversely affected by the foregoing order may at any time on or before December 30, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 8.19 (21 CFR 8.19). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 3, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: November 23, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-35128 Filed 11-29-76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Furosemide Tablets or Boluses

The Food and Drug Administration approves a supplemental new animal drug application (34–621V), filed by Hoechst-Roussel Pharmaceuticals, Inc., Route 202–206, Somerville, NJ 08876, proposing safe and effective use of furosemide boluses for cattle as a diuretic-saluretic for the treatment of physiologic parturient edema of the mammary gland and associated structures. The supplemental application approval is effective November 30, 1976.

The Commissioner of Food and Drugs is amending Part 520 (21 CFR Part 520) to reflect this approval and the conditions of use for which the drug had been approved before the effective date of the Animal Drug Amendments of 1968 (Pub. L. 90–399, 82 Stat. 343–351 (21 U.S.C. 360b note)).

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 of 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 20857, between the hours of 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under provisions of 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)), Part 520 is amended by adding a new § 520.1010 to read as follows:

§ 520.1010 Furosemide tablets or boluses.

(a) *Specifications.* Each tablet contains 12.5 or 50 milligrams of furosemide. Each polus contains 2 grams of furosemide.

(b) *Sponsor.* See No. 000039 in § 510.600 (c) of this chapter.

(c) *Conditions of use.* It is used as follows:

(1) *Dogs and cats*—(i) *Amount.* 1 to 2 milligrams per pound of body weight, once or twice daily, with a 6- to 8-hour interval between successive daily doses.

(ii) *Indications for use.* It is used for the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(iii) *Limitations.* The dosage should be adjusted to the animal's response. In severe edematous or refractory cases, the dosage may be doubled or increased by increments of 1 milligram per pound of body weight to establish the effective dose. This dose should be administered once or twice daily on an intermittent schedule. Diuretic therapy should be discontinued after reduction of edema, or when necessary, maintained after determining a programmed dosage schedule to prevent recurrence. The drug, if given in excessive amounts or over extended periods of time may result in dehydration and/or electrolyte imbalance. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Amount.* 1 to 2 milligrams per pound of body weight, or one 2-gram bolus per animal, per day.

(ii) *Indications for use.* The drug is used for the treatment of physiological parturient edema of the mammary gland and associated structures.

(iii) *Limitations.* Treatment not to exceed 48 hours post-parturition. For oral use only. When treatment is initiated with an injectable, it is followed by a 12-hour interval, and maintained by oral administration. Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment. The drug, if given in excessive amounts or over extended periods of time, may result in dehydration and/or electrolyte imbalance. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation shall be effective November 30, 1976.

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

Dated: November 23, 1976.

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

[FR Doc.76-35124 Filed 11-29-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 655—TRAFFIC OPERATIONS

SUBCHAPTER J—HIGHWAY SAFETY

PART 920—PAVEMENT MARKING DEMONSTRATIONS PROGRAM

Establishment of Subchapter and Revision of Rules

• *Purpose.* The purpose of this document is to establish a new subchapter and to amend regulations related to the pavement marking demonstration program to reflect changes made by section 207 of the Highway Safety Act of 1976 (Pub. L. 94–280) and to make other changes. •

A new subchapter J—Highway Safety is established to contain regulations related to the highway safety program. Part 920, which is hereby published, contains the regulations formerly published at 23 CFR Part 655, subpart B, as amended.

Section 207 amended 23 U.S.C. 151 by eliminating the requirement that, in approving pavement marking demonstration projects, the Secretary gives priority to projects which are either on the Federal-aid secondary system or not included on any Federal-aid system. The section also eliminated the requirement that a State report on pavement marking demonstration projects for any year after the second year following completion of the program in that State. The former §§ 655.203 and 655.211 are amended to eliminate these two requirements.

The former § 655.205(c) is amended to reflect the existing provisions of 23 U.S.C. 151(f) and represents no change in previous requirements.

The former § 655.203(d) is amended to permit States to carry out pavement marking demonstration projects with their own forces because State highway agencies frequently have the staff and equipment to carry out these projects most effectively. The former § 655.203(d) is amended so as to no longer state that work on pavement marking demonstration projects may be performed under force account methods, contracts awarded by normal competitive bids or by negotiated contracts; however, other regulations permit the projects to be carried out by these methods.

The former § 655.209 is amended to specify that pavement marking demonstration funds may be used to renew markings for 2 years since it has been determined that that period is sufficient for an adequate evaluation.

The former § 655.209 is further amended to permit the use of pavement marking demonstration funds for data collection, analysis and evaluation since these functions are essential to the satisfactory implementation of the program and since adequate funds are available.

The former § 655.211(b) is amended so that the States' annual reports will contain information needed to more effectively evaluate the demonstration program.

These regulations relate to a grant, benefit, or contract, therefore, they are published without prior notice of proposed rulemaking pursuant to 5 U.S.C. 553(a)(2).

In consideration of the foregoing, a new subchapter J, Part 920 of Chapter I of Title 23, Code of Federal Regulations is adopted and the former Part 655, subpart B is amended and transferred to 23 CFR subchapter J and redesignated as Part 920 as set forth below.

The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Effective date: December 1, 1976.

Issued: on November 16, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Part 655 Subpart B [Reserved]

1. 23 CFR Part 655, Subpart B is vacated and reserved.

2. Part 655, subpart B of 23 CFR, subchapter G is transferred to 23 CFR, subchapter J and is redesignated as Part 920 and is amended to read as follows:

Sec.
920.1 Purpose.
920.3 General Policies.
920.5 Procedures for Participation in Pavement Marking Demonstration Program.
920.7 Marking Standards.
920.9 Funding.
920.11 Evaluation and Reporting.

AUTHORITY: 23 U.S.C. 315 and 151; 49 CFR 1.48.

§ 920.1 Purpose.

To prescribe the policies and procedures followed by the Federal Highway Administration (FHWA) to implement the Pavement Marking Demonstration Program.

§ 920.3 General policies.

(a) *Eligible projects.* A pavement marking project is eligible for inclusion in a State's program if it is on any paved public highway exclusive of the Interstate System.

(b) *Objective of the Program.* The objective of the program is to demonstrate the value of pavement markings in providing greater vehicle and pedestrian safety. To this end, each project must mark a highway in conformance with the standards set forth in the 1971 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways[1] (MUTCD) as amended, and this regulation.

(c) *Priorities for approval of programs.* In establishing programs the states shall give priority to—

(1) Projects on two-lane highways in rural areas, and

(2) Projects on routes or systems having high accident rates, when it is probable that standard pavement markings will reduce the high accident rate.

(d) *Use of State Forces.* The Federal Highway Administrator finds it to be in the public interest for a State or local government to use its own forces for pavement marking demonstration program projects, if the State so requests.

§ 920.5 Procedures for participation in Pavement Marking Program.

(a) *Development of Program.* A State which wishes to participate in the Pavement Marking Demonstration Program must develop, and submit to FHWA a program of proposed pavement marking projects that conform to the general policies as stated in § 920.3. A program may consist of a single project for the entire State, or may be broken down by geographic areas or by systems as the State may desire.

(b) *Contents of program.* The State's program must generally describe the work to be accomplished and must include—

(1) a description of the procedures for evaluating the results of each project;

(2) a listing by counties of the number of miles of pavement to be marked by class of road (Federal-aid system and non-Federal-aid system);

(3) a description of the type of markings to be applied in each project;

(4) an estimate of the total cost of each project and of the program as a whole; and

(5) a description of the methods to be used to perform the work.

(c) *Released funds projects.* Pavement Marking Program funds may be released by the Federal Highway Administrator for other purposes as specified in 23 U.S.C. 151(f). Projects using released funds shall be processed in accordance with the procedures defined in Part 655, Subpart E of this chapter.

§ 920.7 Marking standards.

(a) *General.* Pavement markings placed under this program shall conform to the marking standards specified in the MUTCD, and the provisions in paragraphs (b) and (c) of this section.

(b) *Centerlines.* Centerline markings must consist of one of the three types specified in section 3B–1 of the MUTCD. Centerline markings must be applied to highways which—

(1) Have a paved surface that is 16 feet (14.9 metre) wide or wider; and

(2) Carry an average daily traffic volume of 250 vehicles or more.

(c) *Edge lines.* Edge lines as prescribed in MUTCD must be applied to highways which—

(1) Have a paved surface that is 20 feet (6.1 metre) wide or wider; and

(2) Carry an average daily traffic volume of 250 vehicles or more.

§ 920.9 Funding.

(a) *Eligible costs.* Funds authorized to carry out the Pavement Marking Demonstration Program may be expended to pay the cost of

[1] The Manual on Uniform Traffic Control Devices (Stock Number 5001–0021) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(1) Materials, labor, and equipment rental or depreciation charges necessary to apply pavement markings;

(2) Renewing markings applied under this Program to ensure their continued effectiveness during a period of 2 years for the evaluation;

(3) Installation of higher type markings on sections previously marked when approved by the Regional Administrator to increase safety to the traveling public; and

(4) Data collection, analysis, and evaluation for pavement markings carried out under this program.

(b) *Ineligible costs.* Funds authorized to carry out the Pavement Marking Demonstration Program will not be expended to pay the cost of renewing pavement markings which were not applied under the Pavement Marking Demonstration Program and which conform to the standards set forth in the MUTCD, except as provided in § 920.9 (a) (3).

§ 920.11 Evaluation and reporting.

(a) *Submission of report.*

(1) Each State participating in the Pavement Marking Demonstration Program must make an annual report to the Federal Highway Administrator on the progress it has made in implementing its pavement marking program and the effectiveness of the improvements made under that program.

(2) Reports must be submitted by each State on or before August 31 of each year until and including the second year following completion of the pavement marking program in that State.

(b) *Contents of report.* The State's annual report must include—

(1) An analysis and evaluation of the change in number, rate, and severity of accidents on highways which have been marked under the State's program, comparing the results during a period of 2 years after application of new markings with data pertaining to a period of 2 years before application of new markings;

(2) The cost benefit ratio of pavement marking improvements under the State's program, comparing the results during a period of 2 years after application of new markings with data pertaining to a period of 2 years before application of new markings; and

(3) completed Form 1451 (Pavement Marking Program) which may be reproduced locally.

[FR Doc.76-34992 Filed 11-29-76;8:45 am]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 661—GREAT RIVER ROAD

• *Purpose:* These regulations are being issued by the Federal Highway Administration (FHWA) in order to set standards for the disbursement of funds for the planning, design and construction of the Great River Road, pursuant to section 148, Title 23, United States Code, and section 14 of the Federal-Aid Highway Act of 1954, Pub. L. 83-350, May 6, 1954, as amended •

On May 27, 1976, the Federal Highway Administration issued interim regulations, published at 41 FR 21636, providing for the establishment of a National Scenic and Recreational Highway in the Mississippi Valley, called the Great River Road, pursuant to the provisions of 23 U.S.C. 148. Comments were solicited on these interim regulations. Numerous comments were received as a result of this solicitation, and have been considered in the drafting of these final regulations.

The Great River Road will extend from Lake Itasca in Minnesota to the Gulf of Mexico and will go through all 10 States bordering the Mississippi River. The route of the Great River Road will generally follow one of the plans set forth in a report to Congress entitled "Parkway for the Mississippi," prepared jointly in 1951 by the Bureau of Public Roads (predecessor to the FHWA) and the National Park Service, pursuant to the requirements of Pub. L. 81-262, August 24, 1949. This study, known as the Phase I Study, leads to a series of more detailed "Phase II" studies, conducted by the FHWA and the National Park Service in cooperation with the States on a State-by-State basis. The Phase II studies set forth the recommended routes, possible acquisitions, scenic easements, access control points, and the like in greater detail. They have been completed for six of the ten States bordering on the Mississippi River.

Only a single route will be federally funded as the Great River Road with funds authorized under 23 U.S.C. 148. The suggested system for this route is described in § 661.3, "infra." Existing roads will be used to the greatest extent possible. No new crossings of the Mississippi River are to be constructed with the Great River Road funds. In planning the Great River Road, the States and the FHWA are encouraged to adopt a broad philosophy which will result in the incorporation of many parkway-like features. The provisions of this part are to be interpreted to provide for maximum flexibility in this regard.

Initial allocation for Federal funds for the Great River Road were based on a formula which gave equal weight to the preliminary cost estimate of the route in each State in relation to the preliminary cost estimate for the total route and the total estimated mileage in each State in relation to the total mileage. It is anticipated that future allocations will be based on a new estimate of the construction cost.

More than 80 written comments were received from individuals, agencies and organizations. These comments fell into the following general areas of concern:

(1) The design location of the Great River Road on one side versus the other side of the Mississippi River.

(2) The basis for allocation of funds and their utility.

(3) Miscellaneous technical comments relative to the interpretation of the intent of the interim regulations.

All comments have been considered in the drafting of the final regulations.

About 70 percent of the comments took issue with the location of the designated route. Most of these comments reflected a misunderstanding of the provisions of the interim regulations in this regard. The single route designation is for purposes of Federal funding only, i.e., the categorical funds authorized under 23 U.S.C. 148. This does not preclude the continued development and signing of a route on the other side of the Mississippi River.

Only one respondent questioned the provision allowing the signing on the alternate side of the river. In view of the past and longstanding efforts of the States, the Mississippi River Parkway Commissions and others to develop a road on both sides of the river, the provision permitting Great River Road markings for both the designated route and the alternative route on the opposite side of the river is appropriate. The federally funded portion of the Great River Road will be designated as the "Great River Road," while the non-federally funded portion will be designated as the "Great River Road-Alternate."

The questions dealing with fund allocation were of a more substantive nature. Most of the comments on this question recognized the legislative mandate for a single route, but either questioned the route designation based on a 25-year-old study or the need for the route designation to effect the allocation of funds.

The legislation provides for the distribution of funds to all ten States "on the basis of their relative needs as determined by the Secretary." "Relative needs" firmly ties the fund allocation to a designated route and the expenditures to its development. Federal funding is authorized to stimulate the development of the designated route and to provide recreational opportunities, but it is not authorized to furnish all funding to complete the route. Allocation of the Great River Road funds should not discourage the use of other Federal-aid funds or State and local funds to make needed highway improvements on the designated route. Future allocations will be based on the estimated construction cost of the designated route and progress made towards the use of allocated funds.

The suggested route, which is set forth in § 661.3, may be altered through the mutual agreement of the States. To date, no proposals have been made to the FHWA for adjustment under this provision, although some dissatisfaction with the present designated route was expressed as referred to above. Some changes to the route designation set forth in § 661.3(b) have been made.

Section 661.6(c) was changed to reflect the view of the FHWA that while the list of priorities of ultilization of Great River Road funds contained in that section should be followed wherever possible, the State is not bound to do so if the result would be impracticable. Section 661.3(d) was changed to permit access spurs to areas of interest and scenic enhancement near the Mississippi River to be included for Great River Road funding. The por-

tions of the road not eligible for funding under 23 U.S.C. 148 must be developed as the Great River Road Alternate, and appropriately signed. This reflects a change in § 661.3(e). Section 661.5(g) was modified to clarify the ratio of funding of various projects along the Great River Road. Section 661.6(b) was modified to make clear that standard specifications, policies and guides applicable to the design of Federal-aid projects should be used only as a guide in considering roadway elements of the Great River Road. Also, this paragraph was modified to make clear that Federal funds for roadway elements will be limited to two 12-foot lanes plus shoulders and a pro rata share of ancillary elements consistent with parkway development of sections having more than two lanes.

Pursuant to the Department of Transportation Policies to improve Analysis and Review of Regulations (41 FR 16200), the Secretary of Transportation has been notified that the final regulations are expressly mandated by statute or have minimal impact.

The FHWA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement unde Executive Order 11821 and OMB Circular A-107.

Effective date: October 8, 1976.

Issued on: November 22, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Chapter I of Title 23, Code of Federal Regulations, is amended by adding a new Part 661 as follows:

Sec.
661.1 Purpose.
661.2 Definitions.
661.3 Route designation.
661.4 Location criteria.
661.5 Project eligibility.
661.6 Design and construction.

AUTHORITY: Section 14, Pub. L. 83-350, 68 Stat. 70, May 6, 1954, 23 U.S.C. 148, 315; 49 CFR 1.48.

§ 661.1 Purpose.

This regulation outlines procedures to be followed in the funding, programming and execution of a program for a National Scenic and Recreational Highway in the Mississippi River Valley known as the Great River Road.

§ 661.2 Definitions.

(a) "Construction", as defined in 23 U.S.C. 101(a), and in addition means the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas and other appropriate facilities as determined by the Secretary.

(b) "Great River Road", a scenic and recreational highway, to be developed along the Mississippi River from Lake Itasca in Minnesota to near Venice, Louisiana, and the Gulf of Mexico.

(c) "Scenic and Recreational Highway", a highway generally within a scenic corridor of parkway-like development having significant scenic, historical and recreational features.

§ 661.3 Route designation.

(a) A single route for the Great River Road shall be designated for Federal participation purposes. Except where significant breaks in continuity would result, it shall, to the extent feasible, follow existing road alignment. It shall cross the Mississippi River on existing bridges.

(b) The 10 Mississippi River States shall select, in cooperation with and subject to the approval of the Federal Highway Administration (FHWA), the specific location of the Great River Road system between designated existing Mississippi River crossings, which control points, along with other stateline crossings, shall be coordinated between adjoining States. Each State is responsible for the following segments:

State	Segments
Minnesota	Lake Itasca to Point Douglas.
Wisconsin	Prescott to South of De-Soto opposite Lansing, Iowa.
Iowa	Lansing to Dubuque and Muscatine to Ft. Madison.
Illinois	East Dubuque to Muscatine, Niota to Hannibal and Chester to Kentucky State line.
Missouri	Hannibal to St. Marys.
Kentucky	Illinois State line to Tennessee State line.
Tennessee	Kentucky State line to Memphis.
Arkansas	West Memphis to Shives.
Mississippi	Greenville to Louisiana State line.
Louisiana	Mississippi State line to the Gulf of Mexico crossing from the east bank to the west bank at Baton Rouge.

(c) The established Mississippi River crossings may be changed to other existing crossings and the Great River Road route modified accordingly when jointly agreed to by the States involved and approved by FHWA.

(d) Each State shall submit for FHWA approval the specific location of its segments of the Great River Road between designated control points. The FHWA will approve the location selected pursuant to the criteria set forth in this part. Access spurs may be included to areas of interest and scenic enhancement proximate to the Mississippi not reasonably accessible over the existing Federal-aid highway network.

(e) The States' selection and FHWA approval of a single scenic and recreation route location is provided for in this part for the purpose of establishing eligibility for the special category funds authorized under 23 U.S.C. 148. The States may continue to develop and sign the route on the alternative side of the river as the Great River Road Alternate which will not be eligible for Federal funds authorized under 23 U.S.C. 148.

§ 661.4 Location criteria.

In establishing the specific location of the Great River Road, the following criteria shall be adhered to:

(a) The road shall originate at the headwaters of the Mississippi River at Lake Itasca in Minnesota, extend generally parallel and in proximity to the river, and terminate near the Gulf of Mexico in the vicinity of Venice, Louisiana.

(b) The road shall be located to take advantage of scenic river views and provide the user opportunities to stop and enjoy unique features and recreational activities.

(c) The road shall provide for a variety of experiences or themes, such as scenery, nature, history, geology and land use for scientific or cultural purposes.

(d) The road shall include, or allow for subsequent development, conveniently spaced roadside rest areas and other facilities so that the user may view and otherwise take advantage of the scenic, recreational and cultural areas of interest along the route.

(e) The road shall be located so that the unique values of the corridor may be protected. This may be accomplished by appropriate route selection, effective control or elimination of development inconsistent with the nature and performance of the highway through zoning or other land use restrictions, the acquisition of scenic easements and where necessary the direct acquisition of scenic, historic, woodland or other areas of interest in fee or by other appropriate measures.

(f) The road shall be located so as to provide for convenient access to:

(1) Larger population centers of the States through which the Great River Road passes,

(2) Other elements of the Federal-aid system, particularly the Interstate System,

(3) Sites of historical, archeological, scientific, scenic, or cultural interest in the areas through which the route passes, and

(4) Local services such as gas, food, and lodging and recreational facilities to a degree not inconsistent with the purposes of the route.

§ 661.5 Project eligibility.

(a) Projects for expenditures of Great River Road funds shall be located on roads on the approved Great River Road location. In addition, except for portions under Federal jurisdiction, the road shall also be part of an appropriate Federal-aid system (23 U.S.C. 148(c)).

(b) Great River Road projects shall be implemented under normal Federal-aid project procedures unless otherwise provided herein or otherwise approved by the Administrator.

(c) Projects for utilization of Great River Road funds will be selected on the following basis, listed in order of declining priority, unless it is demonstrated to be impractical.

(1) Preliminary engineering, including environmental studies for support of the selection of existing route segments including acquisition of scenic easements and other areas of interest.

(2) Acquisition of scenic easements and areas of scenic, historical, archeological, or scientific interest which are on existing route segments.

(3) Construction of rest areas, scenic overlooks, bicycle trails and reasonable access to areas of interest and scenic enhancement on existing route segments.

(4) Preliminary engineering through the location stage for segments on new location, including environmental studies.

(5) Reconstruction and rehabilitation of the existing route segments.

(6) Construction of new route segments to establish route continuity.

(d) Great River Road funds shall not be used to construct new Mississippi River crossing structures.

(e) Where traffic service and highway safety warrants are more than adequate to support the use of other Federal-aid highway funds, the use of such funds should first be given serious consideration.

(f) No fees or tolls shall be charged for any facility constructed or improved with Great River Road funds. The provisions of 23 U.S.C. 129(a) shall not apply to any bridge or tunnel on the Great River Road.

(g) The Federal share of the cost of Great River Road funded projects on portions of the approved route included on the Federal-aid system under the functional classification provisions of 23 U.S.C. 103 shall be as provided in 23 U.S.C. 120. The Federal share of the cost of projects not included on the Federal-aid system except to satisfy 23 U.S.C. 148 (c) shall be 70 percent. The Federal share of the cost of projects on approved Great River Road facilities under Federal jurisdiction shall be 100 percent.

§ 661.6 Design and Construction.

(a) Except as indicated below, the Great River Road shall be designed and constructed by each of the 10 Mississippi River States in accordance with FHWA regulations and directives applicable to the appropriate system.

(b) Roadway elements of the Great River Road which impact on the safety of traffic operations shall be designed using as a guide the standards, specifications, policies, and guides applicable to the design of Federal-aid projects. Great River Road funds may participate in preliminary engineering, right-of-way acquisition and physical construction, but participation in physical construction or reconstruction shall be limited to a roadway width of 2–12 foot lanes plus shoulders and a pro rata share of ancillary elements which are consistent with parkway development if more than two lanes are to be constructed.

(c) The other design elements of the total facility should incorporate parkway-like features which will allow the user-motorist to maintain a leisurely pace and enjoy the scenic and recreational aspects of the route. Such features may include rest areas and scenic overlooks with suitable facilities and bikeways and pedestrian walkways.

(d) Outdoor advertising signs, displays and devices shall be effectively controlled pursuant to 23 U.S.C. 131 irrespective of the Federal system designation.

(e) Pursuant to 23 U.S.C. 148(a)(3), the Great River Road shall be signed with uniform identifying trail markers.

[FR Doc.76-35066 Filed 11-29-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

[Docket No. R-76-425]

PART 200—INTRODUCTION

Redelegation With Respect to Housing

The Secretary of Housing and Urban Development has designated additional Insuring Offices to become Full Service Housing Offices. Therefore, § 200.128 and § 200.129 are amended to read as follows:

§ 200.128 Director and Deputy Director of the Insuring Offices.

To the position of Director, and under his general supervision to the position of Deputy Director, of each Insuring Office listed below, with respect to the production of housing units within the jurisdiction of the Insuring Office, there is redelegated the authority to perform the functions and exercise the authorities set forth in § 200.118(c) [41 FR 24755, June 18, 1976].

Phoenix, AZ	Albuquerque, NM
Sacramento, CA	Albany, NY
Santa Ana, CA	Cincinnati, OH
Denver, CO	Cleveland, OH
Springfield, IL	Providence, RI
Des Moines, IA	Memphis, TN
Topeka, KS	Houston, TX
Shreveport, LA	Salt Lake City, UT
Grand Rapids, MI	Spokane, WA
Helena, MT	Charleston, WV

§ 200.129 Director, Housing Development Division, and Deputy Director, Housing Development Division, Insuring Offices.

To the position of Director, Housing Development Division (formerly Chief Underwriter), and under his general supervision to the position of Deputy Director, Housing Development Division (formerly Deputy Chief Underwriter), of each Insuring Office listed below, with respect to the production of housing units within the jurisdiction of the Insuring Office, there is redelegated the authority to perform the functions and exercise the authorities set forth in §§ 200.113, and 200.115 and 200.116 [41 FR 24755, June 18, 1976].

Phoenix, AZ	Albuquerque, NM
Sacramento, CA	Albany, NY
Santa Ana, CA	Cincinnati, OH
Denver, CO	Cleveland, OH
Springfield, IL	Providence, RI
Des Moines, IA	Memphis, TN
Topeka, KS	Houston, TX
Shreveport, LA	Salt Lake City, UT
Grand Rapids, MI	Spokane, WA
Helena, MT	Charleston, WV

Effective date. This amendment shall be effective as of September 13, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.76-35094 Filed 11-29-76;8:45 am]

[Docket No. R-76-424]

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations

REDELEGATION WITH RESPECT TO HOUSING

The recent realignment and reorganization within HUD of the Housing functions under an Assistant Secretary for Housing-Federal Housing Commissioner has necessitated a change in the composition of the membership of the Multifamily Participation Review Committee. Therefore, § 200.93 is amended to read as follows:

§ 200.93 Multifamily Participation Review Committee.

(a) *Members.* The Multifamily Participation Review Committee is composed of the following members: Director, Office of Mortgagee Activities and Participant Compliance; Director, Participation and Compliance Division, Office of Mortgagee Activities and Participant Compliance; Director, Office of Loan Origination; Director, Office of Loan Management; Director, Office of Technical Support; Director, Office of Property Disposition; The General Counsel, or his designees; and such other members as the Assistant Secretary for Housing-Federal Housing Commissioner shall designate. The Director, Office of Mortgagee Activities and Participant Compliance, or his designee, shall serve as Chairman and shall vote only in cases of ties. The Committee shall have an Executive Secretary appointed by the Chairman, who will attend all meetings in a non-voting capacity, present to the Committee each case under consideration, arrange for and keep Committee minutes, issue notices, keep attendance, and execute any responsibilities that the Chairman may assign. The Director, Participation and Compliance Division, shall be empowered to sign all notices, letters and directives on behalf of the Committee.

(b) *Functions.* The Multifamily Participation Review Committee will act for the Assistant Secretary for Housing-Federal Housing Commissioner in determining the acceptability of participants in multifamily proposals, taking into consideration all past HUD-FHA experience with the principals.

Effective date. This amendment is effective September 13, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-35093 Filed 11-29-76;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Shreveport, Louisiana

On February 3, 1976, in 41 FR 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036A Panel 36 indicates that Lots 41 through 53, Briarcliff No. 4, Shreveport, Louisiana, as recorded in Book 1500, Pages 259 through 261 of the records of Caddo Parish, Louisiana, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 50 and 51, and the existing structures on Lots 41 through 49, 52, and 53, are not within the Special Flood Hazard Area. Accordingly, Map No. H 220036A Panel 36 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on January 3, 1975 and January 9, 1976.

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

Issued: October 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35101 Filed 11-29-76;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County. Map No. H 240008 Panel 52 indicates that Lot 7, Block A-R, Plat 9 of Cape St. Clair, Anne Arundel County, Maryland, as recorded in Book 22, Folio 6 of Plats, in the office of land Records of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administrator, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 Panel 52 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

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

Issued: October 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35102 Filed 11-29-76;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County. Map No. H 240008 Panel 28 indicates that 1770 Nanticoke Road, Pasadena, Anne Arundel County, Maryland, as recorded in Liber 2793, Page 182 of Deeds, in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 Panel 28 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

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

Issued: October 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35103 Filed 11-29-76;8:45 am]

[Docket No. FI-209]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Portland, Maine

On March 1, 1974, in 39 FR 7935, the Federal Insurance Administrator published a list of communities with special hazard areas which included Portland, Maine. Map No. H 230051 Panel 04 indicates that Lot 2 of Sunset Heights Subdivision, Section A, being 8 Cedarhurst Lane, Portland, Cumberland County, Maine, as recorded in Planbook 52, Page 53 in the Registry of Deeds of Cumberland County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Beginning at the northernmost corner of Lot 2; thence in a southeasterly direction along the Lot Line of Lot 2, approximately 90 feet to a point; thence in a southwesterly direction parallel to the southeastern line of Lot 2 approximately 70 feet to a point on the southwestern line of Lot 2; thence in a northwesterly direction along the Lot Line of Lot 2 approximately 112 feet to a point being on the southern line of Cedarhurst Lane; thence in a northeasterly direction 65 feet to the northernmost corner of Lot 2 and also the point of beginning,

is not within the Special Flood Hazard Area. Accordingly, Map No. H 230051 Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 22, 1974.

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

Issued: October 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35104 Filed 11-29-76;8:45 am]

[Docket No. FI-128]

PART 1920—PROCEDURE FOR MAP CORRECTION

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

On May 17, 1973, in 38 FR 12916, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of St. Louis Park, Minnesota. Map No. H 270184 Panel 03 indicates that Lot 7, Block 3, Donnybrook Terrace Second Addition, St. Louis Park, Minnesota, as recorded in Document No. 313730, in the office of the Registrar of Titles of Hennepin County, Minnesota, is in its entirety

within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 270184 Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 25, 1973.

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

Issued: October 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35105 Filed 11-29-76;8:45 am]

[Docket No. FI-443]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Dallas, Texas

On January 10, 1975, in 40 FR 2199, the Federal Insurance Administrator published a list of communities with special hazard areas which included Dallas, Texas. Map No. H 480171 Panel 11 indicates that Lot 15, Block D/7726 of Valley View Place, Dallas, Texas, as recorded in Volume 75184, Page 2115 of Deeds, in the office of the Clerk of Dallas County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480171 Panel 11 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

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

Issued: October 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35106 Filed 11-29-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Haltom City, Texas

On August 6, 1974, in 39 FR 28271, the Federal Insurance Administrator published a list of communities with special hazard areas which included Haltom City, Texas. Map No. H 480599 Panel 01 indicates that Lots 13–R and 14–R, Block 2–R; Lots 14–R, 15–R and 17–R through 20–R, Block 4 of Browning Park Addition, Haltom City, Tarrant County, Texas, as shown on a sketch prepared by Carter and Burgess, Incorporated, on March 25, 1976, said sketch being a revision of a plat recorded in Volume 388–60, Page 58 in the office of the Clerk of Tarrant County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480599 Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

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

Issued: October 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35107 Filed 11-29-76;8:45 am]

[Docket No. FI-936]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Live Oak, Texas

On March 29, 1976, in 41 FR 12892, the Federal Insurance Administrator published a list of communities with special hazard areas which included Live Oak, Texas. Map No. H 480043A Panel 03 indicates that Lots 30–34, Block 46, Unit 14 of Live Oak Village, Live Oak, Texas, as recorded in Book-Volume 6800, Page 41 of Plats, in the office of the Clerk of Bexar County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 480043A Panel 03 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on March 12, 1976.

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

Issued October 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35108 Filed 11-29-76;8:45 am]

[Docket No. FI-277]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Franklin, Wisconsin

On January 9, 1974, in 39 FR 1436, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Franklin, Wisconsin. Map No. H 550273 Panels 06 and 09 indicates that property known as 8120 South 68th Street, Franklin, Wisconsin, as recorded in Book 3542, Page 309, in the Registry of Deeds, Milwaukee County, Wisconsin, is in its entiretv within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 550273 Panels 06 and 09 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 28, 1973.

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

Issued: October 14, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35109 Filed 11-29-76;8:45 am]

Title 25—Indians

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

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Roll of Cherokee Band of Shawnee Indians of Oklahoma

NOVEMBER 2, 1976.

This notice is published in the exercise of rulemaking authority delegated

by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 32756 of the FEDERAL REGISTER of August 5, 1976 (41 FR 32756), there was published a notice of proposed rulemaking to add a new paragraph (bb) to § 41.3 of Part 41, Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations. These regulations govern the preparation of a roll of the Cherokee Band of Shawnee Indians of Oklahoma to be used as the basis to distribute that portion of the judgment funds awarded the Absentee Shawnee Tribe of Oklahoma in Indian Claims Commission docket 334–B, which have been set aside for the Cherokee Shawnee, as provided in the plan for the use and distribution of the funds prepared in accordance with the Act of October 19, 1973 (87 Stat. 466).

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

No comments, suggestions or objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date: These regulations shall become effective December 30, 1976.

THEODORE C. KRENZKE,
Acting Deputy Commissioner of Indian Affairs.

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

dians. (1) All persons of Cherokee Shawnee ancestry born on or prior to and living on March 5, 1976, who are lineal descendants, except members of the Absentee Shawnee Tribe of Oklahoma, of the Shawnee Nation as it existed in 1854, shall be entitled to have their names placed on the roll, based on the roll of Cherokee Shawnee compiled pursuant to the Act of March 2, 1899 (25 Stat. 994), and any other records acceptable to the Commissioner, to be prepared and used as the basis to distribute that portion of the judgment funds awarded the Absentee Shawnee Tribe of Oklahoma (on behalf of the Shawnee Nation) in Indian Claims Commission docket 334–B, which have been set aside for the Cherokee Band of Shawnee Indians of Oklahoma.

(2) Applications for enrollment must be filed with the Area Director, Muskogee Area Office, Bureau of Indian Affairs, Muskogee, Oklahoma 74401, and must be received by close of business six months from the date of publication of the final regulations in the FEDERAL REGISTER. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

[FR Doc.76-35061 Filed 11-29-76;8:45 am]

PART 41—PREPARATION OF ROLLS OF INDIANS

Qualifications for Enrollment and Deadline for Filing Applications—Lower Skagit, Kikiallus, Swinomish, and Samish Tribes of Western Washington

NOVEMBER 22, 1976.

This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 27082 of the FEDERAL REGISTER of July 1, 1976 (41 FR 27082), there was published a notice of proposed rulemaking to amend § 41.3, Part 41, Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations by adding four new paragraphs designated (w), (x), (y) and (z). The amendment was proposed to carry out the provisions of the plans developed under the Indian Judgment Fund Act of 1973, for the use and distribution of funds derived from judgments awarded to the Lower Skagit, Kikiallus, Swinomish and Samish Indians by the Indian Claims Commission. The Lower Skagit and Kikiallus plans became effective February 18, 1975, and the Swinomish and Samish plans became effective December 18, 1975, respectively.

The amendment specifies requirements for enrollment and establishes deadlines for filing applications for enrollment as members of the Lower Skagit, Kikiallus, Swinomish and Samish Tribes.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No comments, suggestions or objections were received.

For the purpose of clarity the following changes have been made. Paragraphs (w), (x), and (y) were changed by deleting the phrase "based on the 1919 Roblin Roll and other acceptable records to the Commissioner" which begins after the words "on the roll" and inserting the same phrase after the words "and date 1859." Paragraph (z) was changed by adding the phrase "based on any records acceptable to the Commissioner" after words "the date 1859." Accordingly, with those changes, the proposed amendment is hereby adopted and is set forth below.

The 30-day deferred effective date would delay completion of the rolls and distribution of shares to eligible enrollees. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, this amendment will become effective November 30, 1976.

THEODORE C. KRENZKE,
Acting Deputy Commissioner of Indian Affairs.

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

(w) *Lower Skagit Tribe of Indians.* (1) All persons of Lower Skagit ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Commissioner, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Lower Skagit Tribe in Indian Claims Commission docket 294. Proof of Upper Skagit ancestry will not be acceptable as proof of Lower Skagit ancestry.

(2) Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Bureau of Indian affairs, 3006 Colby Avenue, Everett, Washington 98201, and must be received by close of business six months from the date of publication of the final regulations in the FEDERAL REGISTER. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 60 and 104 of this chapter.

(x) *Kikiallus Tribe of Indians.* (1) All persons of Kikiallus ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Commissioner, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Kikiallus Tribe in Indian Claims Commission docket 263.

(2) Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must be received by close of business six months from the date of publication of the final regulations in the FEDERAL REGISTER. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 60 and 104 of this chapter.

(y) *Swinomish Tribe of Indians.* (1) All persons of Swinomish ancestry born on or prior to and living on December 10, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Commissioner, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Swinomish Tribe in Indian Claims Commission docket 233.

(2) Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett,

Washington 98201, and must be received by close of business six months from the date of publication of the final regulations in the FEDERAL REGISTER. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 60 and 104 of this chapter.

(z) *Samish Tribe of Indians.* (1) All persons of Samish ancestry born on or prior to and living on December 10, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on any records acceptable to the Commissioner, shall be entitled to have their names placed on the roll to be prepared and used as the basis to distribute the judgment funds awarded the Samish Tribe in Indian Claims Commission docket 261.

(2) Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must be received by close of business six months from the date of publication of the final regulations in the FEDERAL REGISTER. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 60 and 104 of this chapter.

[FR Doc.76-35062 Filed 11-29-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7440]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Community Trusts

Correction

In FR Doc. 76-33844, appearing on page 50649 in the issue for Wednesday, November 17, 1976, on page 50656, in the second column, in the fifth full paragraph, designated *Example* (5), starting with the line "The V Private Foundation" and ending with the line "being exercised by the donor" should be deleted.

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 669-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart K—Criminal Division

Subpart M—Land and Natural Resources Division

ASSIGNMENT OF LITIGATION RESPONSIBILITIES

This order assigns responsibility for litigation involving enforcement of certain Federal statutes to the Land and Natural Resources Division.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Subparts K and M of Part O of Chapter I of Title 28, Code of Federal Regulations, are amended as follows:

§ 0.55 [Amended]

1. Section 0.55(d) of Subpart K is amended by deleting "Federal Insecticide, Fungicide, and Rodenticide Act".

2. Section 0.65 of Subpart M is amended by adding the following new paragraphs (f) and (g):

§ 0.65 General functions.

* * * * *

(f) All suits and matters involving enforcement of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 et seq.) and the Federal Environmental Pesticide Control Act (7 U.S.C. 136 et seq.).

(g) Criminal suits and matters relating to the natural resources of the coastal and marine environment under section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334); the Marine Sanctuaries Act (16 U.S.C. 1431 et seq.); the Sponge Act (16 U.S.C. 781 et seq.); the Northern Pacific Halibut Act (16 U.S.C. 772 et seq.); the Whaling Convention Act (16 U.S.C. 916 et seq.); the Tuna Conventions Act (16 U.S.C. 951 et seq.); the Northwest Atlantic Fisheries Act (16 U.S.C. 981 et seq.); the North Pacific Fisheries Act (16 U.S.C. 1021 et seq.); the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.); the Sockeye Salmon or Pink Salmon Fishing Act (16 U.S.C. 776 et seq.); and the provisions of the Fur Seal Act of 1966 concerning the protection of sea otters on the high seas and North Pacific fur seals (16 U.S.C. 1151 et seq.).

Dated: November 22, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-35151 Filed 11-29-76;8:45 am]

Title 34—Government Management

CHAPTER II—GENERAL SERVICES ADMINISTRATION

Recodification

Executive Order 11893, dated December 31, 1975, transferred certain functions of the General Services Administration to the Office of Management and Budget (OMB) and resulted in the disestablishment of the Office of Federal Management Policy in GSA. Responsibility for many of the Federal Management Circulars (FMC's), which are codified in Parts 200 through 282, was transferred to OMB as a result of the above Executive order. This regulation removes from Chapter II the regulations for which OMB is responsible.

Chapter II of Title 34 is amended as follows:

1. The Chapter heading is revised to read as set forth above.

2. Subchapters A, B, and D are reserved and Subchapters C, E and F are amended as follows:

SUBCHAPTER A—[RESERVED]

SUBCHAPTER B—[RESERVED]

SUBCHAPTER C—PROPERTY MANAGEMENT

Part:
231 Utilization, disposition, and acquisition of Federal real property.
232 Federal energy conservation.
233 Guidelines for agency implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646.
234 [Reserved]
235 Establishment and use of the inventory of Federal laboratories. [Reserved]

SUBCHAPTER D—[RESERVED]

SUBCHAPTER E—MANAGEMENT SYSTEMS

271 Central support services.

SUBCHAPTER F—AUTOMATIC DATA PROCESSING MANAGEMENT

281 ADP management information system (ADP/MIS).
282 Management, acquisition, and utilization of automatic data processing (ADP).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11893.)

Effective date: This regulation is effective on November 30, 1976.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 17, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-34924 Filed 11-29-76;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM76-7; Order No. 142]

PART 3003—PRIVACY ACT RULES

Order of the Commission Amending Privacy Act Rules

NOVEMBER 22, 1976.

On August 11, 1976, the Postal Rate Commission issued a notice concerning its implementation of the Privacy Act of 1974 (5 U.S.C. 552a). This Notice of Proposed Rulemaking, bearing Docket No. RM76-7, proposed two amendments to the Commission's Privacy Act rules, 39 C.F.R. 3003 (see 41 FR 34792, August 17, 1976). The Commission invited comments on the proposed changes from interested parties; however, no comments have been received.

In order to conform with the recommendations of the Office of Management and Budget and improve our implementation of the Privacy Act, the Commission has decided to adopt the changes referred to above, as initially published. Accordingly, pursuant to 39 U.S.C. 3603 and 5 U.S.C. 552a, it is ordered that Part 3003 of the Commission's rules of practice and procedure (39 C.F.R. § 3003) be amended as follows. These amendments will be effective on December 30, 1976.

1. 39 CFR 3003.4(b) is amended to read as follows:

§ 3003.4 Times, places and requirements for identification of individuals making requests.

* * * * *

(b) An individual who files a request through the mails pursuant to paragraph (c) of § 3003.3 of this Part shall include his or her date of birth and other suitable proof of identity, such as a facsimile of a driver's license, employee identification card, Medicare card.

2. 39 CFR 3003.14 is revised to read as follows:

§ 3003.14 Specific exemptions.

The Postal Rate Commission has not established any system of records to be exempted from the provisions of §§ 3003.3, 3003.4, 3003.5, 3003.6, 3003.7, 3003.8, 3003.9, and 3003.11 of this part.

JAMES R. LINDSAY,
Secretary.

[FR Doc.76-34970 Filed 11-29-76;8:45 am]

Title 40—Protection of The Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 649-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio—Sulfur Dioxide Plan; Corrections

Corrections are hereby made to various technical errors in the EPA promulgation of a sulfur oxides plan for Ohio on August 27, 1976, (41 FR 36324). None of the corrections substantially alters the responsibility of sources under the promulgation. While corrections may result in a stricter emission limitation, the sources affected are operating at that level or better already, thereby requiring no additional action on their part. Affected sources have been notified of these errors, accordingly, these changes are immediately effective.

(42 USC 1857c-5)

GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

Dated: November 8, 1976.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is corrected to read as follows:

Subpart KK—Ohio

In § 52.1881(b), the following subparagraphs are revised: (12) by adding new subparagraph (v); (23) by revising subparagraph (B) and adding a new subparagraph (C) to subparagraph (iii), by revising subparagraphs (xi), (xvii) and (xix); (29) by revising subparagraph (i) and (ii); (31) by revising subparagraph (i); (35) by revising subparagraph (viii) to include subparagraph (A) and new subparagraph (B) and by adding subparagraph (ix); (36) by adding a new subparagraph (v); (38) by revising subparagraph (vii)(A); (46) by revising subparagraph (ii); and (49) by revising subparagraph (ii).

§ 52.1881 Control strategy: sulfur dioxide.

* * * * *

(b) * * *

(12) * * *

(v) The Ohio Power Company or any subsequent owner or operator of the Woodcock Power Plant in Allen County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack of the Woodcock Power Plant in excess of 4.38 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(23) * * *

(iii) * * *

(B) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack attached to the Open Hearth precipitator units 111 and 112, 98-inch slab furnace units 1, 2, 3, 4, and 5, and the sinter plant at this facility in excess of 0.00 pounds of sulfur dioxide per million BTU actual heat input.

(C) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cuyahoga County, Ohio, shall not cause or permit the combustion of by-product coke oven gas at the 84-inch slab furnace units 1, 2 and 3 containing a total sulfur content expressed as hydrogen sulfide in excess of 244 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at the above facilities in excess of 1.24 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(xi) The General Electric Company or any subsequent owner or operator of General Electric facilities in Cuyahoga County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack attached to boilers 3 and 4 at this facility in excess of 3.10 pounds of sulfur dioxide per million BTU of actual heat input.

* * * * *

(xvii) No owner or operator, unless otherwise specified in this subparagraph, shall cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 170 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.86 pounds of sulfur dioxide per million BTU actual heat input. Facilities subject to subparagraph (23) (i) and (ii) of this paragraph are not subject to this limitation.

* * * * *

(xix) The Harshaw Chemical Company or any subsequent owner or operator of the Harshaw Chemical Company facilities in Cuyahoga County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of 19.0 pounds of sulfur dioxide per ton of actual process weight input.

* * * * *

(29) In Greene County:

(i) No owner or operator of any process equipment shall cause or permit the emission of sulfur dioxide from any stack in excess of that permitted by the following equation:

$$EL = 563.3P^{-0.9167}$$

where EL is the allowable emission rate in pounds of sulfur dioxide per ton of actual process weight input and P is the design process weight input rate in tons per hour.

(ii) The present or any subsequent owner of the Wright-Patterson Air Force Base in Greene County, Ohio, shall not cause or permit emissions of sulfur dioxide in excess of 0.38 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 271; emissions of sulfur dioxide in excess of 0.81 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 770; emissions of sulfur dioxide in excess of 0.33 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 66; emissions of sulfur dioxide in excess of 0.79 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 1240; emissions of sulfur dioxide in excess of 0.93 pounds of sulfur dioxide per million BTU actual heat input from all stacks at building 170.

(31) In Hancock County:

* * * * *

(i) No owner or operator of any fossil fuel-fired steam generating unit(s) or process operation heater(s) located in Hancock County, Ohio, unless otherwise specified in the subparagraph, shall cause or permit sulfur dioxide emissions from any stack in excess of 5.20 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(35) * * *

(viii) (A) The Lubrizol Corporation, or any subsequent owner or operator of the Lubrizol facilities located in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Lubrizol facility in excess of 20.00 pounds of sulfur dioxide per ton of actual process weight input.

(B) The Lubrizol Corporation, or any susequent owner or operator of the Lubrizol facilities located in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack for boilers 1, 2 or 3 at the Lubrizol facility in excess of 0.55 pounds of sulfur dioxide per million BTU actual heat input.

(ix) The Republic Steel Corporation, or any subsequent owner or operator of the Republic Steel facilities located in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Republic Steel facility in excess of 4.21 pounds of sulfur dioxide per ton of actual process weight input.

(36) * * *

(v) The Allied Chemical Company or any subsequent owner or operator of the Specialty Chemicals Division in Lawrence County, Ohio, shall not cause or permit

the emission of sulfur dioxide from any fossil fuel-fired steam generating unit in excess of 5.52 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(38) * * *

(vii) * * *

(A) For process operations 033 and 039, the United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities in Lorain County, Ohio, shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 35 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.17 pounds of sulfur dioxide per million BTU of actual heat input.

* * * * *

(46) * * *

(ii) The Dayton Power and Light Company or any subsequent owner or operator of the Yankee Substation and the Monument Substation located in Montgomery County, Ohio, shall not cause or permit the emission of sulfur dioxide from any diesel oil-fired electric generating unit stack at these stations in excess of 0.65 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(49) * * *

(ii) No owner or operator of any process equipment shall cause or permit the emission of sulfur dioxide from any stack in excess of that permitted by the following equation:

$$EL = 47.404P^{-0.520}$$

where EL is the allowable emission rate in pounds of sulfur dioxide per ton of actual process weight input and P is the design process weight input rate in tons per hour.

[FR Doc.76-34887 Filed 11-29-76;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 646-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Nebraska: Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of state plans for implementation of the national ambient air quality standards.

Revisions to the State Implementation Plan submitted by the State after adoption on February 22, 1974, were approved by the Environmental Protection Agency on September 9, 1975 (40 FR 41778). These revisions included the establishment of a July 31, 1976, date for the attainment of National Ambient Air Quality Standards (NAAQS).

After submittal of the emission limitations having statewide applicability, but prior to their September 9, 1975, approval, the State of Nebraska revised the numbering sequence of the emission limitations effective June 17, 1975. The emission limitations themselves were not changed.

In this promulgation, the numbering sequence which became effective June 17, 1975, is used. Pertinent Rule Numbers and descriptive titles are listed below:

Rule No.:	*Rule Title*
5---	Process Operations; Particulate Emission Limitations for Existing Sources.
6---	Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources.
7---	Incinerators; Emission Standards.
10--	Nitrogen Oxides (Calculated as Nitrogen Dioxide); Emission Standards for Existing Stationary Sources.
13--	Visible Emissions; Prohibited (Exceptions: See rule 18).
14--	Dust; Duty to Prevent Escape of.

The State of Nebraska submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plan pursuant to 40 CFR 51.6. The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. These compliance schedules have been determined to be consistent with the approved control strategy of Nebraska.

Accordingly, the Administrator proposed approval of these schedules on October 5, 1976, in the FEDERAL REGISTER, 41 FR 43920. The proposed approval of these schedules published in the October 5, 1976, FEDERAL REGISTER provided for a 30-day comment period. No comments concerning these schedules were received. Set forth below are specific compliance schedules which the Administrator approves pursuant to 40 CFR 51.8.

Each approved revision established a new date by which the individual source must comply with the applicable emission limitation in the federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

In the indication of approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas City, Missouri. The compliance schedules and State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, SW., Washington, D.C.; and the Nebraska Department of Environmental Quality, 1424 P Street, Lincoln, Nebraska.

This rulemaking will be effective immediately upon publication. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the compliance schedules are already in effect under State law and federal approval imposes no new burdens.

This rulemaking is promulgated pursuant to the authority of Section 110 of the Clean Air Act of 1970, as amended, 42 U.S.C. 1857c-5.

Dated: November 18, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart CC—Nebraska

1. In § 52.1425, the table in paragraph (a) is amended by adding the following:

§ 52.1425 Compliance schedules.

(a) * * *

Nebraska

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
*	*	*	*	*	*
Ideal Cement Co.: Wet process cement, kilns.	Superior	5, 13	July 24, 1975	Jan. 15, 1977	Jan. 15, 1977
City of Fremont, Board of Public Works, Lon D. Wright Powerplant: Units 6, 7.	Fremont	6	do	Feb. 1, 1977	Feb. 1, 1977
Consolidated Blenders, Inc.:					
2 drums, meal system, palletizing	Aurora	5	Mar. 25, 1976	May 1, 1977	May 1, 1977
Do	Shelton	5	do	do	Do.
Do	Gibbon	5	do	do	Do.
Do	Minden	5	do	do	Do.
Do	Odessa	5	do	do	Do.
Do	Cambridge	5	do	do	Do.
Land O'Lakes, Inc., Al-Fa-Meal Div.:					
2 drum, meal system, palletizing	Monroe	5	do	July 17, 1977	July 17, 1977
Do	Central City	5	do	July 16, 1977	July 16, 1977
Cominco American: Nitric acid plant	Beatrice	10	May 14, 1976	Dec. 31, 1976	Dec. 31, 1976
Dawson County Feed, Products, Inc.: Drum, meal system, palletizing.	Lexington	5	June 18, 1976	May 1, 1977	May 1, 1977

[FR Doc.76-35207 Filed 11-29-76; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 175]

USE OF U.S. FLAG COMMERCIAL VESSELS

Policies and Procedures

This amendment of the Federal Procurement Regulations (FPR) revises § 1–19.108–1, and adds § 1–19.108.2, concerning the implementation of the Cargo Preference Act of 1954 (Public Law 664, August 26, 1954). The Act requires that departments or agencies shall transport at least 50 percent of the gross tonnage of equipment, materials, or commodities (which may be transported on ocean vessels) on privately owned United States flag commercial vessels to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels. Responsibility for the administration of the Act was given to the Secretary of Commerce by the Merchant Marine Act of 1970 (Pub. L. 91–469, 46 U.S.C. 1241(b)). The Maritime Administration has issued regulations which implement the 1970 Act. The regulations require agencies to report shipments on U.S. and foreign flag commercial vessels. The data required for these reports will be derived from bills of lading on shipments. A contract clause is prescribed which requires submission of information on shipments by means of bills of lading. The clause was requested by the Maritime Administration. This amendment responds to that request.

PART 1–7—CONTRACT CLAUSES

The table of contents for Part 1–7 is amended to add new entries, as follows:

Subpart 1–7.1—Fixed-Price Supply Contracts

Section 1–7.103 is amended to add § 1–7.103–30, as follows:

§ 1–7.103 Clauses to be used when applicable.

* * * * *

§ 1–7.103–30 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

Subpart 1–7.2—Cost Reimbursement Type Supply Contracts

Section 1–7.203 is amended to add § 1–7.203.25, as follows:

§ 1–7.203 Clauses to be used when applicable.

* * * * *

§ 1–7.203–25 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

Subpart 1–7.3—Fixed-Price Research and Development Contracts

Section 1–7.303 is amended to add § 1–7.303–66, as follows:

§ 1–7.303 Clauses to be used when applicable.

* * * * *

§ 1–7.303–66 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

Subpart 1–7.4—Cost-Reimbursement Type Research and Development Contracts

Section 1–7.403 is amended to add § 1–7.403–61, as follows:

§ 1–7.403 Clauses to be used when applicable.

* * * * *

§ 1–7.403–61 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

Subpart 1–7.6—Fixed-Price Construction Contracts

Section 1–7.603 is amended to add § 1–7.603–19, as follows:

§ 1–7.603 Clauses and notices to be used when applicable.

* * * * *

§ 1–7.603–19 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

Subpart 1–7.7—Transportation Contracts

Section 1–7.703 is amended to add § 1.7.703–25, as follows:

§ 1–7.703 Required clauses in transportation contracts.

* * * * *

§ 1–7.703–25 Use of U.S. flag commercial vessels.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

PART 1–19—TRANSPORTATION

The table of contents for Part 1–19 is amended by adding the following entry:

Subpart 1–19.1—General

Section 1–19.108 is revised to read as follows:

§ 1–19.108 Ocean transportation.

§ 1–19.108–1 Use of privately owned U.S. flag commercial vessels.

The policy of the United States regarding the use of privately owned U.S. flag commercial vessels is stated in the Cargo Preference Act of 1954 (Pub. L. 664, August 26, 1954, 68 Stat. 832, 46 U.S.C. 1241(b)). The Act amended the Merchant Marine Act of 1936 (49 Stat. 1985) to require, among other things, that when the United States procures, contracts for, or otherwise obtains for its own account or for the account of a foreign nation without provision for reimbursement any equipment, materials, or commodities, within or outside the United States, or advances funds or credits or guarantees the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or department shall ensure that at least 50 percent of the gross tonnage of such equipment, materials, or commodities, which may be transported on ocean vessels, shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates for U.S. flag commercial vessels. The requirement does not apply to cargoes carried in the vessels of the Panama Canal Company. The provision of the statute may be temporarily waived when the Congress, the President, or the Secretary of Defense declares an emergency. The Maritime Administration has issued regulations (46 CFR 381) which implement the Merchant Marine Act of 1970. The regulations require agencies to submit reports regarding shipments on U.S. and foreign flag commercial vessels. The data required for these reports will be derived from bills of lading on shipments.

§ 1–19.108–2 Contract clause.

(a) The contract clause prescribed by this section shall be included in invitations for bids, requests for proposals, and contracts (excluding small purchases under Subpart 1–3.6 but including contracts resulting from unsolicited proposals) whenever:

(1) Any equipment, material, or commodities, within or without the United States, which may be transported by ocean vessel, are:

(i) Procured, contracted for, or otherwise obtained for the agency's account; or

(ii) Furnished to or for the account of any foreign nation without provision for reimbursement.

(2) Funds or credits are advanced or the convertibility of foreign currencies is guaranteed in connection with furnishing such equipment, materials, or commodities which may be transported by ocean vessel.

(b) The following clause is required under the conditions set forth in (a) of this section:

USE OF U.S. FLAG COMMERCIAL VESSELS

(a) The Cargo Preference Act of 1954 (Pub. L. 664, August 26, 1954, 63 Stat. 832, 46 U.S.C. 1241(b)), requires that Federal departments or agencies shall transport at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) of equipment, materials, or commodities which may be transported on ocean vessels on privately owned United States flag commercial vessels. Such transportation shall be accomplished whenever:

(1) Any equipment, materials, or commodities, within or outside the United States, which may be transported by ocean vessel, are:

(A) Procured, contracted for, or otherwise obtained for the agency's account; or

(B) Furnished to or for the account of any foreign nation without provision for reimbursement.

(2) Funds or credits are advanced or the convertibility of foreign currencies is guaranteed in connection with furnishing such equipment, materials, or commodities which may be transported by ocean vessel.

NOTE.—This requirement does not apply to small purchases as defined in 41 CFR 1–3.6 or to cargoes carried in the vessels of the Panama Canal Company.

(b) The contractor agrees as follows:

(1) To utilize privately owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved whenever shipping any equipment, material, or commodities under the conditions set forth in (a) above pursuant to this contract to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.

NOTE.—Guidance regarding fair and reasonable rates for United States flag vessels may be obtained from the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20230; Area Code 202, phone 377–3449.

(2) To furnish, within 15 working days following the date of loading for shipments originating within the United States or within 25 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill of lading in English for each shipment of cargo covered by the provisions in (a) above to both the Contracting Officer (through the prime contractor in the case of subcontractor bills of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20230.

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract except for small purchases as defined in 41 CFR 1–3.6.

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

Effective date: This amendment is effective January 4, 1977.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: November 17, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–34925 Filed 11–29–76;8:45 am]

[FPMR Amendment No. D–56]

PART 101–18—ACQUISITION OF REAL PROPERTY

Acquisition of Real Property

This amendment will ensure that agencies submit a prospectus to the Administrator of General Services for leases involving an average annual rental in excess of $500,000.

Section 101–18.105(d) is added to read as follows:

§ 101–18.105 Limitations on the use of delegated authority.

* * * * *

(d) In accordance with section 7(a) of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), agencies must submit a prospectus to the Administrator of General Services for leases involving an average annual rental in excess of $500,000.

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

Effective Date. This regulation is effective on November 30, 1976.

It is hereby certified that the impact does not meet the inflationary impact criteria of major rules or regulations.

Dated: November 18, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–35067 Filed 11–29–76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Amateur Radio Service, Composition of Call Signs; Correction

Released: November 19, 1976.

In the matter of Amendment of Part 2 of the Commission's rules concerning the composition of call signs in the Amateur Radio Service.

Commission's Order, FCC 76–927, released October 18, 1976, and published at 41 FR 46436, Thursday, October 21, 1976, make the following changes:

1. In § 2.302, the table regarding Amateur Radio Service call signs is amended to read as follows:

§ 2.302 Call signs.

* * * * *

Class of station	Composition of call sign	Call sign blocks
* *	* *	* *
Experimental (letter "X" follows the digit.	2 letters, 1 digit, 3 letters	KA2XAA through KZ9XZZ, WA2XAA through WZ9XZZ.
Amateur (letter "X" may not follow digit).	1 letter, 1 digit, 1 letter [4]	K1A through KØZ, N1A through NØZ, W1A through WzZ.
Amateur	1 letter, 1 digit, 2 letters [4]	K1AA through KØZZ, N1AA through NØZZ, W1AA through WØZZ.
Amateur (letter "X" may not follow digit).	1 letter, 1 digit, 3 letters [4]	K1AAA through KØZZZ, N1AAA through NØZZZ, W1AAA through WØZZZ.
Do	2 letters, 1 digit, 1 letter [4]	AA1A through ALzZ, KA1A through KZØZ, NA1A through NZØZ, WA1A through WZØZ.
Do	2 letters, 1 digit, 2 letters [4]	AA1AA through ALØZZ, KA1AA through KZØZZ, NA1AA through NZØZZ, WA1AA through WØZØZZ.
Do	2 letters, 1 digit, 3 letters [4]	AA1AAA through ALØZZZ, KA1AAA through KZØZZZ, NA1AAA through NZØZZZ, WA1AAA through WZØZZZ.
Standard frequency		WWV, WWVB, through WWVI, WWVL, WWVS.
* *	* *	* *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–35190 Filed 11–29–76;8:45 am]

[Docket No. 20719; FCC 76–1063]

PART 15—RADIO FREQUENCY DEVICES

Television Tuning, UHF; Improvement Requirements

Adopted: November 17, 1976.

Released: November 26, 1976.

Report and Order. In the matter of amendment of Part 15 rules and regulations, Docket No. 20719.

INTRODUCTION

1. A notice of proposed rulemaking in this proceeding was released on February 25, 1976 (FCC 76–138, 58 FCC 2d 338, 41 FR 9189, March 3, 1976). Comments and reply comments were requested by April 2 and April 16, 1976, respectively. Pursuant to a request by Sarkes Tarzian, Inc., the period for filing comments was extended to June 2 and the period for filing reply comments was extended to June 16, 1976 (41 FR 12039, March 23, 1976).

2. Over the last several years, the Commission has taken a number of steps to encourage and require improvements in UHF television tuning. The requirements have been phased in gradually and permit a variety of tuning systems. One of these systems is the 70-position nonmemory UHF detent tuner, which provides a separate detent (click in place) position for each of the 70 UHF channels. Essentially all receivers manufactured after July 1, 1975 which use such a system provide detented (without fine tuning) tuning accuracy within ± 2 MHz of correct frequency. See § 15.68(d)(3). The current objective for tuning accuracy of a receiver using a 70-position UHF detent tuner is stated in § 15.68(d)(4), which reads as follows:

(4) On or after July 1, 1977, a 70-position non-memory UHF detent tuning system may be used to meet the requirements of this section, providing either of the following two conditions is met:

(i) For any television receiver (monochrome or color). The need for routine fine tuning of UHF channels is eliminated.

NOTE: This requirement will be considered met in each of the following circumstances:

The receiver is provided with AFC and a channel selection mechanism that is capable of positioning the tuner to receive each UHF channel at its designated detent posi-

tion with a maximum deviation from correct frequency on any detent setting not exceeding ±1 MHz, when approached from either direction of rotation.

The receiver is provided with AFC and a channel selection mechanism that is capable of positioning the tuner to receive each UHF channel at its designated detent position within the pull in range of the AFC, when approached from either direction of rotation.

The receiver is provided with any other tuning system that produces and maintains detented tuning accuracy of the same order as the above specified systems.

(ii) For monochrome receivers only. The UHF channel selection mechanism is capable of positioning the tuner to receive each UHF channel at its designated detent position, with maximum deviation from correct frequency on any detent setting not exceeding ±1 MHz, when approached from either direction of rotation.

The target date for compliance with this requirement was extended one year to July 1, 1977 because tuners meeting the requirement would not be available in sufficient quantity by July 1, 1976 (FCC 75–1247, 40 F.R. 53591, November 19, 1975).

3. In the order extending the target date, we considered problems encountered by tuner manufacturers in developing and mass-producing equipment meeting the ±1 MHz standard and agreed to consider the possibility of retaining the ±2 MHz standard on channels 70–83. Channels 73–83 are utilized by TV translators on a secondary basis and alignment of the tuner is said to be more difficult at those higher frequencies. Consequently, it was thought that easing the accuracy standard at those channels would materially aid the tuner manufacturer in his efforts to meet the ±1 MHz standard on channels 14–69. The notice of proposed rulemaking requested comment on that possibility.

4. The Notice particularly requested comment on the following matters:

(a) The capacity of tuner manufacturers to mass-produce 70-position tuners accurate to ±1 MHz on all channels, including channels 70–83, and the date by which that goal might be accomplished. (Would it be feasible, for example, to defer the effective date of the ±1 MHz requirement for channels 70–83 rather than to retain the ±2 MHz requirement permanently for those channels?)

(b) Measurement data showing the actual performance with respect to accuracy of tuning (without use of the fine tuning control) of TV receivers using 70-position UHF tuners having a ±2 MHz tuning accuracy.

(c) Subjective reaction to the performance of a TV receiver incorporating a 70-position UHF tuner having a tuner accuracy of ±2 MHz, particularly in the case of color TV receivers equipped with AFC.

(d) The extent to which television translator stations operating on Channels 70–83 on a secondary basis are considering operating on a primary basis on lower frequencies.

5. Comments were filed by the following organizations:

RECEIVER MANUFACTURING INTERESTS

Consumer Electronics Group of the Electronic Industries Association (EIA)
GTE Sylvania Incorporated (Sylvania)

TUNER MANUFACTURERS

General Instrument Corporation (GI)
Sarkes Tarzian, Inc. (Tarzian)

UHF BROADCAST INTERESTS

Council for UHF Broadcasting (CUB)
Gilmore Broadcasting Corporation (Gilmore)
Kaiser Broadcasting Company (Kaiser)
Medallion Broadcasters, Inc. (Medallion)
Michiana Telecasting Corporation (Michiana)
North Alabama Broadcasters, Inc. (North Alabama)
Springfield Television Broadcasting Corporation, National Business Network, Inc. and Sarkes Tarzian, Inc. (jointly, hereinafter Springfield)
Television Muscle Shoals, Inc. (Muscle Shoals)
Turner Communications Corporation (Turner)

UHF TRANSLATOR INTERESTS

National Translator Association (NTA)

Reply comments were filed by EIA, GI, American Broadcast Companies, Inc. (ABC), Association of Maximum Service Telecasters (AMST), CUB, Storer Broadcasting Company (Storer), Susquehana Broadcasting Company (Susquehana), Taft Broadcasting Company of Pennsylvania, Inc. (Taft), and a group of UHF television station licensees headed by Connecticut Television, Inc. (Connecticut).

DISCUSSION

6. *Tunning accuracy.* The comments of receiver and tuner manufacturers indicate that receivers using current production 70-position non-memory UHF tuners do not meet the 1977 requirement of detented tuning accuracy within ± 1 MHz of correct frequency on all channels. It appears that GI could meet the requirement with its current product by devoting more time to alignment, at an additional cost of about 20¢ to the receiver manufacturer. However, it appears that Tarzian cannot meet the requirement with its current product. Tarzian takes the position that, "manufacture of a tuner which will permit the receiver to satisfy a requirement of maximum ± 1 MHz deviation is beyond the state of the art on a mass production basis." No other tuner manufacturer has come forward with a product meeting the ± 1 MHz requirement. Thus, the situation now appears to be approximately the same as it was in 1973, when we last addressed the question of tuning accuracy; some improvement in tuner accuracy appears to have been achieved in the interim, but one manufacturer at best is capable of meeting the 1977 requirement.

7. Receiver and tuner manufacturer, however, take the position that a receiver designed to meet the ± 2 MHz requirement produces excellent results and that a ± 1 MHz receiver would not produce any significant consumer benefit. First, the manufacturers point out that equipment meeting the ± 2 MHz requirement on all channels must actually meet a much more stringent requirement on most channels. Thus, Sylvania reviewed measurement data on some 330 receivers equipped with GI ± 2 MHz tuners. 80 percent of the receivers met the ± 1 MHz requirement. Of the 20 percent which did not, some were very accurate except for peak readings at one or two detent positions. The average of all peak error readings was ±0.81 MHz. Tarzian submitted an engineering statement prepared by an independent consulting engineer, analyzing measurement data for 149 randomly selected Tarizan tuners.[1] The maximum range of deviations (difference between high and low measurements) was 3.1 MHz (± 1.55 MHz) on one tuner and 3.0 MHz (±1.5) on two tuners. For all of the measurements (some 7000) on all tuners, the probability that the reading on a randomly selected channel would be within ± 1 MHz of correct frequency was better than 95 percent. The probability that the tuning error would be ± 1.2 MHz or better was 98.7 percent.

8. Secondly, manufacturers[2] note that the problem in practice is to provide accurate detented tuning for the UHF stations available to a viewer in this community—not for the 70 channels allocated to UHF television throughout the country—and that the probability of providing very accurate tuning for that limited number of stations is very high with a tuner aligned to ± 2 MHz. When the measurement data submitted by Tarzian for 149 tuners (see paragraph 7 above (was applied to stations actually available in the top 10 TV markets, the probability was 50 percent that a randomly selected available channel would be within 0.25 MHz of correct frequency. The probability was 96–97 percent that the channel would be within 1.0 MHz of correct frequency.[3]

[1] Deviations from correct frequency would be expected to be somewhat greater if measurements were made after mounting the tuners in receivers.

[2] As used herein, the term "manufacturers", if not qualified, refers to both tuner and receiver manufacturers, though not necessarily to all of either category.

[3] In applying its measurement data to the 10 top markets, Tarzian assumed that the fine tuning would be adjusted to the midpoint between the deviations from correct frequency for the available UHF channels. With the fine tuning adjusted to the midpoint between the readings for all positions on a given receiver, for example, the readings for the three available channels could be + 1.0, + 1.25, and + 1.25. As viewed from the midpoint for all channels, the maximum deviation would be 1.5 MHz and the average would be 1.25 MHz. But as viewed from the midpoint of the three available channels, the maximum and average deviation would be 0.25 MHz. The assumption is that the set owner will initially adjust the fine tuning so as to receive the best possible picture on the available channels. The assumption is justified but not in the precise terms used by Tarzian. The set owner will probably adjust the fine tuning to obtain the best pic-

9. Third, the receiver manufacturers maintain that receivers equipped with ± 2 MHz tuners appear to be meeting the expectations of their customers—that routine fine tuning be eliminated. Tarzian submitted market sampling data tending to support this conclusion. The fact that the Commission has never received a complaint from a consumer or a UHF broadcast about the tuning accuracy performance of a particular receiver or receiver model equipped with a ± 2 MHz tuner also tends to support the same conclusion.[4]

10. Finally, as we read the manufacturers' comments, they are stating that the ±1.0 tuner would not produce the increase in tuning accuracy over the ±2.0 MHz tuner that might be supposed. Thus, it appears that part of the improvement would have to come from reducing the difference between maximum deviation from correct frequency, as measured in the tuner and the maximum specified by the Commission for the receiver. If the actual maximum in the tuner is now ±1.5 MHz, for example, it would not be reduced to ±0.75 MHz but rather to a higher figure such as ±0.9 MHz. The leeway between measurements in the tuner and the maximum specified by the Commission for the receiver, in this example, would be reduced from 0.5 to 0.1 MHz, which would provide considerably less (and probably inadequate) assurance to tuner and receiver manufacturers that a receiver equipped with such a tuner would comply with the rules. Further, it appears that this result would be achieved in the alignment process by concentrating on the reduction of infrequent large deviations, and that adjustments to lessen them would involve sacrificing tuning accuracy at other tuning positions. Thus, the average deviation from correct frequency would not improve to the same degree as the maximum. Also, the receiver manufacturers state that they could not certify that a receiver accurate to ±1 MHz would position the tuner within the pull-in range of AFC on every channel. The ±1 MHz requirement involves a 2.0 MHz spread in maximum deviations from correct frequency. AFC pull-in range, on the other hand, appears to vary from 0.6 to 1.2 MHz, depending on receiver manufacturers' judgments as to the optimum system.[5] As with the ±2 MHz tuner, therefore, the set owner must adjust the fine tuning to position the tuner within the pull-in range of AFC for all stations available to him locally.

11. The UHF broadcasters commenting in this proceeding generally offer no facts or arguments to counter the arguments of the manufacturers. We had hoped, for example, that they might at least have submitted subjective reactions to the tuning accuracy results produced in a receiver equipped with a ±2.0 MHz tuner. Instead, they simply urge that we press on toward a requirement of ±1.0 MHz, temporarily easing that requirement for channels 70–83 only if absolutely necessary. The manufacturers, on the other hand, generally assert that the goal of fully comparable tuning has been reached with the ±2 MHz tuner, although Tarzian proposes that we promote further progress by requiring use of memory tuners.

12. The record before us supports the conclusion that very satisfactory results are being achieved with the + 2 MHz tuner, for monochrome, and for color reception where the receiver is equipped with AFC. If this is so, there is no justification for imposing a more stringent requirement. However, the record is not satisfactory, in that UHF broadcasters, while arguing for a stricter standard, have not addressed the question of satisfactory performance by the ± 2 MHz tuner. For the present, a decision must be made, adequate record or not, so that tuner and receiver manufacturers can plan their product lines. We conclude that the ± 2 MHz requirement should be retained for the peak value of deviations from correct frequency and combined with a new requirement, suggested by manufacturers, that the average of all deviations not exceed 0.75 MHz. Section 15.68(d)(4) is being modified accordingly. This will give us and UHF broadcasters a chance to appraise results achieved with the ± 2 MHz tuner. If those results should not prove to be as satisfactory as the manufacturers claim, the question of imposing more stringent requirements can be reopened.

13. Since the ± 2 MHz requirement is being retained, for the present at least, there is of course no need to make special provision for tuning accuracy on channels 70–83. Even if more stringent requirements should prove to be necessary, however, there apears to be little justification for singling out these channels for special treatment. From the comments, it apears that maximum deviation from correct frequency is random as to channel. Thus, though lesser standards for channels 70–83 would marginally improve the chances of compliance with a stricter standard, the same would be true if any other 14 channels were singled out for special treatment.

14. If the ±z MHz non-memory tuner proves to be as satisfactory as the manufacturers maintain, there is also no justification for requiring use of a memory tuner. On the other hand, if the ±2 MHz tuner proves to be less than satisfactory, more stringent accuracy standards for the non-memory tuner will be imposed. If Tarzian continues unable to meet more stringent requirements, and if the receiver manufacturing industry continues to place a high value on a second source of supply, the memory tuner is available to them. It should be pointed out that the memory tuner is not a new device; it has been in use for years and is currently employed in many receiver models. It should also be noted, however, that the memory mechanism is as large or larger than the UHF tuner and that the tape readout typically associated with the memory tuner is also space-consuming. The memory tuner is also appreciably more costly than the non-memory tuner, and is not lacking other disadvantages. Thus, most memory tuners have detent positions for less than all of the 70 UHF channels. The user fine tunes one of these positions to an available channel and then affixes a channel identification tab supplied by the manufacturer—or he may fail to do so. In some communities where a large number of UHF stations is received, there may be more stations than tuning positions. The particular memory tuner advanced by Tarzian overcomes some, but not all, of these disadvantages. Individual channel readout is provided for each of the 70 UHF channels. However, there are only 24 fine tuning positions; any one of three channels can be fine tuned at each position, and there is no overlap. Thus, if more than one of the three channels is available in a given community, only one of them can be fine tuned.

ture on the first channel he wants to view. Perfect adjustment to correct frequency on that channel depends on his dexterity and visual acuity. When he turns to a second UHF channel, he will make further adjustments if the picture is not satisfactory. After doing this several times, he will probably arrive at a near optimum mid point setting for the three channels, which will provide a good picture on each without fine tuning, if the readings for the three channels are not too far apart. Tarzian's data indicates that the set owner will achieve satisfactory results (± 1 MHz) 96–97% of the time if he successfully tunes to the optimum mid point. Since the elimination of routine fine tuning with the ± 2 MHz UHF tuner (most particularly, adjusting the tuner within the pull-in range of AFC for all available channels) depends in ments made by the viewer, we strongly suggest that receiver manufacturers furnish information in instruction manuals making this clear to the customer and specifying the most efficient way to proceed.

[4] We note, however, that Kaiser, in this proceeding, complains that the inadequate performance of AFC is among the most significant deterrents to UHF viewing.

[5] One manufacturer advises that pull-in range of 0.75 MHz involves the possibility of pulling in the sound carrier of an adjacent channel, with resultant consumer complaints and adverse publicity if that should occur. It considers a 0.6 MHz pull-in range to be optimum. Other manufacturers appear to discount this possibility, on the basis that the presence of an adjacent channel signal is a rarity. They use AFC with a pull-in range of 1.0 MHz or greater.

In short, the electromechanical memory tuner has disadvantages as well as advantages. Its use is permitted under present rules, but should not be required; the set purchaser should continue to have a choice between the memory tuner and other satisfactory systems.

15. The most promising long-range solution for UHF tuning appears to be the digital channel selection mechanism combined with an electronic tuner. In this system, the tuning controls consist of ten digits (0–9) arranged like the keyboard of a pocket calculator or a touch-tone telephone. To tune any channel, the user pushes a combination of two numbers (e.g., 0 and 9 for channel 9, 2 and 6 for channel 26). Channel selection is very simple, being in no way limited by the dexterity or visual acuity of the user, and is the same for UHF and VHF channels. A single keyboard is used for UHF and VHF tuning. In short, use of this channel selection system will eliminate any vestige of differences between UHF and VHF tuning. The system is now in use in a number of receiver models and though now restricted to high priced top-of-the-line models, its use is growing. At present, its use substantially increases the cost of a receiver. However, there is every reason to believe that the cost will decline. The technology is comparable to that used in pocket calculators, the cost of which has declined rapidly and greatly. The technology is available to many firms, and it seems reasonable to assume that competition and large scale production will contribute to cost reductions. We agree with EIA and GI that the interests of UHF broadcasting will best be served if tuner and receiver manufacturers concentrate their resources on development and expanded use of the digital tuner.[6]

16. *Channel readout.* Although the Notice of Proposed Rule Making did not address the subject of channel readout, the UHF broadcasters and Tarzian have devoted a substantial portion of their comments to that subject. Because the Notice did not propose changes in readout requirements, such changes cannot be adopted in this proceeding. The comments nevertheless pose some legitimate questions. The broadcasters' complaints are addressed to readout systems in which channel numbers are displayed on the face of the tuning knob. First, the complaint is that our rules permit only every other UHF channel number to be displayed, with marks between numbers to indicate the channels not displayed numerically (see § 15.68(d)(1)). Secondly, it is complained that the numbers are small in size and are closely spaced, so that it is difficult to determine what channel has been tuned. Third, it is said that superior on-the-knob channel displays are available for minimal additional cost. Finally, the broadcasters urge that use of an integrated (one knob) tuning system be required. These matters will be addressed in another proceeding in which all interested parties will be afforded an opportunity to comment.

17. In view of the foregoing, it is ordered, effective January 3, 1977, That § 15.68(d)(4) is amended as set forth below, and that this proceeding is terminated. Authority for this amendment is contained in sections 4(i), 303(r) and (s), and 330 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and (s), and 330.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 330, Sec. 2 76 Stat. 151, (47 U.S.C. 154, 303, 330.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,[7]
Secretary.

In Part 15 of Chapter I of Title 47 of the Code of Federal Regulations, § 15.68 (d)(4) is revised to read as follows:

§ 15.68 All-channel television broadcast reception: Receivers manufactured on or after July 1, 1971.

* * * * *

(d) * * *

(4) On or after July 1, 1977, a 70-position non-memory UHF detent tuning system may be used to meet the requirements of this section, providing one of the following conditions is met:

(i) *For any television receivier (monochrome or color).* (*a*) The receiver is provided with AFC and a UHF channel selection mechanism capable of positioning the tuner to receive each UHF channel at its designated detent position, when approached from either direction of rotation, such that the average of all deviations from correct frequency shall not exceed 0.75 MHz and no individual channel deviation shall exceed 2.0 MHz as measured by Bulletin OCE 30.

(*b*) The receiver is provided with AFC and a channel selection mechanism capable of positioning the tuner within the pull-in range of AFC, when approached from either direction of rotation.

(*c*) The receiver is provided with any other tuning system that produces and maintains detented tuning accuracy of the same order as the above specified systems.

(ii) *For monochrome receivers only.* The receiver is provided with a UHF channel mechanism capable of positioning the tuner to receive each UHF channel at its designated detent position, when approached from either direction of rotation, such that the average of all deviations from correct frequency shall not exceed 0.75 MHz and no individual channel deviation shall exceed 2.0 MHz as measured by Bulletin OCE 30.

[FR Doc.76-35189 Filed 11-29-76;8:45 am]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting; Correction

Released: November 15, 1976.

In the matter of reregulation of Radio and Television Broadcasting.

In the Order in the matter of Reregulation of Radio and Television Broadcasting (FCC 76-914) adopted by the Commission on September 28, 1976, and printed in the FEDERAL REGISTER on October 7, 1976, 41 FR 44176, the first sentence of amended paragraph (a)(5) of § 73.67 should read as follows:

§ 73.67 Remote control operation.

(a) * * *

(5) Calibration of required indicating instruments at each remote control point shall be made against their corresponding instruments at the transmitter site for each mode of operation as often as necessary to insure their accuracy, but in no event less than once a week, and:

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-35191 Filed 11-29-76;8:45 am]

[Docket No. 20891]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations In Certain Cities in Missouri

REPORT AND ORDER—(*Proceeding Terminated*)

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Red Oak, Iowa, and Maryville, Missouri), Docket No. 20891, RM-2692.

Adopted: November 16, 1976.

Released: November 22, 1976.

1. The Commission has under consideration its notice of proposed rulemaking and order to show cause, adopted August 13, 1976, 41 FR 35533. The subject proposal involves the assignment of FM Channel 237A to Red Oak, Iowa, and the substitution of Channel 257A for Channel 237A at Maryville, Missouri. Commenting parties are Red Oak Broadcasting Co., Inc. ("petitioner") and Nodaway Broadcasting Corp. ("KNIM-FM"), licensee of Stations KNIM and KNIM-FM (Channel 237A), Maryville, Missouri.

2. Red Oak (pop. 6,210)[1] is located in Montgomery County (pop. 12,781) in the southwestern part of Iowa, 80 kilometers (50 miles) southeast of Omaha,

[6] Although the "push button tuner" will undoubtedly make channel selection simple and completely comparable for VHF and UHF, it is not the panacea for providing superior reception. A manufacturer developing such a tuning system should be alert to the possible deleterious effect the electronic tuner may have on the selectivity, noise figure, desensitization, intermodulation and other characteristics of the television receiver.

[7] Commissioners Wiley, Chairman; Lee and Quello concurring in the result; Commissioner Fogarty absent.

[1] All population figures are taken from the 1970 U.S. Census.

Nebraska. It has one daytime-only AM station (KOAK), licensed to petitioner, and no FM assignments. The assignment of Channel 237A to Red Oak and the substitution of Channel 257A for 237A at Maryville would be in conformity with the minimum distance separation rule.

3. In the Notice we set out economic and other information pertaining to the need for a first FM assignment to Red Oak and therefore will not repeat it here. In supporting comments petitioner asserts that the assignment of the proposed channel to Red Oak is clearly warranted, noting that the assignment would not only provide a first FM service, but a first local nighttime service to Red Oak as well. It adds that the furtherance of the public interest outweighs whatever disruption of service that may occur temporarily as a result of the required changeover by KNIM–FM. Petitioner states that it is willing to reimburse Station KNIM–FM for those expenses reasonably and prudently expended for the requested changeover from its present channel. It reaffirms its intention to apply for Channel 237A, if assigned, and to promptly build a station if authorized.

4. KNIM–FM, in opposing comments, contends that its listening audience would drop a considerable amount for at least 8 to 11 months and losing an audience for this length of time would reduce its income. It further argues that its audience is familiar with KNIM–FM's dial setting and KNIM–FM would have difficulty in convincing the public as to why its frequency and dial position were changed. Finally, it contends that even though petitioner is willing to reimburse KNIM–FM for the changeover, this would not cover all the expenses incurred in putting the station on the air.[2] No response has been made by petitioner to these comments.

5. In our view economic injury is a relevant consideration only insofar as it affects the capability of the licensee to serve the public interest.[3] Here, however, no evidence has been presented to support an argument to the effect that the channel shift is likely to force the demise of Maryville's only full-time broadcast station or reduce its service to the public. There has been no showing here of sufficient likelihood of substantial public injury to warrant refusal to make an FM assignment which in other respects is clearly in the public interest. Providing Red Oak with a first FM service and a first local nighttime service, for which a demand has been shown, clearly outweighs whatever disruption of service may occur temporarily in connection with the Maryville station. We are of the opinion that four years of operation, which the station will have accumulated by February 1, 1977, when this action becomes effective, should have given the station sufficient identity with its listeners so that they will continue to listen to it on its new channel. The February 1, 1977, date should give adequate time for KNIM–FM to acquaint its audience with the forthcoming change and to engage in suitable promotion.

6. After careful consideration of the supporting comments filed by petitioner and the opposing comments filed by KNIM–FM, we conclude that it would be in the public interest to substitute Channel 257A for Channel 237A at Maryville, Missouri, and to assign Channel 237A to Red Oak, Iowa. Since KNIM–FM failed to consent to the proposed modification of its license in the Order to Show Cause, we shall, in accordance with Transcontinent Television Corp. v. F.C.C., 308 F. 2d 339 (D.C. Cir. 1962) make the amendments to the FM Table of Assignments herein regarding Red Oak and Maryville, effective upon the license expiration date of Station KNIM–FM, February 1, 1977, at 3:00 a.m. local time[4] or such earlier time as, upon its request, it ceases operation on Channel 237A at Maryville.

7. The Commission believes that equitable considerations require that Nodaway Broadcasting Corp. should be reimbursed for the reasonable costs of the channel change, and that such reimbursement should come from the party benefiting from the change, i.e., whoever becomes the Red Oak permittee. KNIM–FM argues that reimbursement by petitioner would not cover all the expenses incurred by KNIM–FM in putting its station on the air. The Communications Act provides licensees with no right to reimbursement when changes are required in their operating frequencies to permit other new or changed assignments which we have found to be warranted in the public interest. However, it is well settled policy, when such reimbursement appears feasible and equitable, to allow and provide for reimbursement for the reasonable costs of the channel change from the party ultimately benefiting from the new or changed assignment. In this case we believe that KNIM–FM should be reimbursed for the reasonable costs of accomplishing the channel change, but that it is not entitled to reimbursement of any costs expended that are not attributable to this changeover in frequency. Assisted by the guidelines we have furnished in other cases, such as Circleville, Ohio, supra, the appropriate costs making up the "reasonable" reimbursement figures are generally left to the good faith judgment of the parties eventually involved, subject to Commission approval in the event of disagreement.

8. Accordingly, pursuant to authority contained in section 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That effective February 1, 1977, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) it amended with respect to the following communities as follows:

City:	Channel No.
Iowa: Red Oak	[1] 237A
Missouri: Maryville	[1] 257A

[1] Effective 3 a.m. local time February 1, 1977 (concurrently with the expiration of the outstanding license for KNIM–FM on Channel 237A at Maryville) or such earlier date as Station KNIM–FM may, upon its request, cease operation on Channel 237A at Maryville.

9. *It is further ordered*, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the licensee of Station KNIM–FM, Maryville, Missouri, Nodaway Broadcasting Corp., shall specify operation on Channel 257A in lieu of Channel 237A on its renewal application for the license period commencing February 1, 1977. Alternatively, it may obtain modification of its license to operate on Channel 257A prior to February 1, 1977, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 257A, the licensee shall submit to the Commission the technical information normally requested of an applicant;

(b) At least 10 days prior to commencing operation on Channel 257A, the licensee shall submit the measurement data required of an applicant for a broadcast station licensee; and

(c) The licensee shall not commence operation on Channel 257A without prior Commission authorization.

If Station KNIM–FM requests and is granted authorization to operate on Channel 257A prior to termination of its present license authorization, the Commission will view such request as a relinquishment of Channel 237A and a waiver of any rights it may have with regard to that channel.

10. *It is further ordered*, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76–34987 Filed 11–29–76;8:45 am]

[Docket No. 20869; FCC 76–1055]

PART 89—PUBLIC SAFETY RADIO SERVICES

Power Limitation on Fire Radio Service Frequencies

Report and Order. In the matter of Amendment of Part 89 of the Commission's rules and regulations to raise the power limitation on the Fire Radio Service frequencies 33.42, 46.30, and 153.830 MHz, Docket 20869 RM–2627.

Adopted: November 16, 1976.

Released: November 23, 1976.

1. On July 7, 1976, the Commission adopted a notice of proposed rulemaking in the above entitled matter which was

[2] In reply comments petitioner states that KNIM–FM failed to file a statement showing why the license of KNIM–FM should not be modified, thereby waiving its right to a hearing and should be deemed to have consented to the modification in the Order to Show Cause. But, as discussed in paragraph 4, KNIM–FM has responded to the Order to Show Cause in an opposition filed September 2, 1976.

[3] See Circleville, Ohio, 8 F.C.C. 2d 159 (1967).

[4] See § 73.218(a)(2) of the Commission's rules.

published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29433). The notice proposed to raise the power limitation on Fire Radio Service Frequencies 33.42, 46.30, and 153.830 MHz to a maximum of 10 watts (output power). Operation on these three frequencies presently carries a maximum input power limitation of 3 watts.

2. The only comments received were those from the International Municipal Signal Association (IMSA). IMSA agreed with the Commission's proposal to raise the power limitation on these three frequencies and asked the Commission for expedited action in this matter. Accordingly, on the basis of the record in this proceeding, we conclude that the public interest would be served by adopting the rule amendment as proposed.

3. *Accordingly, it is ordered,* That effective December 30, 1976, Part 89 of the Commission's rules is amended, as set forth below. Authority for the adoption of the rule amendment is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended.

4. *It is further ordered,* That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

Part 89 of the Commission's rules is amended as follows:

Section 89.359(g)(6) is amended as follows:

§ 89.359 Frequencies available to the Fire Radio Service.

* * * * *

(g) * * *

(6) The output power of any transmitter authorized to operate on this frequency shall not exceed 10 watts.

* * * * *

[FR Doc.76-35193 Filed 11-29-76;8:45 am]

[FCC 76-1056]

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

Prior Notification of Filing of Applications Requirements

Memorandum opinion and order. In the matter of amendment of § 94.15(b) of the rules to delete the requirement for prior notification of filing of applications, RM-2735.

Adopted: November 16, 1976.

Released: November 23, 1976.

1. The Utilities Telecommunication Council (UTC) has petitioned the Commission to amend § 94.15(b) of the Commission's rules to delete the requirement that applicants notify existing licensees in the Private Operational-Fixed Microwave Radio Service of the filing of their applications. GTE Service Corporation and its affiliated domestic telephone operating companies (GTE) filed an Opposition and UTC thereafter filed a Reply.[1]

2. We find that the Petitioner's request has merit. The Rules provide that an applicant must certify upon an engineering analysis that the potential interference to existing licensees from its proposed station will not exceed that allowed by § 94.63, or, that in those cases where it would be exceeded, all parties affected agreed to accept the higher level of interference. Consequently, it appears that the notification requirement in § 94.15(b) is unnecessary and constitutes an undue burden for applicants. Furthermore, in accordance with section 309(b) of the Communications Act of 1934, as amended, and § 1.962 of our rules we give public notice of the filing of such applications. The public notice informs existing licensees of pending applications and provides them a further opportunity to file comments concerning a new proposal, including the filing of formal petitions to deny, and to set out any potential interference problems to their systems.

3. It appears to us that GTE is mainly concerned with prior coordination in those frequency bands shared by the common carrier and the private services. But in those instances, the rules[2] already require prior coordination of applications which includes prior notification. Therefore, in those cases, the prior notification requirement in § 94.15(b) would be redundant.

4. Accordingly, we conclude that the UTC's petition should be granted. We further conclude that this action may be taken without regard to the prior notice and procedure prescribed by the Administrative Procedure Act, 5 U.S.C. 553, because the rule is procedural in nature.

5. *Accordingly, it is ordered,* Pursuant to the authority contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective December 2, 1976, § 94.15(b) of the Commission's Rules is amended as shown below.

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

FEDERAL COMMUNICATIONS COMMISSION[3]
VINCENT J. MULLINS,
Secretary.

Part 94 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 94.15(b) is amended to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(b) All applicants for new or modified stations shall make an engineering analysis of the potential interference between the proposed facilities and previously authorized facilities and pending applications. The applicant shall include as supplemental information with the application: (1) A certification that based upon frequency engineering analysis, the potential interference shall not exceed that prescribed by the interference criteria in § 94.63; or (2) if the potential interference is to exceed that prescribed by § 94.63, a statement to the effect that all parties affected have agreed to accept the higher level of interference. In either case, the applicant shall furnish the names of the licensees and the call signs of the stations which were considered in conducting the engineering analysis. Further, applicants and licensees will be expected to cooperate promptly and fully in the exchange of technical information necessary to performing frequency engineering analysis and, in the event of technical differences, cooperate in resolving these differences.

* * * * *

[FR Doc.76-35194 Filed 11-29-76;8:45 am]

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[1] Commissioners Hooks and Fogarty absent.

[1] The GTE Opposition and the UTC Reply were filed more than 30 days after public notice of the petition for rulemaking. The time period specified in § 1.405(a) has been waived in this instance, and all filings were considered.

[2] Section 94.63(a) provides, "* * * when the proposed facilities are to be operated in the bands 18,630-19,040 MHz, 21,200-21,800 MHz, 22,400-23,000 MHz, 31,000-31,200 MHz, or 38,600-40,000 MHz, applicants shall follow the prior coordination procedure specified in § 21.100(d) of this chapter as regards stations in the Domestic Public Radio Services and when the proposed facilities are to be operated in the bands 2655-2690 MHz or 12,500-12,700 MHz, applications shall also follow the procedures in § 21.706(c) and (d) and the technical standards and requirements of Part 25 of this chapter as regards licensees in the Communication-Satellite Service".

[3] Commissioners Hooks and Fogarty absent.

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 26)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods (Use of Vehicle-Load Manifest)

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of November 1976.

It appearing, That by report and order entered in the above-entitled proceeding on February 13, 1976, this Commission (i) amended § 1056.11 of its, general rules and regulations (49 CFR 1056.11) by eliminating the requirement that each motor common carrier of household goods in interstate or foreign commerce must maintain, for each vehicle operated in such transportation, a vehicle-load manifest, and by substituting for that form a prescribed driver's weight certificate, described in "Practices of Motor Common Carriers of Household Goods" (Use of Vehicle-Load Manifest), 124 M.C.C. 315, 326-327 (1976); and (ii) amended § 1056.6 of those general rules and regulations (49 CFR 1056.6) by deleting references in that section to the vehicle-load manifest and by substituting there-

fore references to the driver's weight certificate described in amended § 1056.11;

It further appearing, that no petitions for reconsideration were filed to the above-described order, that the effective date thereof was not stayed or postponed by the Commission, and that on April 12, 1976, the rules promulgated in the above-entitled proceeding became effective;

It further appearing, that by petition filed October 15, 1976, the American Movers Conference (AMC), an association of household goods carriers, requested this Commission to institute a rulemaking proceeding for the purpose of amending § 1056.6(e) of this Commission's household goods regulations in order to correct an oversight in the drafting of the second proviso to that subsection and to provide for waiver by the shipper of the driver's weight certificate for household goods shipments moving on Government Bills of Lading;

It further appearing, That under § 1056.11 this Commission formerly required carriers to record on the vehicle-load manifest the weight of each shipment transported on the vehicle for which that manifest was maintained; that § 1056.6 specified the manner in which shipments were to be weighed and the manner in which the weight of each shipment was to be recorded on the vehicle-load manifest; that § 1056.6(e) provided that the general weighing regulations would not apply to so-called third-proviso shipments of household goods (defined in § 1056.1(a)(3) of our household goods regulations, 49 CFR 1056.1 (a)(3)) or to containerized shipments of household goods (i) provided that the weight of each shipment was certified by the shipper thereof on the bill of lading covering that shipment, and (ii) provided further that nothing contained in § 1056.6(e) would relieve the carrier of the obligation to enter in part B of the Vehicle-Load Manifest the gross and tare weights of the vehicle on which that shipment was transported and the net weight of the shipment;

It further appearing, that the purpose of the exemptions contained in § 1056.6 (e) and of the two provisos to that subsection was to except from the otherwise-applicable weighing requirements two classes of shipments which would likely be weighed by the shipper prior to placement upon the vehicle in those instances in which weight of those shipments was certified by the shipper on the bill of lading; that recording of the weight of third-proviso and containerized household goods shipments on the vehicle-load manifest served only the limited purpose of ensuring that the weight of each shipment transported on a single vehicle was used to calculate the shipment most recently added to that vehicle; that third-proviso shipments are generally shipped on the basis of agreed-upon manufacturers' weights or on the basis of the shipper's own weight determination, and containerized shipments are generally weighed in advance of shipment, and, therefore, the driver's weight certificate is not necessary in those instances in which the weight of such shipments is certified by the shipper on the bill of lading; that those shippers who have the means to weigh such shipments and to certify those weights to the carrier do not require the protection that other household goods shippers require, and it was not our intention in this proceeding to extend the driver's weight certificate requirement to third-proviso and containerized shipments when shippers are able to certify the weight of their shipment on the bill of lading; that, finally, requiring completion of the driver's weight certificate for third-proviso and containerized shipments would in effect remove the exemption from the requirement otherwise provided through the operation of § 1056.6(e); and that, therefore, in order to clarify our intention in this respect and because this action will not affect those shippers to whom the protection of the driver's weight certificate should be extended, we will delete from our regulations the second-proviso to that subsection;

It further appearing, That petitioner also requests that we amend our household goods regulations by excepting from the requirements of § 1056.11 those shipments which move under Government Bills of Lading; that AMC states that Department of Defense shipments moving under Government Bills of Lading comprise a substantial portion of household goods shipments handled by the carriers and that among the rules established by the Department of Defense for the transportation of household goods for its account is the requirement that the gross and tare scale tickets for each shipment are to be submitted to the Department of Defense along with the billing for that shipment; that petitioner asserts that carriers and their drivers would be saved a considerable amount of paperwork if they were relieved of the necessity of providing a Driver's Weight Certificate for those shipments moving under Government Bills of Lading; that under AMC's proposal, waiver of the driver's weight certificate would be optional on the part of the government agency responsible for the shipment in question; that AMC points out that § 1056.9(c) of this Commission's household goods transportation regulations (49 CFR 1056.9(c)) contains a similar provision, permitting written waiver by the shipper of an Order for Service when goods are moving under Government Bills of Lading; that this proposed modification of the regulations will affect only a limited class of shippers (those whose shipments move under Government Bills of Lading) and will apply only at the written request of the government agency for whose account the shipment is being transported; that in view of the foregoing, we believe that the proposed modification is reasonable and in accord with our determination in the report previously entered in this proceeding; and that we will, therefore, modify § 1056.6 by adding thereto a new paragraph (f) as set forth below:

And it further appearing, That because deletion of the second proviso to § 1056.6 (e) of these regulations merely serves to clarify our determination in the above-entitled proceeding and because exempting shipments moving under Government Bills of Lading from the requirements of § 1056.11 affects only a limited class of shippers (and then only the condition that shipper has waived that requirement in writing), further public participation in this proceeding is unnecessary (see section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b)); and good cause appearing therefor:

It is ordered, That Part 1056 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by modifying § 1056.6 in the following manner:

(i) by deleting from § 1056.6(e) the phase "*And provided further*, That nothing contained herein shall relieve the carrier of the obligation to enter on the driver's weight certificate the gross and tare weights of the vehicle on which such shipment is transported and the net weight of the shipment;" and (ii) by adding to § 1056.6 a new paragraph (f) which reads as follows:

"(f) *Waiver of driver's weight certificate*. Upon written request from the shipper, the requirement for a driver's weight certificate may be waived, with or without conditions, for shipments moving on Government Bills of Lading.

It is further ordered, That this order shall become effective on January 1, 1977, and shall remain in effect until modified or revoked in whole or in part by further order of this Commission;

It is further ordered, That notice of this order, which modifies the order entered in this proceeding on February 13, 1976, shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy of the attached notice with the Director, Office of the Federal Register.

(49 U.S.C. 301, 302, 304, 308, 5 U.S.C. 553, 559)

By the Commission.

H. GORDON HOMME, JR.,
Acting Secretary.

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (USE OF VEHICLE-LOAD MANIFEST)

• *Purpose:* The purpose of this notice is to inform the public that the Interstate Commerce Commission has amended § 1056.6 of the Commission's general rules and regulations (49 CFR 1056.6) (i) by eliminating the requirement that motor common carriers of household goods must complete a Driver's Weight Certificate for containerized shipments of household goods and for shipments of household goods as defined in § 1056.1(a)(3) of the Commission's general rules and regulations (49 CFR 1056.1(a)(3)) when the weight of such shipments is certified by the shipper on the bill of lading, and (ii) by adding to those regulations a new § 1056.6(f), which provides that the shipper may waive in writing, with or without conditions, the requirement that a carrier complete a Driver's

Weight Certificate for shipments moving under Government Bills of Lading. •

The Interstate Commerce Commission has amended 49 CFR 1056.6(i) by eliminating the second proviso to § 1056.6(e), and (ii) by adding a new § 1056.6(f) to that section. This action was taken as the result of a petition filed by the American Movers Conference seeking the changes described in this notice.

The effect of the elimination of the second proviso to § 1056.6(e) is to clarify this Commission's regulations governing the preparation of a driver's weight certificate (described in 49 CFR 1056.11) for containerized shipments of household goods or for shipments of household goods as defined in 49 CFR 1056.1(a)(3) for which the shipper has certified the weight of the shipment on the bill of lading. The Commission found that the driver's weight certificate would be redundant and would not be required for the protection of these two classes of shippers. Eliminating the second proviso to § 1056.6(e) would not eliminate the driver's weight certificate requirement in those instances in which shippers of containerized household goods or third-proviso household goods could not ascertain, in advance the weight of their particular shipments.

Adoption of § 1056.6(f) permits government agencies to waive in writing the requirements that carriers must prepare a driver's weight certificate for shipments moving under Government Bills of Lading. This provision permits those agencies whose internal procedures permit satisfactory verification of the weight of shipments being billed to their account to waive or conditionally waive in writing the driver's weight certificate without penalizing the carrier. Government shippers which desire the driver's weight certificate or desire to have it directed to the actual owner of the goods shipped can receive it by not waiving the requirement that the carrier complete such a certificate, or by waiving its delivery to the party paying the carrier's charges upon condition that it be delivered to the owner upon delivery of the household goods shipment.

Finally, the Commission found that public procedure on these matters was unnecessary, inasmuch as the deletion of the second proviso to § 1056.6(e) merely clarified an ambiguity created by the amendment of this subsection in the report and order entered in this proceeding on February 13, 1976, and inasmuch as the promulgation of § 1056.6(f) offered shippers the option to waive the protection of the driver's weight certificate in those instances in which shipments are transported under Government Bills of Lading.

These regulations are issued under the authority of 49 U.S.C. 301, 302, 304, and 308, and 5 U.S.C. 553 and 559.

Issued in Washington, D.C.

Accordingly, this action modifies 49 CFR 1056.6 in the following manner:

(i) By deleting from § 1056.6(e) the phrase *"And provided further,* That nothing contained herein shall relieve the carrier of the obligation to enter on the driver's weight certificate the gross and tare weights of the vehicle on which such shipment is transported and the net weight of the shipment;" and

(ii) By adding to section 49 CFR 1056.6 a new paragraph (f) as follows:

§ 1056.6 Determination of weights.

* * * * *

(f) *Waiver of driver's weight certificate.* Upon written request from the shipper, the requirement for a driver's weight certificate may be waived, with or without conditions, for shipments moving on Government Bills of Lading.

[FR Doc.76-35041 Filed 11-29-76;8:45 am]

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 36445]

UNIFORM SYSTEMS OF ACCOUNTS

Reclassification of Long-Term Debt Discount and Premium

Decided: November 9, 1976.

Certain revised accounting regulations governing all carriers subject to our accounting rules are adopted to be effective January 1, 1977.

REPORT OF THE COMMISSION

The Accounting Principles Board (APB) issued Opinion No. 21, "Interest on Receivables and Payables," in August 1971. Paragraph 16 of this Opinion states that discount or premium is not an asset or liability separable from the note or instrument which gives rise to it. Therefore, the discount or premium should not be classified as a deferred charge or credit, but rather as a deduction from or addition to the face amount of the note.

"Discount," as applied to funded debt securities issued by the carrier, means the excess of the par or face value of the securities over the cash received from their sale. "Premium" means the excess of the cash received over the par or face value of the securities issued. Generally accepted accounting principles (GAAP) requires that discount or premium arising from the sale of funded debt securities is to be amortized over the life of the securities.

Currently, the uniform system of accounts for transportation modes regulated by the Commission specifies that unamortized discount be classified as a deferred charge or debit, with unamortized premium classified as a deferred credit. Thus, the regulations required by the Commission are in contradiction with the criteria established in APB Opinion No. 21.

Specifically, our revision reclassifies the unamortized discount and premium as separate accounts under the long-term debt section of the balance sheet. The long-term debt total will be an amount net of this unamortized discount or premium. Thus, this redesignation of unamortized discount and premium on long-term debt will conform our uniform systems of accounts with GAAP. Issue costs related to long-term debt (debt expense) will continue to be reported as a deferred charge.

The present accounting system for motor carriers of property (Part 1207) specifies that interest included in the face value of long-term debt be considered "prepaid" and accounted for as a deferred debit. This so-called "prepaid interest" is misnamed because it is actually a discount in that it is the difference between the face value of an obligation and the proceeds. We have, therefore, included this item in the new account provided for discount.

We do not consider these changes burdensome because they do not involve any additional recordkeeping, but merely a reclassification of unamortized discount and premium on the balance sheet. Also, it should be noted that many firms have already made these changes in the financial statements to their stockholders, in accordance with GAAP. Therefore, a rulemaking proceeding under sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) is not necessary.

FINDINGS

We find that Parts 1201 through 1210 of the Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the appended statement of changes; and that such rules are reasonable and necessary to the effective enforcement of the provision of Parts I, II, III, and IV of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

An appropriate order will be entered.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of November 1976.

Consideration having been given to the matters and things involved in this proceeding, and the said Commission, on the date thereof, having made and filed a report herein containing its findings and conclusions, which report is hereby made a part hereof:

It is ordered, That, effective January 1, 1977, the regulations prescribed in Parts 1201–1210, except Part 1203, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown in the appendices to the above mentioned report.

It is further ordered, That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C.

and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 12, 20, 304, 913, 1012.)

By the Commission.

ROBERT L. OSWALD,
Secretary.

PART 1201—UNIFORM SYSTEM OF ACCOUNTS—RAILROAD COMPANIES

Amend Part 1201—Uniform System of Accounts for Railroad Companies:

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet Accounts," the following revisions are made:

The following line items are deleted:

742 Unamortized discount on long-term debt.
783 Unamortized premium on long-term debt.

The following two line items are added after line item 769 "Amounts payable to affiliated companies:"

770.1 Unamortized discount on long-term debt.
770.2 Unamortized premium on long-term debt.

* * * * *

Instructions for Income and Balance Sheet Accounts

The text of instruction 6–3 "Discount, expense, and premium on debt," paragraphs (a) and (b), is revised as follows:

6–3 *Discount, expense, and premium on debt.* (a) Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale or resale of each subclass of funded debt and of receivers' and trustees' securities issued for the benefit of or assumed by the company. (For explanation of "subclass" see account 765, "Funded debt unmatured".) The net debit balances remaining in the ledger accounts for discount and premium shall be included in account 770.1, "Unamortized discount on long-term debt," and the total of the net credit balances in account 770.2, "Unamortized premium on long-term debt." Debt expense shall be included in account 743, "Other deferred charges."

(b) Each fiscal period there shall be charged to income account 548, "Amortization of discount on funded debt," a proportion on a consistent basis of each of the debit balances in the discount and premium accounts and correspondingly there shall be credited to income account 517, "Release of premiums on funded debt," a similar proportion of each of the credit balances in these accounts. Related debt expense shall also be charged to account 548, "Amortization of discount on funded debt," on a proportional and consistent basis. When the total discount and expense applicable to any particular issue of securities does not exceed $25,000, carriers may charge the entire amount to account 548, "Amortization of discount on funded debt," at time of issue.

* * * * *

General Balance Sheet Accounts

742 [Deleted]

The titles and texts of accounts 742, "Unamortized Discount on Long-term Debt" and 783, "Unamortized Premium on Long-term Debt," are deleted.

After the text of account 769, "Amounts Payable to Affiliated Companies," the following account numbers, titles, texts, and notes are added:

770.1 Unamortized discount on long-term debt.

This account shall include the total of the net debit balances in the discount and premium accounts for the several subclasses of funded debt. (See instruction 6–3.)

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 743, "Other deferred debits" and amortized proportionately on a consistent basis to account 548, "Amortization of discount on funded debt." (See instruction 6–3.)

770.2 Unamortized premium on long-term debt.

This account shall include the total of the net credit balances in the discount and premium accounts for the several subclasses of funded debt. (See instruction 6–3.)

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 743, "Other deferred debits" and amortized proportionately on a consistent basis to account 548, "Amortization of discount on funded debt." (See instruction 6–3.)

783 [Deleted]

799 [Amended]

The text of account 799, "Form of General Balance Sheet Statement" is revised as follows:

742 and 783 [Deleted]

Line items 742, "Unamortized discount on long-term debt" and 783, "Unamortized premium on long-term debt," are deleted.

The following line items are added:

799 Form of General Balance Sheet Statement.
* * * * *
769 * * *
770.1 Unamortized discount on long-term debt.
770.2 Unamortized premium on long-term debt.
Total long-term debt (net).
* * * * *

PART 1202—UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC RAILWAYS

Amend Part 1202—Uniform System of Accounts for Electric Railways:

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet Accounts," the following revisions are made:

418 [Deleted]

Line items 418, "Discount on funded debt" and 440, "Premium on funded debt" are deleted.

The following line items are added after line 429, "Nonnegotiable debt to affiliated companies":

* * * * *
429–1 Discount on funded debt.
429–2 Premium on funded debt.
* * * * *
440 [Deleted]

General Balance Sheet

The title of general instruction 05–3, "Discount, expense, and premium on funded debt," and the texts of the first two paragraphs are revised as follows:

05–3 Discount, expense, and premium on funded debt.

Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale of each class of funded debt (including receiver's certificates) issued or assumed by the company. The total of the net debit balances remaining in the discount and premium accounts shall be included in account 429–1, "Discount on funded debt," and the total of the net credit balances in account 429–2, "Premium on funded debt." Debt expense shall be included in account 415, "Other deferred assets."

Each month there shall be charged to income account 222, "Amortization of discount of funded debt," a proportion (based upon the ratio of such fiscal period to the remaining life of the respective securities) of each of the debit balances in the discount and premium accounts, and correspondingly there shall be credited to income account 210, "Release of premiums on funded debt," a similar proporation of each of the credit balances in these accounts. Related debt expenses shall also be charged to account 222, "Amortization of discount on funded debt."

Except as provided * * *

* * * * *

05–8 [Amended]

General instruction 05–8, "Form of general balance sheet statements" is revised as follows:

* * * * *
418 [Deleted]
* * * * *
440 [Deleted]

Line 418, "Discount on funded debt" and line 440, "Premium on funded debt" are deleted.

Line items 429–1 and 429–2 are added as follows:

LIABILITY SIDE

* * * * *
429 * * *
(b) * * *
429–1 Discount on funded debt.
429–2 Premium on funded debt.
Total (net).
* * * * *

General Balance Sheet Accounts

418 [Deleted]

The titles and texts of accounts 418, "Discount on funded debt", and 440, "Premium on funded debt", are deleted.

After the text of account 429, "Nonnegotiable debt to affiliated companies," the following account numbers, titles, texts, and notes are added:

429–1 Discount on funded debt.

This account shall include the total of the debit balances in the discount and premium accounts for the several subclasses of funded debt. (See Instruction 05–3, Discount, expense, and premium on funded debt.)

When an issue of funded debt, or any part thereof, is cancelled and at the date of cancellation there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 225, "Miscellaneous debits," or account 270, "Extraordinary items," as appropriate.

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 415, "Other deferred assets" and amortized proportionately on a consistent basis to account 222, "Amortization of discount on funded debt."

429–2 Premium on funded debt.

This account shall include the total of the net credit balances in the discount and premium accounts for the several subclasses of funded debt. (See Instruction 05–3, Discount, expense, and premium on funded debt.)

When an issue of funded debt or any part thereof is cancelled and at the date of cancellation there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 212, "Miscellanceous income", or account 270, "Extraordinary items", as appropriate.

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 415, "Other deferred assets" and amortized proportionately on a consistent basis to account 222, "Amortization of discount on funded debt."

440 [Deleted]

PART 1204—UNIFORM SYSTEM OF ACCOUNTS FOR PIPELINE COMPANIES

Amend Part 1204—Uniform System of Accounts for Pipeline Companies:

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Balance Sheet Accounts," the following revisions are made:

42 [Deleted]

Line item 42, "Unamortized discount and interest on long-term debt" is deleted.

The following line item is added after line item 61, "Unamortized premium on long-term debt."

62 Unamortized discount and interest on long-term debt.

* * * * *

Balance Sheet Accounts

42 [Deleted]

The title and text of account 42, "Unamortized discount and interest on long-term debt" are deleted.

A note is added to the text of account 61, "Unamortized premium on long-term debt," and new account 62, "Unamortized discount and interest on long-term debt," to read as follows:

61 Unamortized premium on long-term debt.

* * * * *

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 44, Other deferred charges, and amortized over the life of the debt by charge to account 660, Miscellaneous income charges.

62 Unamortized discount and interest on long-term debt.

This account shall include the amount of discount on long-term debt, and the amount of interest expressly provided for and included in the face amount of obligations issued or assumed and not amortized as of the balance sheet date. The amount of discount or interest applicable to each issue of debt obligation shall be amortized over the life of the respective debt by charge to interest expense.

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in a count 44, Other deferred charges, and amortized over the life of the debt by charge to account 660, Miscellaneous income charges.

797 FORM OF BALANCE SHEET STATEMENT

42 [Deleted]

Line item 42, "Unamortized Discount and Interest on Long-Term Debt," is deleted.

A new line item 62, "Unamortized Discount and Interest on Long-Term Debt," is added as follows:

NONCURRENT LIABILITIES

61 * * *
62 Unamortized Discount and Interest on Long-term Debt.

* * * * *

PART 1205—UNIFORM SYSTEM OF ACCOUNTS FOR REFRIGERATOR CAR LINES

Amend Part 1205—Uniform System of Accounts for Refrigerator Car Lines.

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet Accounts Texts," the following revisions are made:

* * * * *

742 [Deleted]

* * * * *

783 [Deleted]

Line items 742, "Unamortized discount on long-term debt" and 783, "Unamortized premium on long-term debt" are deleted.

The following line items are added after line item 769, "Amounts payable to affiliated companies."

770.1 Unamortized discount on long-term debt.
770.2 Unamortized premium on long-term debt.

Income and Balance Sheet Accounts Instructions

The text of instruction 38, "Discount, expense, and premium on debt," first and second paragraphs, is revised as follows:

38 Discount, expense, and premium on debt.

Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale or resale of each subclass of funded debt and of receivers' and trustees' securities issued for the benefit of or assumed by the company. (For explanation of "subclass" see account 765, "Funded debt unmatured.") The net debit balances remaining in the ledger accounts for discount and premium shall be included in account 770.1, "Unamortized discount on long-term debt," and the total of the net credit balances in account 770.2, "Unamortized premium on long-term debt." Debt expense shall be included in account 743, "Other deferred charges."

Each fiscal period there shall be charged to income account 548, "Amortization of discount on funded debt," a proportion (based upon the ratio of such fiscal period to the remaining life of the respective securities reckoned from the beginning of the period to the date of maturity of the debt to which the charges relate) of each of the debit balances in the discount and premium accounts, and correspondingly there shall be credited to income account 517, "Release of premiums on funded debt," a similar proportion of each of the credit balances in these accounts. Related debt expense shall also be charged to account 548, "Amortization of discount on funded debt," on a proportional and consistent basis. When the total discount and expense applicable to any particular issue of securities does not exceed $25,000, accounting company may charge the entire amount to account 548, "Amortization of discount on funded debt," at the time of issue.

When any funded debt * * *

* * * * *

General Balance Sheet Accounts

742 [Deleted]

The titles and texts of accounts 742, "Unamortized discount on long-term debt," and 783, "Unamortized premium on long-term debt," are deleted.

After the text of account 769, "Amounts payable to affiliated companies," the following titles, texts, and notes are added:

770.1 Unamortized discount on long-term debt.

This account shall include the total of the net debit balances in the discount and premium accounts for the several subclasses of funded debt.

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 743, "Other deferred charges" and amortized proportionately on a consistent basis to account 548, "Amortization of discount on funded debt." (See instruction 38.)

770.2 Unamortized premium on long-term debt.

This account shall include the total of the net credit balances in the discount and premium accounts for the several subclasses of funded debt.

NOTE.—Issue costs related to long-term debt (debt expense) shall be included in account 743, "Other deferred charges" and amortized proportionately on a consistent basis to account 548, "Amortization of discount on funded debt." (See instruction 38.)

783 [Deleted]

Account 799, "Form of general balance sheet statement" is amended as follows:

742 and 783 [Deleted]

Line items 742, "Unamortized discount on long-term debt" and 783, "Unamortized premium on long-term debt" are deleted.

After line item 769, "Amounts payable to affiliated companies," the following line items are added:

769 * * *
770.1 Unamortized discount on long-term debt
770.2 Unamortized premium on long-term debt
Total long-term debt due after one year (net)

* * * * *

PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Amend Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers.

LIST OF DEFINITIONS, INSTRUCTIONS, AND ACCOUNTS

Under "Balance Sheet Accounts," the following revisions are made:

* * * * *

1880 [Deleted]

* * * * *

2400 [Deleted]

Line items 1880, "Unamortized debt discount and expense" and 2400, "Unamortized premium on debt" are deleted.

The following line items are added after line item 2360, "Other long-term obligations."

2370 Unamortized discount on debt.
2380 Unamortized premium on debt.

* * * * *

Instructions

Instruction 2–13, "Discount, expense and premium on long-term obligations", paragraphs (a), (b), (c), and (d), is amended as follows:

2–13 Discount, expense and premium on long-term obligations.

(a) A separate subdivision shall be maintained in account 2370, Unamortized Discount on Debt, for the excess of discount over any premium related to each class of long-term debt issued or assumed by the carrier. Debt expense shall be included in account 1890, Other Deferred Debits. (See definitions 20, 23, 32.)

(b) Corresponding subdivisions shall be maintained in account 2380, Unamortized Premium on Debt, for the excess of the premium over any discount related to each class of long-term debt issued or assumed by the carrier.

(c) Each period there shall be credited to each subdivision of account 2370, Unamortized Discount on Debt, the amount applicable to such period under a plan of amortization, the application of which will equitably distribute the balance therein over the life of the security. Amounts thus amortized shall be concurrently charged to account 7300, Amortization of Debt Discount and Expense.

(d) Correspondingly, each period there shall be charged to each subdivision of account 2380, Unamortized Premium on Debt, the portion of such credit balance which is applicable to that period. Amounts thus charged shall be concurrently credited to account 7400, Amortization of Premium on Debt.—Credit.

(e) * * *

* * * * *

Balance Sheet Accounts

1880 [Deleted]

The titles and texts of accounts 1880, "Unamortized debt discount and expense" and 2400, "Unamortized premium on debt" are deleted.

The first sentence of the text of account 1890, "Other Deferred Debits," paragraph (a), is revised as follows:

1890 Other deferred debits.

(a) This account shall include all debit balances in suspense accounts that cannot be entirely cleared and disposed of until further information is received; also items of a deferred nature (except items chargeable to account 1800, Prepayments, or account 2370, Unamortized Discount on Debt) which are subsequently to be amortized to the appropriate operation and maintenance expense or other accounts.

* * * * *

After the text of account 2360, "Other long-term obligations," the following titles texts and notes are added:

2370 Unamortized discount on debt.

This account shall include the total of the net debit balances representing the excess of the discount over the premium in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained for each issue of such obligations. (See Instruction 2-13.)

NOTE: Issue costs related to long-term debt (debt expense) shall be included in account 1890, Other Deferred Debits, and amortized proportionately on a consistent basis to account 7300, Amortization of Debt Discount and Expense. (See Instruction 2-13.)

2380 Unamortized premium on debt.

This account shall include the total of all credit balances representing the excess of the premium over the discount in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained for each issue of obligations. (See Instruction 2-13.)

NOTE: Issue costs related to long-term debt (debt expense) shall be included in account 1890, Other Deferred Debits, and amortized proportionately on a consistent basis to account 7300, Amortization of Debt Discount and Expense. (See Instruction 2-13.)

2400 [Deleted]

Account 2999, "Form for balance sheet statement," is amended as follows:

1880 and 2400 [Deleted]

Line items 1880, "Unamortized Debt Discount and Expense" and 2400, "Unamortized Premium on Debt" are deleted.

The following line items are added after line item 2360, "Other Long-term Obligations/Less: Reacquired and Nominally Issued."

2360 * * *
2370 Unamortized Discount on Debt
2380 Unamortized Premium on Debt
Total Equipment and Other Long-term Obligations (net)

Income Accounts

The last sentence of the text of account 7300, "Amortization of debt discount and expense," is revised to read:

7300 Amortization of debt discount and expense.

* * * Debt expense and debt discount charged to this account shall be concurrently credited to account 1890, "Other Deferred Debits, and 2370, "Unamortized Discount on Debt, respectively. (See also Instruction 2–13.3.)

The last sentence of the text of account 7400, "Amortization of premium on debt—Credit," is revised to read:

7400 Amortized of premium on debt—Credit.

* * * Amounts credited to this account shall be concurrently charged to account 2380, "Unamortized Premium on Debt." (See Instruction 2–13.)

PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Amend Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property:

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

Instruction 17, "Equipment and long-term obligations", paragraphs (b), (c), (d), and (e) is revised as follows:

17 Equipment and long-term obligations.

(a) * * *

(b) A separate subdivision shall be maintained in account 2338—Unamortized Discount on Debt (classes I and II), for the excess of discount over any premium related to each class of long-term debt issued or assumed by the carrier. Debt expense shall be included in

account 1512—Deferred Debits (classes I and II). (See definitions 19, 22, and 31.)

(c) Corresponding subdivisions shall be maintained in account 2339—Unamortized Premium on Debt (classes I and II), for the excess of the premium over any discount related to each class of long-term debt issued or assumed by the carrier.

(d) (1) Each month, entries shall be recorded to distribute equitably the balance of each subdivision of account 2338—Unamortized Discount on Debt (classes I and II) over the life of the security. The related debt expense included in account 1512—Deferred Debits (classes I and II) shall also be amortized over the life of the security. Amounts credited to these accounts shall be concurrently charged to account 8670/9670—Amortization of Debt Discount and Expense (classes I and II).

(2) Correspondingly, each month the portion of such credit balance, which is applicable to the period, shall be charged to each subdivision of account 2339—Unamortized Premium on Debt (classes I and II). Amounts thus charged shall be concurrently credited to account 8680/9680—Amortization of Premium on Debt—Credit (classes I and II).

(e) Except as provided in paragraph (d) of this section, any balance in accounts 2338 or 2339 (classes I and II), or subdivisions thereof, shall be carried until the securities to which they relate are reacquired. At that time (unless otherwise required by instrument of authority), a portion of the balance in these accounts (or subdivisions for the particular class of long-term debt reacquired) shall be transferred to account 8400/9400—Other Nonoperating Income (net) (class II), and account 8410/9410—Other Nonoperating Income, or 8429/9429—Other (nonoperating deductions) (class I), as appropriate. Such portion shall be based on the relation of the amount of a particular issue of long-term debt reacquired to the total outstanding before the reacquisition. This provision shall also apply to securities held alive in sinking or other funds.

(f) * * *

* * * * *

Class I and Class II Motor Carriers, Chart of Accounts, Balance Sheet

Under the column "Class II accounts", the following revisions are made:

* * * * *

1510 [Deleted]

* * * * *

2410

* * * * *

Line items 1510—"Deferred and Miscellaneous Debits" and 2410—"Deferred Credits" are deleted.

New line items 1512, 2338, 2339, and 2412 are added as follows:

1451 * * *
Deferred Charges
1512 Deferred Debits
1520 * * *

* * * * *

2334 * * *
2338 Unamortized Discount on Debt
2339 Unamortized Premium on Debt
2341 * * *
Deferred Credits
2412 Deferred Credits
2420 * * *

* * * * *

Under the column "Class I accounts", the following revisions are made:

Line items 1510—"Deferred and Miscellaneous Debits," 1511—"Unamortized Debt Discount and Expense", 2410—"Deferred Credits", and 2411—"Unamortized Premium on Debt" are deleted.

* * * * *

1510 [Deleted]
1511 [Deleted]

* * * * *

2410 [Deleted]
2411 [Deleted]

* * * * *

Line item "1512—Other Deferred Debits" is revised to read "1512—Deferred Debits" and line item "2412—Other Deferred Credits" is revised to read "2412—Deferred Credits."

New line items 2338 and 2339 are added as follows:

2334 * * *
2338 Unamortized Discount on Debt
2338 Unamortized Discount on Debt
2341 * * *

Class I and Class II Motor Carriers Balance Sheet Account Explanations

* * * * *

1510 [Deleted]
1511 [Deleted]

* * * * *

2410 [Deleted]

The numbers, titles, and texts of accounts 1510—"Deferred and Miscellaneous Debits (class II)", 1511—"Unamortized Debt Discount and Expense (class I)", and 2410—"Unamortized Premium on Debt (class I)" are deleted.

The title of account 1512—"Other Deferred Debits (class I)" and the text of paragraph (a)(11) are revised as follows:

1512 Deferred Debits (classes I and II).

(a) * * *

(11) Debt expense (see definition 19). Amounts recorded for debt expense shall be amortized proportionately on a consistent basis to account 8670/9670—Amortization of Debt Discount and Expense.

(12) * * *

* * * * *

2412 [Amended]

The title of account 2412—"Other Deferred Credits (class I)" is revised to read "2412—Deferred Credits (classes I and II)".

After the text of account 2334—"Other Long-Term Obligations (classes I and II)", the following titles, texts, and notes are added:

2338 Unamortized Discount on Debt (class I and II).

This account shall include the total of the net debit balances representing the excess of the discount over the premium in connection with the issuance of each class of the carrier's outstanding long-term or equivalent obligations. Separate subdivisions shall be maintained in respect of each issue of such obligations (see instruction 17).

NOTE A.—Interest included in the face value of equipment and other obligations (the liability being recorded at face value) shall be included in this account.

NOTE B.—Issue costs related to long-term debt (debt expense) shall be included in account 1512—Deferred Debits (classes I and II) and amortized proportionately on a consistent basis to account 8670/9670—Amortization of Debt Discount and Expense (see instruction 17).

NOTE C.—When long-term obligations are refinanced the balance of debt discount and expense pertaining to the old obligations shall be transferred to account 8400/9400—Other Nonoperating Income (net).

2339 Unamortized Premium on Debt (classes I and II).

This account shall include the total of all credit balances representing the excess of the premium over the discount in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained in respect of each issue of obligations. (See instruction 17(d).)

NOTE A.—Issue costs related to long-term debt (debt expense) shall be included in account 1512—Deferred Debits (classes I and II) and amortized proportionately on a consistent basis to account 8670/9670—Amortization of Debt Discount and Expense (see instruction 17.)

* * * * *

Class I and Class II Motor Carriers Other Income and Expense Account Explanations

The last sentence of the text of Note A, account 8670/9670—"Amortization of Debt Discount and Expense," is revised as follows:

8670/9670 Amortization of Debt Discount and Expense.

NOTE A.—The proportion to be charged * * * connected therewith. Amounts charged to this account shall be concurrently credited to account 1512—Deferred Debits (classes I and II) or account 2338—Unamortized Discount on Debt (classes I and II). (See instruction 17.)

The title and last sentence of the text of Note A, account 8680/9680—"Amortization of Premium on Debit—Credit," is revised as follows:

8680/9680 Amortization of Premium on Debt—Credit.

This * * * was issued.

NOTE A.—The proportion to be credited * * * such debt was issued. Amounts credited to this account shall be concurrently debited to account 2339—Unamortized Premium on Debt (classes I and II).

TABLE I–A—CLASS I MOTOR CARRIERS BALANCE SHEET ACCOUNT NUMBERS CONVERSION TABLE

Under the column entitled "System of accounts effective January 1, 1974":

Line item 1511 "Unamortized Debt Discount and Expense" is revised to read:

2338 Unamortized Discount on Debt

Line item 1512 "Other Deferred Debits" is revised to read:

1512 Deferred Debits

Line item 2411 "Unamortized Premium on Debt" is revised to read:

2339 Unamortized Premium on Debt

Line item 2412 "Other Deferred Credits" is revised to read:

2412 Deferred Credits

TABLE II–A—CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT NUMBERS CONVERSION TABLE

Under the column entitled "System of accounts effective January 1, 1974":

Line item 1510 "Deferred and Miscellaneous Debits" is revised to read:

1512 Deferred Debits

A new line item 2338 "Unamortized Discount on Debt" is added after line item 1551, "Clearing Account, as follows:

1551 * * *
2338 Unamortized Discount on Debt
2632 * * *

Line item 2410 "Deferred Credits" is revised by changing the line item number and adding a new line item 2339 "Unamortized Premium on Debt" as follows:

2412 Deferred Credits
2339 Unamortized Premium on Debt

PART 1208—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

Amend Part 1208—Uniform System of Accounts for Maritime Carriers:

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Balance Sheet Accounts" the following revisions are made:

* * * * *

384 [Deleted]

* * * * *

556 [Deleted]

Line items 384, "Debt discount and expense" and 556, "Premium on funded debt", are deleted.

The following line items are added after line items 534, "Other long-term debt."

538 Discount on funded debt.
539 Premium on funded debt.

* * * * *

Balance Sheet Accounts

375 [Amended]

Account 375, "Deferred charges and prepaid expenses," is revised by deleting the reference to account number 384.

384 [Deleted]

The titles and texts of accounts 384, "Debt discount and expense," and 556, "Premium on funded debt," are deleted.

The first sentence of the text of account 389, "Deferred prepayments and other deferred charges" is revised as follows:

389 Deferred prepayments and other deferred charges.

This account shall include the amount of prepaid expenses such as interest, taxes, rentals, advertising, charter hire, and similar expense not otherwise specifically provided for in account 385, but only to the extent that such prepayments apply to a period more than one year following the date of the balance sheet. The proportions * * *.

The following titles, texts and notes are added after the text of account 534, "Other long-term debt."

538 Discount on funded debt.

This account shall include discount for all classes of funded debt. The debt shall be amortized periodically over the respective lives of the securities by charge to account 976, "Amortization—debt discount and expense."

NOTE A.—Issue costs related to long-term debt (debt expense) shall be included in account 389, "Deferred prepayments and other deferred charges" and amortized proportionately on a consistent basis to account 976, "Amortization—debt discount and expense."

NOTE B.—When an issue of funded debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating to such issue, such balance, together with any premium paid in retiring such issue, shall be charged to account 990, "Miscellaneous expense" or to account 995, "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

539 Premium on funded debt.

This account shall include premiums for all classes of funded debt which are to be amortized periodically over the respective lives of the securities by credit to account 691, "Release of premium on long-term debt."

NOTE A.—Issue costs related to long-term debt (debt expense) shall be included in account 389, "Deferred prepayments and other deferred charges" and amortized proportionately on a consistent basis to account 976, "Amortization—debt discount and expense."

NOTE B.—When an issue of funded debt or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 690, "Miscellaneous other income."

556 [Deleted]

Revenue Accounts

The text of account 691, "Release of premium on long-term debt," is revised to read as follows:

691 Release of premium on long-term debt.

This account shall include for each fiscal period such proportion of the premium on funded debt as is transferred from account 539, "Premium on funded debt."

Operating Expenses

The text of account 976, "Amortization—debt discount and expense," is revised to read as follows:

976 Amortization—debt discount and expense.

This account shall include for each fiscal period such proportion of debt discount and expense on funded debt as is transferred from account 538, "Discount on funded debt."

Financial Statements

Under "(A) Balance Sheet," the following revisions are made:

556 [Deleted]

Line item 556, "Premium on funded debt," is deleted.

After line item 534, "Other long-term debt," the following two line items are added:

534 * * *
538 Discount on funded debt.
539 Premium on funded debt.
Total long-term debt (net).

* * * * *

PART 1209—UNIFORM SYSTEM OF ACCOUNTS FOR INLAND AND COASTAL WATERWAYS CARRIERS

Amend Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers:

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Balance Sheet Accounts", the following revisions are made:

* * * * *

174 [Deleted]

* * * * *

231 [Deleted]

* * * * *

Line items 174 "Debt discount and expense" and 231 "Premium on long-term debt" are deleted.

The following line items are added after line item 213 "Affiliated companies; advances payable":

218 Discount on long-term debt.
219 Premium on long-term debt.

* * * * *

Balance Sheet Instructions

The title of instruction 27, "Discount, premium, and expense or long-term debt," and paragraphs (a) and (b) are revised and paragraph (e) is deleted, to read:

27 Discount, premium, and expense on long-term debt.

(a) Separate discount, premium and debt expense ledger accounts shall be kept in which to include discount suffered, premium realized, and expense incurred, in connection with the sale of each class and series of long-term debt (including receivers' and trustees' securities) issued or assumed by the carrier. The net debit balances remaining in the ledger accounts for discount and premium shall be included in account 218, "Discount on long-term debt", and the total of the net credit balances in account 219, "Premium on long-term debt." Debt expense shall be included in account 175, "Other deferred debits."

(b) Each fiscal period there shall be charged to account 530, "Amortization of discount on long-term debt," a pro-

portion on a consistent basis of each of the debit balances in the discount and premium accounts and correspondingly there shall be credited to account 506, "Release of premium on long-term debt," a similar proportion of each of the credit balances in these accounts. Related debt expense shall also be charged to account 530, "Amortization of discount on long-term debt."

(c) * * *

(d) * * *

Balance Sheet Accounts

174 [Deleted]

The titles and texts of accounts 174, "Debt discount and expense" and 231, "Premium on long-term debt" are deleted.

The following titles, texts, and notes are added after the text of account 213, "Affiliated companies; advances payable":

218 Discount on long-term debt.

This account shall include the net debit balance of the total of all the discount and premium accounts (See instruction 27.).

NOTE A.—Issue costs related to long-term debt (debt expense) should be included in account 175, "Other deferred debits," and amortized proportionately on a consistent basis to account 530, "Amortization of discount on long-term debt." (See instruction 27.)

NOTE B.—When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, such amount, together with any premium paid in retiring the debt, shall be charged to account 527, "Miscellaneous income charges," or account 570, "Extraordinary items," as appropriate.

219 Premium on long-term debt.

This account shall include the net credit balance of the total of all the discount and premium accounts. (See instruction 27.)

NOTE A.—Issue costs related to long-term debt (debt expense) should be included in account 175, "Other deferred debits," and amortized proportionately on a consistent basis to account 530, "Amortization of discount on long-term debt." (See instruction 27.)

NOTE B.—When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized premium and expense relating thereto, such amount, together with any premium paid in retiring the debt, shall be charged to account 507, "Miscellaneous income," or account 570, "Extraordinary items," as appropriate.

231 [Deleted]

Balance Sheet Statement

Account 299, "Form of balance sheet statement" is revised as follows:

* * * * *

174 [Deleted]

* * * * *

231 [Deleted]

Line items 174—"Debt discount and expense" and 231—"Premium on long-term debt" are deleted.

The following line items are added after line item 213—"Affiliated companies—Advances payable":

213 * * *
218 Discount on long-term debt.
219 Premium on long-term debt.
Total long-term debt (net).

* * * * *

PART 1210—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

Amend Part 1210—Uniform System of Accounts for Freight Forwarders.

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet Accounts", the following revisions are made:

* * * * *

171 [Deleted]

* * * * *

230 [Deleted]

Line items 171, "Debt discount and expense", and 230, "Premium on long-term debt" are deleted.

The following line items are added after line item 213, "Long-term debt in default":

218 Discount on long-term debt.
219 Premium on long-term debt.
220 * * *

* * * * *

General Balance Sheet Instructions

The text of instruction 25, "Discount, premium, and expense on long-term debt", paragraphs (a) and (b), are revised, and paragraph (e) is deleted, to read:

25 Discount, premium, and expense on long-term debt.

(a) A separate ledger account shall be maintained for each subclass of long-term debt (including receivers' and trustees' securities) issued or assumed by the company, in which shall be recorded discount suffered, premium realized, and expense incurred in connection with the sale of such debt. The net debit balances remaining in the ledger accounts for discount and premium shall be included in account 218, "Discount on long-term debt", and the total of the net credit balances in account 219, "Premium long-term debt". Debt expense shall be included in account 172, "Other deferred debits."

(b) Each month or other accounting period there shall be credited to each such account in which there is a debit balance, such proportion (based upon the ratio of the period to the remaining life of the security at the beginning of each such accounting period) of the debit balance therein as is applicable to the period. The amounts thus credited shall be charged to account 422, "Amortization of discount on long-term debt." Correspondingly, each month or other accounting period there shall be charged to each account in which there is credit balance such proportion of the credit balance therein as is applicable to the period. The amounts thus charged shall be concurrently credited to account 402, "Release of premium on long-term debt." Related debt expense shall be charged to account 422, "Amortization of discount on long-term debt."

(c) * * *

(d) * * *

Instruction 29, "Form of general balance sheet statement", is revised as follows:

171 [Deleted]

Line items 171, "Debt discount and expense" and 230, "Premium on long-term debt" are deleted.

The following line items are added after line item 213, "Long-term debt in default."

213 * * *
218 Discount on long-term debt.
219 Premium on long-term debt.

* * * * *

General Balance Sheet Accounts

171 [Deleted]

The titles and texts of accounts 171, "Debt discount and expense" and 230, "Premium on long-term debt" are deleted.

The following titles, texts, and notes are added after the text of account 213, "Long-term debt in default."

218 Discount on long-term debt.

This account shall include the net debit balance of the total of all the discount and premium accounts. (See instruction 25.)

NOTE A.—Issue costs related to long-term debt (debt expense) should be included in account 172, "Other deferred debits," and amortized proportionately on a consistent basis to account 422, "Amortization of discount on long-term debt." (See instruction 25.)

NOTE B.—When an issue of long-term debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 414, "Miscellaneous income charges," or to account 435, "Extraordinary items," as may be appropriate in accordance with the text of these accounts.

219 Premium on long-term debt.

This account shall include the net credit balance of the total of all the discount and premium accounts. (See instruction 25.)

NOTE A.—Issue costs related to long-term debt (debt expense) should be included in account 172, "Other deferred debits," and amortized proportionately on a consistent basis to account 422, "Amortization of discount on long-term debt." (See instruction 25.)

NOTE B.—When an issue of long-term debt, or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium related thereto, the amount of such balances shall be credited to account 403, "Miscellaneous income," or account 435, "Extraordinary items," as appropriate.

Income Accounts—Ordinary Items

The text of account 402, "Release of premium on long-term debt" is revised as follows:

402 Release of premium on long-term debt.

This account shall include during each fiscal period such proportion of the credit balances in the discount and premium accounts relating to outstanding long-term debt, as is applicable to that period. This proportion shall be determined in accordance with paragraph (b) of instruction 25, "Discount, premium, and expense on long-term debt."

[FR Doc.76-24905 Filed 11-29-76;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

De Soto National Wildlife Refuge, Iowa and Nebraska

The following special regulation is effective on November 30, 1976.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DESOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the DeSoto National Wildlife Refuge, Iowa and Nebraska, is permitted on the lake area within the refuge. This open area, comprising 850 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, PO Box 25486, Denver Federal Center, Denver, Colorado 80225. Sport fishing is subject to the following conditions:

(1) All fishermen shall conform with the regulations of the State in which they are properly licensed, either Iowa or Nebraska, subject to more restrictive regulations that may be included herein.

(2) Open Season: Daylight hours January 1, 1977 through February 28, 1977, providing ice conditions are safe enough to permit this activity, and 6:00 a.m. to 9:00 p.m., April 15, 1977 through September 30, 1977.

(3) Trot lines and float lines are not permitted.

(4) Archery fishing and spear fishing is permitted during the period May 1, 1977, through June 15, 1977. Only the following fishes can be taken with bow and arrow or spear: Bigmouth Buffalofish (Ictiobus cyprinellus), Smallmouth Buffalofish (Ictiobus bubalus), Carp (Cyprinus carpio), Longnose Gar (Lepisosteus osseus) and Shortnose Gar (Lepisosteus platostomus).

(5) Digging or seining for bait is not permitted.

(6) No more than two lines with two hooks on each line may be used for fishing.

(7) Motor or wind driven conveyances are not permitted on the lake during the period January 1 to February 28.

(8) The use of boats, with or without motors, is permitted during the period April 15 to September 15.

(9) During the period September 15 to September 30, only boats without motors or motors up to 25 H.P. are permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1977.

JAMES E. FRATES,
Refuge Manager, DeSoto National Wildlife Refuge, Missouri Valley, Iowa.

NOVEMBER 11, 1976.

[FR Doc.76-35064 Filed 11-29-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 403]

ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

Proposed Amendment

Notice is hereby given of a Proposed Amendment to CAS 403 which would eliminate the exemption from this Standard granted to certain contractors. Section 403.70(a) exempts any contractor or subcontractor which together with its subsidiaries did not receive net awards of negotiated national defense prime contracts during Federal fiscal year 1971, totaling more than $30 million.

The application of CAS 403 to the currently exempted contractors was delayed pending an evaluation of the experience of the largest defense contractors with the Standard. This evaluation has been completed. On the basis of this evaluation, the Board has concluded that the Standard is accomplishing the objectives of achieving greater uniformity in the allocation of home office expenses and materially improving the allocation process. Moreover there is evidence that almost all contractors required to make significant changes as a result of this Standard did so without undue trouble or expense.

A review of contractors now exempt from CAS 403 indicates that many of these are already in substantial compliance with the Standard. In the interest of uniformity and consistency, the Board believes that any contractor which allocates home office expenses to segments performing defense contracts should not be exempt.

The Cost Accounting Standards Board solicits comments on the proposed Amendment of CAS 403. Interested persons should submit their comments to the Cost Accounting Standards Board, 441 G Street, NW., Room 4836, Washington, D.C. 20548. To be given consideration by the Board in its deliberations relative to the proposal, written submissions must arrive no later than January 31, 1977. All written submissions made pursuant to this notice will be made available to the public for inspection during the Board's regular business hours.

The following amendments to Part 403 of the Board's regulations are proposed:

1. Amend 403.70(a) by adding the following sentences:

§ 403.70 Exemptions.

(a) * * * This exemption expires on September 30, 1977. Any contractor exempted from this Standard prior to that date, who receives a contract after the effective date set forth in § 403.80(b) shall be required to comply at the start of his first cost accounting period following the expiration of this exemption.

* * * * *

2. Amend 403.80 *Effective date* to redesignate § 403.80 to be 403.80(a) and to add a paragraph (b) as follows:

§ 403.80 Effective date.

* * * * *

(b) The effective date of § 403.70(a) as amended on [date[1]] is July 1, 1977.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.76-35244 Filed 11-29-76;8:45 am]

[1] The date of this Amendment is expected to be in April 1977.

CIVIL SERVICE COMMISSION

[5 CFR Chapter I]

REVIEW OF THE STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Advance Notice of Proposed Rulemaking

The U.S. Civil Service Commission has determined it is essential to thoroughly review the Standards for a Merit System of Personnel Administration (hereafter referred to as the Standards). The Standards are printed below in their present form, 45 CFR Part 70. Before they are submitted as proposed rules they will be appropriately recodified under 5 CFR, Chapter I. A list of the programs to which they apply appears at the end of this notice in Appendix A.

The Intergovernmental Personnel Act of 1970, Pub. L. 91-648, (IPA), transferred to the Commission all functions, powers, and duties of all other departments, agencies, and offices (other than the President) to prescribe personnel standards on a merit basis applicable to programs of grants-in-aid that specifically require such standards. It provided that existing standards would remain in effect until superceded by the Commission.

A review of the Standards is essential at this time for a number of reasons as follows:

1. The Standards issued in March 1971 are now more than five years old.

2. The Standards were drafted prior to enactment of the Intergovernmental Personnel Act.

3. Significant statutes affecting State and local personnel administration have been enacted or extended since the issuance of the Standards, e.g., Title VII of the Civil Rights Act and the Age Discrimination in Employment Act.

4. The Equal Employment Opportunity Commission's selection guidelines became applicable to State and local governments.

5. There have been many significant court decisions affecting State and local personnel administration.

6. There have been issuances by members of the Equal Employment Opportunity Coordinating Council on goals and timetables, selection and affirmative action.

7. There has been a rapid growth in organizations of State and local employees and many new State and local labor-management relations laws have been enacted.

Recommendations for revision of the Standards and their administration are invited from all interested parties. All material received on or before January 14, 1977, will be considered. Communications should be submitted to: Director, Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission, 1900 E Street, NW, Washington, D.C. 20415.

Immediately following the printing of the Standards below is a discussion of specific issues which are suggested as requiring attention. Comments are welcome on these issues as well as any additional recommendations.

PART 70—STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Sec.

AUTHORITY: The provisions of this Part 70 issued under 29 U.S.C. 49d, 40 U.S.C. 484, 42 U.S.C. 246, 291d, 302, 503, 602, 639, 705, 1202, 1302, 1352, 1382, 1395hh, 1396a, 2674, 2684, 3023, 4573, 50 U.S.C. App. 2286.

SOURCE: The provisions of this Part 70 appear at 36 F.R. 4498, Mar. 6, 1971, unless otherwise noted.

§ 70.1 *Purpose.*

(a) These standards are promulgated by

the Department of Health, Education, and Welfare, Labor, and Defense to implement statutory and regulatory provisions requiring the establishment and maintenance of personnel standards on a merit basis in the administration of various grant-in-aid programs.

(b) The development of proper and efficient administration of the grant-in-aid programs is a mutual concern of the Federal, State, and local agencies cooperating in the programs. Proper and efficient administration requires clear definition of functions, employment of the most competent available personnel, and development of staff morale and individual efficiency. The cooperative efforts of merit system and program agency personnel offices in providing comprehensive personnel programs are essential. Such programs provide for analyzing and classifying jobs; establishing adequate and equitable salary, fringe benefit, and retirement plans; projecting manpower needs and planning to meet them; developing effective recruitment, selection, placement, training, employee evaluation, and promotion programs; assuring equal opportunity and providing affirmative action programs to achieve that end; protecting employees from discrimination, arbitrary removal, and political pressures; conducting positive employee-management relations and communications; and providing research to improve personnel methods. Personnel programs must be planned and administered in a timely, expeditious manner to meet effectively program and merit system objectives.

(c) An integral part of the grant-in-aid programs is the maintenance by the State and local governments of a merit system of personnel administration for the grant-aided agencies. The Federal agencies are interested in the development and continued improvement of State and local merit systems but exercise no authority over the selection, tenure of office, or compensation of any individual employed in conformity with the provisions of such systems.

(d) Laws, rules, regulations, and policy statements to effectuate a merit system in accordance with these standards are a necessary part of the approved State plans required as a condition of Federal grants. Such laws, rules, regulations, policy statements, and amendments thereto will be reviewed for substantial conformity to these standards. The administration of the merit system will likewise be subject to review for compliance in operation.

(e) Continuing application of these standards will give reasonable assurance of a proper basis for personnel administration, promote a career service, and result in increased operating efficiency and program effectiveness. Within these standards means are provided for the effectuation of national policies for structuring jobs and the training and employment of the disadvantaged.

(f) In order to assist State and local jurisdictions in maintaining their merit systems under these standards, technical consultative service will be made available.

§ 70.2 *Jurisdiction.*

These standards are applicable to all personnel, both State and local, except those exempted in this section, engaged in the administration of grant-in-aid programs under Federal laws and regulations requiring the establishment and maintenance of personnel standards on a merit basis. The standards apply to personnel engaged in the administration of the federally aided programs, irrespective of the source of funds for their individual salaries. The following positions may be exempted from application of these standards: Members of policy, advisory review, and appeals boards or similar bodies who do not perform administrative duties as individuals; officials serving ex officio and performing incidental administrative duties; the executive head and a deputy or deputies to the executive head of each State agency as warranted by the size and complexity of the organization, scope of programs, and nature of the positions; one confidential assistant or secretary to any of the foregoing exempted officials; attorneys serving as legal counsel; the executive head of an independent local public health or civil defense agency; part-time professional health and related personnel; time-limited positions established for the purpose of conducting a special study or investigation; and unskilled labor.

§ 70.3 *Merit system organization.*

(a) Any one of a variety of types of merit system organizations covering substantially all employees in a State or local government would meet the requirements of this section if it adequately provides for impartial administration and the system and its administration are in substantial conformity with these standards. The system will be administered by a qualified merit system executive who may be responsible to the chief executive, a top level official, or a board or commission.

(b) In the absence of such a system, a State may establish a cooperative interagency merit system for the grant-aided agencies covered by the standards. In the interest of economy, efficiency, and effectiveness, a single cooperative merit system will be established for all of these grant-aided agencies. The cooperative merit system will be administered by a qualified executive and adequate staff appointed on the basis of merit and serving in accordance with the provisions of the merit system. An impartial citizens' merit system council will be established to assure that in accordance with merit principles public employment is based on the public interest, including management effectiveness and sound employee relations. The members of this council or board will be appointed by the chief executive or by the administrative agencies, as determined by the State, and will serve overlapping terms. No member will be employed in any other capacity in any of the agencies covered by the merit system.

(c) A local government may elect, at the option of the State, to cover grant-aided programs under a merit system serving other grant-aided agencies covered by the standards, such as a system serving State agencies, another city or county, or a group of local jurisdictions.

§ 70.4 *Equal employment opportunity.*

Equal employment opportunity will be assured in the State system and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, national origin, or other nonmerit factors will be prohibited. Discrimination on the basis of age or sex or physical disability will be prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. The regulations will include provisions for appeals in cases of alleged discrimination to an impartial body whose determination shall be binding upon a finding of discrimination.

§ 70.5 *Employee-management relations.*

The rights of public employees to organize and join or refrain from joining an organization for purposes of representation and the matters on which they may negotiate or on which management agrees to meet and confer should be delineated, along with other employee rights and obligations and management rights and obligations. Means should be established for resolution of impasses. The maintenance of a system of personnel administration based on merit principles must be assured.

§ 70.6 *Political activity.*

Every employee will have the right freely to express his views as a citizen and to cast his vote. Coercion for political purposes of and by employees of federally aided programs and use of their positions for political purposes will be prohibited. Participation in partisan political activity by an employee subject to these standards will be prohibited with respect to activity prohibited in federally grant-aided programs under the Federal Hatch Political Activities Act, as amended, 5 U.S.C. 1501–1508. (Individuals whose principal employment is in a federally grant-aided program are subject to the prohibitions in the Hatch Act, administered by the U.S. Civil Service Commission, regardless of whether their employment is covered by these standards.)

§ 70.7 *Classification.*

A position classification plan based upon analysis of the duties and responsibilities of each position will be established and maintained on a current basis. The classification plan will include an appropriate title for each class of position, a description of the duties and responsibilities of positions in the class, and minimum requirements of training, experience, skills, knowledges, abilities, and other qualifications necessary for entry into the class.

§ 70.8 *Compensation.*

(a) A plan of compensation for all classes of positions will be established and maintained on a current basis. The plan will include salary rates adjusted to the responsibility and difficulty of the work and will take into account the prevailing compensation for comparable positions in the recruiting areas and in other agencies of the government and other relevant factors. It will provide for salary advancement for full-time permanent employees based upon quality and length of service and for other salary adjustments.

(b) Compensation in a local agency will be governed by a compensation plan which, at the option of the State, is established by: a local government and covers other local agencies; the State and covers local grant-aided agencies; or the State and covers the agency responsible for State administration of Federal grants.

§ 70.9 *Recruitment.*

An active recruiting program will be conducted, based upon a plan to meet current and projected manpower needs. The recruiting efforts of the merit system and program agencies will be coordinated and carried out in a timely manner. Recruitment will be tailored to the various classes of positions to be filled and will be directed to all appropriate sources of applicants in order to attract an adequate number of candidates for consideration and to permit successful competition with other employers. Recruiting publicity will be carried out through all appropriate media for a sufficient period to assure open opportunity for the public to apply and be considered for public employment on the basis of abilities and potential. Such publicity will indicate that the agency is an equal opportunity employer.

§ 70.10 *Selection.*

(a) Selection for entrance to the career service will be through open competition. The selection process will maximize reliability, objectivity, and validity through a practical and normally multipart assessment of applicant attributes necessary for successful job performance and career development. Applicants will meet the minimum requirements of the job class. The parts of the total examination will consist, in various combinations as appropriate to the class and to available manpower resources, of such devices as work-sample and performance tests, practical written tests, individual and group oral examinations, ratings of training and experience, physical examinations, and background and reference inquiries. In determining ranking of candidates, the examination parts will be appropriately weighted.

(b) To facilitate employment of disadvantaged persons in aide or similar positions, competition may be limited to such individuals.

§ 70.11 *Appointment.*

(a) Appointments to positions not herein exempted will be made on the basis of merit by selection from among the highest available eligibles on appropriate registers established in accordance with the above provisions on recruitment and selection. Permanent appointment will be based upon satisfactory performance of employees during a fixed probationary period.

(b) In the absence of an appropriate register, individuals appointed to temporary or other nonstatus positions or given provisional appointments to permanent positions pending establishment of a register will be certified by the merit system executive as meeting at least the minimum qualifications established for the class of position. Such appointments will be time-limited. Provisional appointments will not be continued beyond the established time limit unless compelling extenuating circumstances exist and are a matter of record. Provisional appointments will be terminated within a specified reasonable period following establishment of an appropriate list of eligibles.

(c) Emergency appointments may be made for a specified limited period to provide for maintenance of essential services in an emergency situation where normal employment procedures are impracticable.

§ 70.12 *Career advancement.*

(a) Employee performance and potential should be evaluated systematically in order to improve individual effectiveness to assess training needs and plan training opportunities, and to provide a basis for decisions on placements, promotions, separations, salary advancements and other personnel actions.

(b) When in the best interest of the service it is determined to fill a position by promotion, consideration will be given to the eligible permanent employees in the agency or in the career service and the selection will be based upon demonstrated capacity, and quality and length of service. Promotions will require certification of eligibility by the merit system executive.

§ 70.13 *Layoffs and separations.*

Employees who have acquired permanent status will not be subject to separation or suspension except for cause or reasons of curtailment of work or lack of funds. Retention of employees in classes affected by reduction in force will be based upon systematic consideration of type of appointment, length of service, and relative efficiency. In the event of separation permanent employees will have the right to appeal to an impartial body through an established procedure.

§ 70.14 *Cooperation between merit systems.*

To facilitate public service mobility and maximum utilization of manpower provision should be made for: Cooperative interjurisdictional recruiting, examining, certifying, training and other personnel functions; adding to registers of eligibles applicants with eligibility on comparable examinations in other jurisdictions; appointing employees on the basis of their permanent merit system status in another jurisdiction, with maximum protection of their retirement and other benefits.

§ 70.15 *Extension of merit system.*

(a) As determined by the State, upon the initial extension of the merit system to a program, an incumbent may obtain permanent status through an open competitive examination; or if he has a specified period of service in the agency, at its discretion he may attain permanent status if he passes a noncompetitive qualifying examination. If he does not pass, such an employee may be retained in the position in which he has incumbency preference without acquiring the rights of merit system status.

(b) An employee with status under a merit system meeting these standards will retain comparable status if the employing agency is placed under the jurisdiction of another merit system.

§ 70.16 *Personnel records and reports.*

Such personnel records as are necessary for the proper administration of a merit system and related agency personnel programs will be maintained. Periodic reports will be prepared as necessary to indicate compliance with applicable State and local requirements and these standards.

Major Issues for Review

Methods of Administering the Standards (§ 70.1 Purpose)

Currently, each State's own personnel statutes, regulations, and other policy materials comprise the personnel part of the State plan for grants. These are reviewed under the Standards and recommendations made for acceptability or improvement. For a merit system plan to be acceptable, it must not deviate from the Standards to such a degree or in such a fundamental way that it cannot be found to be in "substantial conformity" with the Standards. Reviews of the operations of the merit system, based upon statistical indicators and onsite visits, are made to permit reasonable assurance of compliance with the approved State plans. The main effort is a cooperative approach to upgrading State and local personnel operations for grant programs. The Federal emphasis is on technical assistance and advisory service rather than enforcement.

The Merit System Standards are applicable to 25 Federal grant programs and over 300 State agencies receiving Federal grants. They also apply to all local employees engaged in the administration of the grant-aided programs covered.

The review will attempt to determine whether better approaches to administration can be found which will (1) adequately maintain the Federal interest in proper and efficient administration, (2) recognize fully the rights of State and local governments, (3) encourage innovation and allow diversity to them in designing and managing their own personnel systems, and (4) further the effort under the IPA to strengthen State and local personnel resources. It will consider whether different approaches to administration would be more appropriate, effective, or economical, e.g., whether there should continue to be Federal pre-audit of personnel plans, or whether there should be reliance on the jurisdiction's own certification of its compliance; whether there should continue to be standards requirements for small local governments with few employees, and if so whether they need different methods of administration. It will consider the relative merits of delegation to the States of assurance of local compliance compared to direct Federal administration of the Standards at the local level of government.

Exemption of Top-Level Positions From the Standards (§ 70.2 Jurisdiction)

Provisions generally are made for exemption from merit systems of a limited number of principal administrators of agencies to permit elected chief executives to appoint individuals responsive to their direction to determine and advocate major administration policy and assure that it is carried out by the career civil service. The need for exemptions varies from jurisdiction to jurisdiction according to different approaches to organization and size of agencies.

Holding the exemption of administrator positions to the level necessary to assure responsiveness to the elected chief executive so that the carrier service will include responsible positions helps assure continuity of experienced high-level staff. It also provides maximum possible promotional opportunities rather than limited career patterns, and thus facilitates recruitment and retention of able career employees.

The Standards permit the exemption of the agency head and "a deputy or deputies to the executive head of each State agency as warranted by the size and complexity of the organization, scope of programs, and nature of the positions." This section of the Standards has been liberally interpreted.

However, problems have developed where some State legislatures have provided for the exemption of large numbers of employees going down into jobs which the Civil Service Commission and Federal grantor agencies have felt were primarily involved in direction of line operations and would affect continuity of administration. This question has been closely linked with implementation of new forms of organization at the State level such as the so-called umbrella or super agency and regionalization. The review will consider whether the current provisions are appropriate, or whether other approaches are available which would be more flexible and allow for greater diversity among jurisdictions, while maintaining the Federal interest in proper and efficient administration.

Equal Employment Opportunity (§ 70.4)

One of the basic merit principles is equal employment opportunity. Merit

systems are designed to provide selection based on objective and competitive measures of job related knowledges, skills and abilities. On the whole, merit systems have provided a breakthrough in removing artificial barriers to the employment of those whose opportunities in many cases were severely limited in the public service.

The Standards call for affirmative action consistent with merit principles to assure equal employment opportunity. This has been the major area of emphasis in administration of the Standards since 1971. They have been interpreted to prohibit preferential treatment on the basis of sex, race, national origin, or other non-merit factors. The overall employment statistics in programs subject to the Standards are generally good, although there are still few women and minorities in management jobs in many public agencies.

In the past few years some State and local governments have adopted special procedures for deciding who will be considered for appointment in situations in which members of various groups do not appear to be fairly represented in the work force. These procedures have included, among others: Recruitment and selective certification limited to members of those groups; expanded certification procedures which bring some members of target groups into consideration; and procedures which limit consideration to the highest ranking candidates on the register plus the highest ranking candidates from the target groups. The effects of these various procedures range from, on the one hand, assuring that members of the target group are given consideration along with other persons, with ultimate selection to be based on relative ability, to limiting consideration to members of particular groups only. Some persons raise questions concerning their compatibility with civil rights laws; others raise issues regarding potential conflict with the concept of merit; others feel they advance the cause of equal opportunity consistent with merit principles. In searching for better means of achieving equal opportunity in public employment some conflicts should be expected. Arriving at the right public policy requires that the many views be heard and considered.

Some who are concerned with these matters believe that a fundamental conflict exists between merit and these approaches to affirmative action to achieve equal opportunity, and that a public policy decision must be made regarding which takes precedence. Others hold the view that a basic compatibility exists between merit and equal employment opportunity which can be furthered in the administration of merit programs by (1) assuring that all procedures which are used actually serve merit and (2) by being conscious of the effects of those procedures on women and the various minority groups.

The review of the Standards will seek criteria for determining which innovative practices, designed to progress even further in meeting the goals of equal employment opportunity, can be viewed as compatible with merit principles. The review will squarely and openly address all current personnel practices in arriving at those criteria. The review of the Merit System Standards will need suggestions from all interested parties on how to continue to make merit employment equal opportunity and how to meet the needs of national policy to assure the swift removal of all types of discrimination in employment.

EMPLOYEE-MANAGEMENT RELATIONS (§ 70.5)

A major issue affecting public personnel administration concerns appropriate policy for relations between employee organizations and management in the public service. Such relations in State and local government are rapidly undergoing critically important changes. Unions of State and local government employees are among the fastest growing in the United States. Independent employee associations, active in many government jurisdictions for years, continue to have large memberships. Strikes against State and local governments have become more frequent.

Employee-management relations in the public service generally has not been as systematically organized or administered as in industry. There are a wide variety of approaches to employee-management relations among the States. There has been a signficant lack of success in preventing strikes. Professional workers in the health, welfare, and employment security fields have participated in a variety of work stoppages.

Some who are concerned with these matters hold that a fundamental conflict exists between merit and collective bargaining and that a decision must be made regarding which takes precedence. Others believe that a basic compatibility exists between merit and collective bargaining which can be furthered in the administration of merit systems by assuring that all procedures which are used actually serve merit and by being conscious of the effects of those procedures on employees and the organizations which represent them.

The merit principles inthe IPA (see Section 2) speak only of "assuring fair treatment of * * * employees" and do not specifically address employee-management relations. The current Standards provide guidelines, not requirements, regarding the need to structure employee-management relations and to provide means for resolution of impasses. They require only that "The maintenance of a system of personnel administration based on merit principles must be assured."

The review will seek to determine whether the current Standards' provisions are appropriate, whether they should be eliminated, or whether a new approach is called for.

POLITICAL ACTIVITIES (§ 70.6)

The restrictions on political activity for State and local employees derive from two sources: The Hatch Political Activity Act and the provision on political activity in the Merit System Standards. The U.S. Civil Service Commission administers both of these provisions and has been able to assure consistency in their administration, but there are some significant differences. The Hatch Act is enforced directly by the U.S. Civil Service Commission, whereas the Standards' provision calls for State and local enforcement as a part of the State plan in the grant program. Second, the Hatch Act provisions apply to all personnel in grant-aided programs regardless of their merit system status, whereas the Standards' provision excludes agency heads and other personnel exempted from merit system coverage.

The review will consider whether we should continue to have in the Standards provisions which require States to adopt their own political activity laws or regulations which are consistent with the Hatch Act.

SELECTION (§ 70.10)

The Selection section of the Standards calls for open competition, although it permits limiting competition to the disadvantaged for aide or similar positions established to facilitate their employment. It provides for maximizing the reliability, objectivity, and validity of practical, job-related, normally multipart assessment methods.

Merit systems provide for employment on the basis of individual capacities, skills, knowledges, and abilities. The selection process makes use of a variety of instruments, both to insure coverage of job-related qualities—i.e., validity—and to increase reliability in measuring a given quality. It is also incumbent upon a merit system to maximize objectivity of applicant assessment, thus insuring equitable treatment of candidates and contributing to reliability and validity.

Minimum qualifications are a significant aspect of the selection process, but tough-minded criteria of relevance often have not been applied. The result sometimes has been artificial barriers to employment of disadvantaged groups.

The Commission has made a major effort since 1971 to provide technical assistance to State and local governments to eliminate artificial barriers to employment of minorities, women and other disadvantaged persons, and to encourage the development of job-related examinations through appropriate job analysis and other professionally accepted methods. The U.S. Civil Service Commission emphasized the acceptability of any technically sound validation method appropriately applied. It has not taken an enforcement posture where progress was slow, but has continued to emphasize negotiations for improvement and to offer technical assistance.

The review will consider whether the current provisions of the Standards and whether the approaches to their administration are appropriate. In view of the recent issuance of Guidelines on Employee Selection Procedures, after widespread comment by interested parties,

these will be taken into account in the review of the Standards.

APPOINTMENT (§ 70.11)

The Standards provide that appointment will be made "on the basis of merit by selection from among the highest available eligibles on appropriate registers * * *" The most recent revision eliminated the words "a limited number of" the highest available eligibles to emphasize that a variety of certification and appointment practices may be followed so long as there is adherence to the basic IPA merit principle of "selecting employees on the basis of relative ability, knowledge, and skills."

No single number of eligibles for certification can be prescribed as most appropriate for all jurisdictions or for all classes in a State or local merit system. Provisions for appointment which have been accepted as in accordance with the intent of the Standards are: Appointment from any number up to the top ten names, top three scores, or top ten percent of the register of eligibles; appointment from any number up to the top five names or the top ten percent of the register plus all eligibles whose score is tied with that of the lowest ranking of these eligibles; combinations of the preceding provisions—for example, appointment from the top five names or the top ten percent of the register, whichever is larger. If other types of plans are submitted they are considered.

Currently, selective certification procedures may not be used to discriminate among applicants on the basis of non-merit factors, including race, national origin, and political or religious opinions or affiliations. Selective certification may not be used to differentiate between eligibles on the basis of age, sex, or physical disability, where such factors do not constitute bona fide occupational qualifications.

If selecting officials are to be responsible for program results, they should have a reasonable opportunity to exercise judgment. Appropriately conducted appointment interviews—carefully structured and tailored to job requirements—and evaluation of factors not feasible to include in the examination may supplement it and contribute to good practices.

The concept of the current Standards is that where too many individuals are considered for appointment, non-merit factors may begin to operate. Eligibles may feel it necessary and desirable to secure endorsements in order to be singled out from among a large number of eligibles. As a result, selecting officials may find themselves subject to pressures to consider one candidate over other candidates without reference to their relative qualifications.

Appointment by selection from among all available eligibles on a register is not selection from the highest available eligibles as required by the current Standards. The Standards are based on the premise that providing for appointment from an entire register would convert the basis of selection from a competitive merit system to a qualifying examinatoni system. Administrators would be free to pre-select individuals for appointment without open consideration of candidates, and if they passed the examination system. Administrators would gardless of whether they were among the best qualified available candidates for the position to be filled. Under such circumstances, pressure develops to lower the passing point below the desirable minimum when such a candidate cannot otherwise pass the examination. If the public realizes that provisional appointees merely have to pass an examination to retain their positions, the interest of the public in applying can wane and recruiting efforts become unproductive.

The review will consider whether the current provisions and their interpretations are the most appropriate.

OTHER AREAS FOR CONSIDERATION

A comprehensive review of the Standards should also take into account numerous other provisions to determine whether they are appropriate and whether other approaches may be more appropriate. The areas discussed above have been those which have been most sensitive in intergovernmental relations during the last five years. Some examples of additional areas of consideration follow.

The Standards require only that States grant tenure and appeal rights in case of involuntary separation to prevent the discharge of career service employees for improper reasons. The merit principles in the IPA, on the other hand, include the concept of separating employees whose performance is inadequate and cannot be corrected.

The merit principles provide for advancing employees on the basis of their relative abilities, knowledges, and skills. The Standards call for promotion on the basis of "demonstrated capacity, and quality and length of service" but do not require competitive promotions or the ranking of candidates according to their relative qualifications.

The merit principles call for providing adequate compensation. The Standards indicate that prevailing compensation for the recruiting area should be taken into account, but they provide no Federal requirement of adequacy.

There are no provisions in the Standards which are comparable to those in the merit principles for training employees to assure high-quality performance.

The review will consider whether the requirements established in any revised Standards for State and local personnel administration should include new requirements related to these provisions in the IPA Merit Principles.

This advance notice of proposed rulemaking is issued under authority of section 208 (a), (b)(2), and (d) of the Intergovernmental Personnel Act, Pub. L. 91-648, January 5, 1971.

Issued in Washington, D.C., on November 30, 1976.

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

APPENDIX A.—*Grant-in-aid programs to which the standards for a merit system of personnel administration apply*

Program	Legislation	Statutory reference
Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis		
Drug abuse prevention	Drug Abuse Office and Treatment Act of 1972, § 409, on Mar. 21, 1972.	21 U.S.C. § 1176(c)(8).
National health planning and resources development.	Public Health Service Act, (title XV), as amended by the National Health Planning and Resources Development Act of 1974, § 1522, on Jan. 2, 1975.	42 U.S.C. § 300m-1(b)(4)(B).
Medical facilities assistance (construction and modernization).	Public Health Service Act, (title XVI), as amended by the National Health Planning and Resources Development Act of 1974, § 1603, on Jan. 2, 1975.	42 U.S.C. § 300o-2(b).
Old-age assistance [1]	Social Security Act, (title I), as amended by the Social Security Act Amendments of 1939, § 101, on Aug. 10, 1939.	42 U.S.C. § 302(a)(5)(A).
Employment security (unemployment insurance and employment service).	Social Security Act, (title III), as amended by the Social Security Act Amendments of 1939, § 301, on Aug. 10, 1939, and the Wagner-Peyser Act, as amended by Public Law 775, § 2, on Sept. 8, 1950.	42 U.S.C. § 503(a)(1) and 29 U.S.C. § 49d(b).
Aid to families with dependent children (AFDC).	Social Security Act, (title IV A), as amended by the Social Security Act Amendments of 1939, § 401, on Aug. 10, 1939.	42 U.S.C. § 602(a)(5).
Maternal and child health services/crippled children services.	Social Security Act, (title V), as amended by the Social Security Act Amendments of 1939, § 503, on Aug. 10, 1939.	42 U.S.C. § 705(a)(3)(A).
Aid to the blind [1]	Social Security Act, (title X), as amended by the Social Security Act Amendments of 1939, § 701, on Aug. 10, 1939.	42 U.S.C. § 1202(a)(5)(A).
Aid to the permanently and totally disabled [1].	Social Security Act, (title XIV), as amended by the Social Security Act Amendments of 1950, § 1402, on Aug. 28, 1950.	42 U.S.C. § 1352(a)(5)(A).
Aid to the aged, blind or disabled [1].	Social Security Act, (title XVI), as amended by the Public Welfare Amendments of 1962, § 1602, on July 25, 1962.	42 U.S.C. § 1382(a)(5)(A).
Medical assistance (medicaid)	Social Security Act, (title XIX), as amended by the Social Security Amendments of 1965, § 1902, on July 30, 1965.	42 U.S.C. § 1396a(a)(4)(A).
Grants to States for social services.	Social Security Act, (title XX), as amended by the Social Services Amendments of 1974, § 2003, on Jan. 4, 1975.	42 U.S.C. § 1397b(d)(1)(D).

Program	Legislation	Statutory reference
Developmental disabilities services and facilities construction.	Developmental Disabilities Services and Facilities Construction Act, as amended by the Developmentally Disabled Assistance and Bill of Rights Act, § 111, on Oct. 4, 1975.	42 U.S.C. § 6063(b)(7).
Comprehensive mental health services (services and facilities).	Community Mental Health Centers Act, (title II), as amended by the Community Mental Health Centers Amendments of 1975, § 303, on July 29, 1975.	42 U.S.C. § 2689t(a)(1)(D).
State and community programs on aging (older Americans).	Older Americans Act of 1965, (title III), as amended by the Older Americans Comprehensive Services Amendments of 1973, § 305, on May 3, 1973.	42 U.S.C. § 3025(a)(2).
Nutrition program for the elderly.	Older Americans Act of 1965, (title VII), as amended by Public Law 92-258, § 705, on Mar. 22, 1972.	42 U.S.C. § 3045d(a)(3).
Comprehensive alcohol abuse and alcoholism prevention, treatment, and rehabilitation.	Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, (title III), § 303, on Dec. 31, 1970.	42 U.S.C. § 4573(a)(5).
Civil defense personnel and administrative expenses.	Civil Defense Act of 1950, (title II), as amended by Public Law 94-361, § 804, on July 14, 1976.	50 U.S.C. App. 2286(a)(4).

Part II: The following programs have a regulatory requirement for the establishment of personnel standards on a merit basis

Food stamp	Food Stamp Act of 1964, as amended	7 CFR § 271.1(g).
Occupational safety and health standards.	Williams-Steiger Occupational Safety and Health Act of 1970.	29 CFR § 1902.3(h).
Occupational safety and health statistics.	do	BLS grant application kit, May 1, 1973, supplemental assurance No. 15A.
Federal property assistance program.	Federal Property and Administrative Service Act of 1949, as amended.	45 CFR § 14.5(b)(3)(i).
Child welfare services	Social Security Act, (title IV B), especially as amended by the Social Security Amendments of 1967, on Jan. 2, 1968.	45 CFR § 220.49(c).

Part III: The following programs have a personnel requirement which may be met by a merit system which conforms to the Standards for a Merit System of Personnel Administration

Comprehensive Employment and Training Act.	Comprehensive Employment and Training Act of 1973.	29 CFR § 98.14(a).
Vocational rehabilitation services.	Rehabilitation Act of 1973, (title I), as amended	45 CFR § 1361.15(b) [40 F.R. 54705, Nov. 25, 1975].
Disability determination services.	Social Security Act, (titles II and XVI), as amended.	SSA Disability Insurance State Manual, Part IV, § 425.1.
Health insurance for the aged (medicare).	Social Security Act, (title XVIII), especially as amended by the Health Insurance for the Aged Act, on July 30, 1965.	SSA State Operations Manual, Part IV, § 4510(a).

[1] Legislative provisions which apply only to Puerto Rico, the Virgin Islands, and Guam.

[FR Doc.76-32438 Filed 11-29-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

[Docket No. AO-214-A6]

ALMONDS GROWN IN CALIFORNIA

Emergency Decision on Proposed Further Amendment of the Marketing Agreement and Order

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981) (hereinafter referred to collectively as the "order"), regulating the handling of almonds grown in California. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Sacramento, California, on October 13, 1976, pursuant to notice thereof issued on October 7, 1976 (41 FR 44191).

Material issues. The material issues of record are as follows:

(1) Exempting bleaching stock almonds from inedible kernel determination or obligation.

(2) Whether an emergency exists to warrant the omission of a recommended decision with respect to issue No. 1.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of hearing:

(1) Section 981.42(a) should be revised to permit the Almond Board of California, with the approval of the Secretary, to exempt bleaching stock from inedible kernel determination or obligation pursuant to § 981.42(a).

Currently, § 981.42(a) which became effective July 1, 1976, provides that each handler cause to be determined, through the inspection agency, and at handler expense, the percent of inedible kernels in each variety of all almonds (including bleaching stock almonds) he receives and report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing, which must be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The Board, with the approval of the Secretary, may change this percentage for any crop year, may authorize additional outlets, may exempt bleaching stock from inedible kernel determination or obligation and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. The Board for good cause may waive portions of obligations for those handlers not generating inedible material from such source as blanching or manufacturing.

Bleaching stock is a term used in the almond industry for almonds which are sold by handlers for inshell consumption. However, such almonds do not necessarily undergo a bleaching process as the term may imply.

Most almonds designated as bleaching stock have special characteristics. They have a good shell appearance and a very low edible kernel content. Almonds to be sold for inshell consumption must be low in inedible content because a handler is unable to see the internal damage. Thus, he generally uses a almond variety, where almonds with inedible kernels may be predicted by visible defects such as broken shells or exposed kernels. He must rely on his ability to remove inedible kernels by sorting out almonds which appear defective inshell. For these reasons almonds of the peerless variety seem to be most suited for inshell consumption, because of their good shell appearance and their low inedible content. Also, a handler is able to sort out most all of the inedible kernels with visual inspection of the inshell Peerless almonds. It was testified that even the lower quality Peerless variety almonds, which are not sold inshell, because they have open shells and are most likely to be infested with the worm damage, still generally test under one percent inedible kernel content.

A handler generally designates lots for bleaching stock upon their receipt from the grower. Once that is done, the lots are separated from the other type of material and stored separately. The almonds are run over sorting belts to take out visible defects, including foreign matter, shell defects, and other defects that are visible in the inshell state. Then, they may be bleached, and packaged primarily in bulk containers.

The proponent testified that for the present time bleaching stock of the principal inshell variety, Peerless, should be exempted from inedible kernel determination and obligation, for several reasons. In practice that variety is not usually sampled and analyzed for kernel content. The kernels of the almonds which are bleached and sold in the shell are not exposed so that any inedible kernels can be seen and removed. Handlers rely on the external appearance of this variety to designate lots as bleaching stock. The lots selected are known from experience to be well below the two percent tolerance for inedible kernels pursuant to § 981.42(a), and hence they would not add to a handler's inedible disposition obligation if they were sampled. Finally, where the sampling serves no

useful purpose and yet adds to the industry's total inspection bill, it should not be required.

The proponent, therefore, recommended that only Peerless variety almonds be exempted initially through rulemaking from the inedible determination and obligation requirements of § 981.42(a). However, hearing evidence did point out the possibility that at some future time other almond varieties might be found that they would be suitable for bleaching. In that case those additional varieties could also be exempted from the requirements of § 981.42(a). For example, it is possible that through the current research program of the almond industry new varieties and techniques may be developed to clean up the Ne Plus variety and use it as bleaching stock.

Since the Board's production research activities and its analysis of handler receipts are bringing to light other almond varieties with low inedible content, the Board should be permitted to exempt the bleaching stock of these additional varieties from the determination disposition requirements once recommended by the Board and approved by the Secretary. Such bleaching stock varieties would be exempted when they are definitely identified as such at the time or receipt by a handler. Until varieties other than Peerless are specifically exempted by rulemaking, however, these varieties should be received as shelling stock, and should be sampled and inspected. If any such volume is withdrawn for inshell sale, the Board should be given the authority, with the approval of the Secretary, to make an appropriate reduction in the disposition obligation.

The notice of hearing also contained a proposal to further clarify the rulemaking authority provided for in § 981.42(a). It was testified that the testimony on "subsidiary" issues presented at the November, 1975, hearing to amend the almond marketing order, was being narrowly interpreted by the Secretary, and conflicts with the overriding general intent of the Board's rulemaking authority. It is also at variance with the very nature of quality control or volume control. The rulemaking authority in that paragraph to establish the method of determining inedible content of handler receipts and the satisfaction of the disposition obligation must be authority to do that which is practical, which imposes as little burden and cost on handlers as possible, and give reasonable effect to the incoming quality control program. The rules should reflect the operational judgment of the industries. Therefore, it was proposed that the amendment of § 981.42(a) begin "except for modification adopted for this paragraph". The proposal in the notice begins "except as provided in this paragraph". This change would more clearly express the fact that the modifications do not appear in the paragraph, but rather in rulemaking actions which the Board, with the approval of the Secretary, may institute. The proponent suggested rewording of § 981.42(a) by using the term "modification" and then described the term as meaning the inedible control should follow as closely as possible industry practices such as for weight tabulation, computer programing, and various reporting requirements of the Board.

The language in § 981.42(a) as contained in the notice of hearing encompasses the intent of the proponents in the sentences reading "The Board, with the approval of the Secretary, may change this percentage for any crop year, may authorize additional outlets, may exempt bleaching stock from inedible kernel determination or obligation and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. The Board for good cause may waive portions of obligations for those handlers not generating inedible material from such source as blanching or manufacturing". The testimony does provide hearing evidence with respect to the intent of the proponent's meaning of the above quoted sentences, and provides adequate support for its inclusion. As brought out in cross examination, however, the term "modification" cannot, and the proponents did not intend that it, extend beyond the approval requirements of the law, so no particular need is apparent to revise the said section as proposed.

Therefore, the Board, with the approval of the Secretary may change the provisions of that section in the manner that section currently provides. Also the Board, with the approval of the Secretary may exempt bleaching stock from inedible kernel determination or obligation.

(2) The recommended decision and an opportunity for exceptions thereto with respect to Issue No. 1 have been omitted The delivery of the 1976 almond crop is well under way and the final details of the inedible determination and obligation are urgently needed. Uncertainty currently exists as to the details for implementing § 981.42(a), which burdens the field buying and processing activities of handlers. The timely amendment of the almond order with respect to Issue No. 1 is necessary so that the Secretary may issue the corresponding rules and regulations. Such rules and regulations should be made effective for the crop year beginning July 1, 1976. Prompt issuance is also necessary to allow handlers an opportunity to adjust other reports, if necessary, which they must soon submit to the Board. Also, the Board may have to adapt appropriate reporting forms as required by this amendment and may possibly give some advanced guidance to handlers on the preparation of the reports.

The hearing notice stated that consideration would be given to the emergency marketing conditions relating to proposal No. 1. Action under the procedure described above was supported at the hearing.

It is, therefore, found that good cause exists for omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed November 1, 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. No briefs were filed.

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 are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of almonds grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of almonds grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of almonds grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is hereby ordered, That this entire decision except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

July 1, 1975 to June 30, 1976, is hereby determined to be the representative period for the purpose of ascertaining

whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of almonds in the aforesaid production area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of almonds within the production area.

Signed at Washington, D.C., on November 19, 1976.

JOHN DAMGARD,
Acting Assistant Secretary.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF ALMONDS GROWN IN CALIFORNIA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and 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. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of almonds grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of almonds grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of almonds grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of almonds grown in California shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

Revise § 981.42(a) to read as follows:

§ 981.42 Quality control.

(a) *Incoming.* Except as provided in this paragraph, each handler shall cause to be determined, through the inspection agency, and at handler expense, the percent of inedible kernels in each variety received by him and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, shall constitute a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The Board, with the approval of the Secretary, may change this percentage for any crop year, may authorize additional outlets, may exempt bleaching stock from inedible kernel determination or obligation and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. The Board for good cause may waive portions of obligations for those handlers not generating inedible material from such source as blanching or manufacturing.

* * * * *

[FR Doc.76-35015 Filed 11-29-76;8:45 am]

[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.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 3, 292]

[Order No. 671-76]

SUSPENSION OR DISBARMENT OF PERSONS PERMITTED TO PRACTICE BEFORE IMMIGRATION AND NATURALIZATION SERVICE AND BOARD OF IMMIGRATION APPEALS

Extension of Comment Period

On November 1, 1976, there was published in the FEDERAL REGISTER, 41 FR 47939, a notice of proposed amendments to the regulations pertaining to the suspension or disbarment of attorneys and other representatives permitted to practice before the Immigration and Naturalization Service and the Board of Immigration Appeals contained in 8 CFR Parts 3 and 292. Interested parties were invited to submit written data, views, or arguments relative to the proposed regulations to the Chairman, Board of Immigration Appeals, Room 1104, 521 Twelfth Street, N.W., Washington, D.C. 20530, not later than November 22, 1976. The comment period is hereby extended to December 22, 1976.

Dated: November 22, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-35129 Filed 11-29-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

CRUDE OIL PRICES

Further Corrective Action To Comply With Statutory Composite Price Levels; Proposed Rulemaking and Public Hearing

Correction

In FR Doc. 76-34184 appearing at page 50960 of the issue for Thursday, November 18, 1976, make the following changes:

1. In Table II, first column, page 50961, the second entry for February, now reading "$1.12", should read "$1.32".

2. In Table V, page 50962, the entry for August under *Statutory composite price*, reading "7.98", should have a footnote 2 instead of footnote 1.

3. In paragraph D, third column, page 50962, insert the following between the fifteenth and sixteenth lines: "view of uncertainties which have at-".

4. In the middle paragraph, middle column, page 50963, the phrase "immediately following any six-month period" has been repeated in the fourth, fifth, and sixth lines. It should appear only once.

FEDERAL POWER COMMISSION

[18 CFR Parts 4, 5, 32, 153, 156 and 157]

[Docket No. RM76-38]

COASTAL ZONE MANAGEMENT PROGRAM

Extension of Time Regarding Certification of Compliance With Approved State's Coastal Zone Management Program Relative to Applications for Authorization to Import or Export Natural Gas and Certification of License Applications

NOVEMBER 22, 1976.

On September 23, 1976, the Commission issued a notice of proposed rulemaking in Docket No. RM76-38 (published September 30, 1976, 41 FR 43198), calling for comments in writing by November 22, 1976. On November 18, 1976, Staff Counsel filed a motion for an extension of time within which comments may be filed, in order to coordinate the proposed rulemaking with the Department of Commerce's proposed rulemaking, of September 28, 1976, on "Federal Consistency with Approved Coastal Zone Management Programs" (published September 28, 1976, 41 FR 42878). On November 15, 1976, the Department of Commerce extended the period for public comment on that rulemaking from an

expiration date of November 29, 1976, to a date of December 20, 1976.

Upon consideration, notice is hereby given that the date for filing comments on the above-designated rulemaking proceeding is extended to and including December 22, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35072 Filed 11-29-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

[Docket No. 76P-0448]

FOOD LABELING; DESIGNATION OF INGREDIENTS

Label Designation of Fats and Oils

The Food and Drug Administration (FDA) is proposing to amend its regulations by substituting "hydrogenated" and "partially hydrogenated" for "saturated" and "partially saturated" when those modifying terms are required to accompany the name of a fat or oil ingredient on the labeling of foods. Interested persons have until January 31, 1977 to submit comments.

In the FEDERAL REGISTER of January 6, 1976 (41 FR 1156) and February 9, 1976 (41 FR 5632), the Commissioner of Food and Drugs issued regulations governing the way in which certain food ingredients may be declared on the label. Section 1.10(b)(14) (21 CFR 1.10(b)(14)) requires the term "saturated" or "partially saturated" to accompany the names of the fat or oil on the label of the food when all or some of the double bonds of a fat or oil ingredient in a food have been saturated or partially saturated by hydrogenation. This requirement was based on the Commissioner's conclusions that the terms "saturated" and "partially saturated" adequately describe the chemical change, i.e., hydrogenation, in the fat or oil and that the terms were more familiar to consumers than "hydrogenated" or "partially hydrogenated."

The Commissioner has received six requests for reconsideration of the requirement that the terms "saturated" and "partially saturated" accompany the names of the fat or oil ingredient on the label of the food when all or some of the double bonds of a fat or oil have been saturated or partially saturated by hydrogenation. The requests were received from the American Farm Bureau Federation (AFBA), the American Soybean Association (ASA), the Institute of Shortening and Edible Oils, Inc. (ISEOI), the National Association of Margarine Manufacturers (NAMM), the National Cotton Council of America, Inc. (NCCA), and the National Cottonseed Products Association, Inc. (NCPA). Copies of the six requests have been placed on public display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday, from 9 a.m. to 4 p.m. except on Federal legal holidays.

The six associations object to the requirement that the terms "saturated" and "partially saturated" be employed because, they contend, those terms are confusing and misleading to consumers in that they tend to equate different oils that differ widely in their content of saturated fats. The associations also assert that the requirement is unfair to producers of various oils for the same reason that the requirement misleads and confuses consumers.

The associations point to several examples that support their position. For instance, ASA notes that information provided by the Northern Regional Research Center of the U.S. Department of Agriculture and the Administrator of the Agricultural Research Service shows that "partially hydrogenated soybean oil has a considerably lower staturated fatty acid content than unhydrogenated palm oil, let alone hydrogenated palm oil or commercially blended shortenings * * *." NCCA notes that "[P]artially hydrogenating an oil which is low in saturated fats, such as cottonseed oil or soybean oil, results in an end product containing less total saturated fats than a similar end product made from a fat or oil which intrinsically has a much higher degree of saturation, such as animal fats, palm oil, or coconut oil." The ISEOI states that using "saturated" and "partially saturated" discriminates unfairly against soybean and other domestic vegetable oils because unlike the more naturally saturated oils and fats such as palm oil, palm kernel oil, coconut oil, and lard and tallow, soybean and other domestic vegetable oils must be "lightly hydrogenated to retain stability and other unique characteristics * * *."

In paragraph 52 of the preamble to the regulation on § 1.10(b)(14) (41 FR 1163), the Commissioner noted that the terms "hydrogenated" and "partially hydrogenated" were among those considered but rejected as adjectives to convey the information that some or all of the double bonds in a fat or oil have been saturated by hydrogenation. "Hydrogenated" and "partially hydrogenated" were rejected because the Commissioner concluded that "saturated" and "partially saturated" were "considerably more familiar" to consumers than "hydrogenated," although "hydrogenated" has traditionally been used by FDA.

The Commissioner has reconsidered the requirement and concludes that although the term "saturated" is better known than "hydrogenated," the benefits to the consumer that stem from its greater familarity are outweighed, for the present at least, by the possibility that consumers will be misled and confused. Technically, a product may be hydrogenated without being saturated. "Saturated" describes a chemical characteristic of some fatty acids: those whose molecules are composed of bonded carbon atoms holding a maximum number of hydrogen atoms. "Hydrogenated," on the other hand, refers to the chemical process by which hydrogen atoms have been added to unsaturated fatty acid molecules in a fat or oil.

Therefore, to reduce the possibility of confusion while simultaneously providing information that will be useful and informative to many consumers, the Commissioner proposes to amend § 1.10(b)(14) by substituting "hydrogenated" and "partially hydrogenated" for "saturated" and "partially saturated" where those terms appear.

The Commissioner is aware that some manufacturers may have already revised their labeling to comply with § 1.10(b)(14) and are now using "saturated" and "partially saturated" where appropriate on the labeling. Pending the issuance of a final regulation ruling on this proposal, FDA will not initiate regulatory action against products whose labeling contains the term "saturated" or "partially saturated" where appropriate to describe the change in the fat or oil ingredient in accordance with § 1.10(b)(14) or against products whose labeling contains the term "hydrogenated" or "partially hydrogenated" where appropriate to describe the change in the fat or oil ingredient in accordance with this proposal.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, 1047-1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 1 be amended in § 1.10 by revising paragraph (b)(14) to read as follows:

§ 1.10 Food; labeling; designation of ingredients.

* * * * *

(b) * * *

(14) Each individual fat and/or oil ingredient of a food intended for human consumption shall be declared by its specific common or usual name (e.g., "beef fat", "cottonseed oil") in its order of predominance in the food except that blends of fats and/or oil may be designated in their order of predominance in the food as "_____ shortening" or "blend of _____ oils"; the blank to be filled in with word "vegetable", "animal", "marine", with or without the term "fat" or "oils", or combination of these, whichever is applicable if, immediately following the term, the common or usual name of each individual vegetable, animal, or marine fat or oil is given in parentheses, e.g., "vegetable oil shortening (soybean and cottenseed oil)". For products that are blends of fats and/or oils and for goods in which fats and/or oils constitute the predominant ingre-

dient, i.e., in which the combined weight of all fat and/or oil ingredients equals or exceeds the weight of the most predominant ingredient that is not a fat or oil, the listing of the common or usual names of such fats and/or oils in parentheses shall be in descending order of predominance. In all other foods in which a blend of fats and/or oils is used as an ingredient, the listing of the common or usual names in parentheses need not be in descending order of predominance if the manufacturer, because of the use of varying mixtures, is unable to adhere to a constant pattern of fats and/or oils in the product. If the fat or oil is completely hydrogenated, the name shall include the term "hydrogenated", or if partially hydrogenated, the name shall include the term "partially hydrogenated". Fat and/or oil ingredients not present in the product may be listed if they may sometimes be used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as "or" "and/or", "contains one or more of the following", e.g., "vegetable oil shortening (contains one or more of the following: cottenseed oil, palm oil, soybean oil)". No fat or oil ingredient shall be listed unless actually present if the fats and/or oils constitute the predominant ingredient of the product, as defined in this paragraph (b)(14).

* * * * *

Interested persons may, on or before January 31, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the hearing of this document) regarding this proposal. Received comments may be seen in the above office between the hous of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

NOVEMBER 19, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–34961 Filed 11–29–76;8:45 am]

[21 CFR Part 510]

[Docket No. 76N–0171]

CHLOROFORM AS AN INGREDIENT OF DRUGS FOR ANIMAL USE

Proposal Establishing New Animal Drug Status

The Food and Drug Administration (FDA) is proposing to establish that all drugs for animal use that contain chloroform as an ingredient are new animal drugs within the meaning of section 201 (w) or misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w), 352). Interested persons have until December 30, 1976 to submit comments on this proposal.

EVIDENCE OF CARCINOGENICITY

On March 1, 1976, FDA received the National Cancer Institute (NCI) "Report On The Carcinogenesis Bioassay of Chloroform." The report presents a synopsis of results of a carcinogenesis bioassay of chloroform using mice and rats and concludes that chloroform induces liver cancer in mice and renal tumors in male rats. The summary of the report reads as follows:

A carcinogenesis bioassay of USP grade chloroform was conducted using Osborne-Mendel rats and B6C3F, mice. Chloroform was administered orally (by gavage) in corn oil to 50 animals of each sex and at two dose levels five times per week for 78 weeks. Rats were started on test at 52 days of age and sacrificed after 111 weeks. The dose levels for males were 90 to 180 milligrams per kilogram (mg/kg) body weight. Female rats were started at 125 and 250 mg/kg, reduced to 90 and 180 mg/kg after 22 weeks, with an average level of 100 and 200 mg/kg for the study. A decrease in survival rate and weight gain was evident for all treated groups. The most significant observation ($P=.0016$) was kidney epithelial tumors in male rats with incidences of: 0 percent in controls, 8 percent in the low-dose and 24 percent in the high-dose groups. Although an increase in thyroid tumors was also observed in treated female rats, this finding was not considered biologically significant. Mice were started on test at 35 days and sacrificed after 92 to 93 weeks. Initial dose levels were 100 and 200 mg/kg for males and 200 and 400 mg/kg for female mice. These levels were increased after 18 weeks to 150/300 and 250/500 mg/kg respectively so that the average levels were 138 and 277 mg/kg for males and 238 and 477 mg/kg for female mice. Survival rates and weight gains were comparable for all groups except high-dose females, which had a decreased survival. Highly significant increases ($P<.001$) in hepatocellular carcinoma were observed in both sexes of mice with incidences of: 98 percent and 95 percent for males and females at the high dose; 36 percent and 80 percent for males and females at the low dose as compared with 6 percent in both matched and colony control males, 0 percent in matched control females and 1 percent in colony control females. Nodular hyperplasia of the liver was observed in many low-dose male mice that had not developed hepatocellular carcinoma.

The Food and Drug Administration has also received from the Cosmetic, Toiletry and Fragrance Association (CTFA), summaries of long-term feeding studies, as well as several reports of the studies themselves, in which chloroform was administered, largely in the form of a dentifrice, to a variety of animal species. In one 96-week mouse study, 52 male and 52 female ICI mice each received 60 mg/kg of chloroform by gavage 6 days/week. After 80 weeks of treatment the male mice, but not the female mice, showed a greater incidence of renal tumors than found in the controls. In another study involving 4 different strains of mice, 52 male mice of each strain were intubated daily with 60 mg/kg of chloroform in a toothpaste. The duration of the studies for the C57BL and CBA strains of mice was 104 weeks; for CF/1, 93 weeks; and for ICI, 97 weeks. In the C57BL, CBA, and CF/1 strains of mice, chloroform did not increase the incidence of tumors; however, in the ICI mice there was a positive relationship between the administration of chloroform and the incidence of renal tumors. Such evidence of renal tumors in male ICI mice given 60 mg/kg/day of chloroform was reproducible in a second study. In one 95-week oral study in rats, 50 male and 50 female Sprague-Dawley SPF rats received 60 mg/kg of chloroform in the form of a toothpaste delivered by gavage 6 days/week. This study did not indicate that chloroform is carcinogenic to rats. New data submitted by the CTFA to the Food and Drug Administration OTC Oral Cavity Products Review Panel included a summary of studies on dogs for 7 years. In these studies, chloroform was administered in a toothpaste to 32 beagles; 8 males and 8 females were given chloroform at a dose level of 15 mg/kg/day, and 8 males and 8 females were given chloroform at a dose level of 30 mg/kg/day. The results were that the treated dogs did not develop an excess of tumors at any site as compared with the controls.

The CTFA reported that human studies were also conducted with dentifrices and mouthwashes containing chloroform. The human studies, which tested the effect of a dentifrice and a mouthwash upon oral tissues when used in a normal manner, included evaluation of blood enzyme and urea levels. No evidence of adverse effect upon liver function, as measured by these clinical tests, was reported.

PETITION TO BAN CHLOROFORM

In a letter dated December 30, 1975, the Health Research Group (HRG), 2000 P St. NW., Washington, DC 20036, requested that the Commissioner immediately ban the use of chloroform in all products under FDA jurisdiction, require that manufacturers recall from the market all products that contain chloroform, and warn consumers and doctors against the use of such products. In support of this request, HRG cited the then still unreported study of the NCI and a monograph on chloroform published by the International Agency for Research on Cancer (IARC) ("IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man," Vol. I, pp. 61–65, 1972). The IARC monograph reported that the frequency of liver tumors was high in certain animal studies conducted in 1945 and 1967 on the carcinogenicity of chloroform; the monograph stated, however, that an assessment of the carcinogenicity of chloroform awaits further experimental evidence.

Copies of the NCI report, the IARC monograph, reports of rat, mouse, beagle and human studies submitted by CTFA, data submitted to the Food and Drug Administration QTC Oral Cavity Products Review Panel, and HRG petition have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays (Docket No. 76N–0091).

COMMISSIONER'S ANALYSIS

The Commissioner has reviewed the NCI report and has considered the data submitted by CTFA. Although he is not aware of any direct evidence that chloroform induces cancer in man and animals other than test animals (rats and mice), the Commissioner recognizes that the positive finding of cancer in test animals in the NCI report suggests chloroform may pose a risk of cancer for humans and animals other than rats and mice. Experience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as a carcinogen in experimental animals were later found to cause human cancer. The clear demonstration that a compound is carcinogenic in experimental animals must, therefore, be taken as evidence that it has the potential for carcinogenesis in humans and other animals unless there is strong evidence to the contrary.

The scientific literature indicates that chloroform is absorbed from the gastrointestinal tract, through the respiratory system, and through the skin. One of the safety issues involved in the use of chloroform in animal drugs is, therefore, that of exposure of individuals applying them. It is entirely possible that the person who contacts or breathes the vapor from an animal drug product may be exposed to a hazard. The agency has no direct evidence that chloroform applied topically to an animal poses a risk to the animal. Evidence is lacking, however, on whether topical animal products are safe for the animal and safe for the applier.

There also is a possibility that chloroform residues will occur in food derived from treated animals. Section 512(d)(1)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 512(d)(1)(H)) provides that a new animal drug may not be approved for marketing if the Secretary finds that "such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply with respect to such drug if the Secretary finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (I) such drug will not adversely affect the animals for which it is intended, and (II) no residue of such drug will be found (by methods of examination prescribed or approved by the Secretary by regulations * * * in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animals;". The Commissioner is not aware of any data establishing that animals receiving chloroform would not be adversely affected or that no residues of chloroform or its possible metabolites would be found in edible products of treated animals.

The Commissioner is proposing that any drug product intended for animal use that contains chloroform as an ingredient (active or inactive) is deemed to be either (1) a new animal drug within the meaning of section 201(w) of the act, and unsafe within the meaning of section 512, and adulterated under section 501; or (2) misbranded under section 502 (21 U.S.C. 321(w), 360(b) and 352). The regulation is not applicable to situations where chloroform is present in residual amounts as a result of its use as a processing solvent during the manufacture of the animal drug or as a result of the presence of residual amounts of chloroform resulting from the synthesis of an ingredient in a drug.

Some information available to FDA indicates that most orally administered animal drug products containing chloroform contain a concentration of 1 percent or less. Higher concentrations are present largely in topical preparations from which the systemic absorption of chloroform may be incomplete. The amount of chloroform to which any individual animal or human might be exposed during application of a drug is, on a mg/kg/day basis, only a small percentage of the dose administered to the rats and mice in the NCI studies. Moreover, exposure of an individual animal or human during application of any particular drug product containing chloroform is short term by comparison with the lifetime exposure to chloroform of the rats and mice in the NCI studies.

Because there are no data to show that chloroform is a human carcinogen, and in view of the extremely small amount of chloroform to which any individual might be exposed through consumption of food from treated animals or by applying such drugs, the Commissioner is of the opinion that the risk to the public is not sufficient to invoke the imminent hazard provisions of the Federal Food, Drug, and Cosmetic Act, which would permit immediate removal from the market of all animal drug products containing chloroform as an ingredient and issuance of a public warning against the use of such products. The Commissioner is of the opinion, instead, that it is in the interest of the public health and prudent consumer protection to require a timely but orderly removal of chloroform from all animal drugs in which it is now used. The Commissioner encourages industry to replace chloroform-containing products with reformulated products as soon as posible. He advises that FDA will not regard any removal from the market as a recall requiring the manufacturers to notify FDA of such action.

In the FEDERAL REGISTER of June 29, 1976 (41 FR 26842) the Commissioner finalized a regulation declaring that any human drug product containing chloroform as an ingredient is a new drug and deemed to be misbranded and that any cosemtic product containing chloroform as an ingredient is deemed to be adulterated. In *Public Citizen* v. *Schmidt*, Civil No. 76–405 (D.D.C. July 21, 1976), the court upheld the Commissioner's authority to make the regulation effective 30 days after its final publication in the FEDERAL REGISTER.

CONCLUSIONS

The Commissioner is taking the following actions: He is proposing a new regulation, § 510.413 (21 CFR 510.413), declaring that any animal drug product containing chloroform as an ingredient is either a new animal drug and is deemed to be adulterated, or is misbranded. Interested persons have until December 30, 1976 to submit comments. The Commissioner will not entertain any requests for extension of the comment period. The Commissioner proposes that the final regulation based on this proposal be effective 30 days after publication. After that date, any animal drug product containing chloroform that is introduced or delivered for introduction into interstate commerce would be subject to regulatory action under sections 301, 501, 502, and 512 of the act.

Under proposed § 510.413(c), any current holder of an approved new animal drug application for a drug product containing chloroform as an ingredient shall submit to FDA on or before (the effective date of the final regulation based on this proposal) a supplemental application providing for a revised formulation removing chloroform as an ingredient. The Commissioner is of the opinion that chloroform in amounts greater than 1 percent would generally be present in an animal drug product as an active ingredient and believes that the removal of or substitution for chloroform in such products may affect the product's integrity and effectiveness. Therefore, under the proposal, if the animal drug product currently marketed ocntained more than 1 percent chloroform, the revised formulation may not be marketed before the receipt of written notice of approval of the supplemental application by FDA. If the animal drug product currently marketed contains 1 percent or less chloroform, the reivsed formulation may be marketed after submission of the supplemental application but before the receipt of written notice of its approval by FDA.

Under proposed § 510.413(d), any sponsor of a "Notice of Claimed Investigational Exemption for a New Animal Drug" (INAD notice) for an animal drug product containing chloroform as an ingredient shall amend the INAD notice on or before (the effective date of the final regulation based on this proposal) to revise the formulation removing chloroform as an ingredient.

Under proposed § 510.413(e), the Commissioner would initiate action to withdraw approval of an application or ter-

minate an INAD notice if any current holder of an approved new animal drug application or sponsor of an INAD notice fails to submit a supplemental application or to amend an INAD notice as set forth, and within the time periods provided for, in § 510.413.

Reformulation to remove chloroform from an animal drug product that is not now subject to requirements for an approved new animal drug application may occur without prior agency approval regardless of the amount of chloroform presently contained. Manufacturers are advised, however, that the reformulation of such products may in some cases, as where the percent of chloroform content is significant, affect the product's current legal status under the act. Inquiries about the new animal drug status of any reformulation may be directed in writing to the Food and Drug Administration, Bureau of Veterinary Medicine, Division of Compliance (HFV-236), 5600 Fishers Lane, Rockville, MD 20857.

The Commissioner encourages all manufacturers of animal drug products containing chloroform to revise their formulations and remove chloroform as soon as possible and in advance of the publication of the final regulation. He advises that FDA will not take regulatory action if a current holder of an approved new animal drug application or sponsor of an INAD notice acts to comply with the proposed regulations before the effective date of the final regulations. The Commissioner advises, however, that before the holder of an approved new animal drug application can market the revised formulation, the holder must submit a supplemental application and, if the product currently marketed contains more than 1 percent chloroform, obtain approval of the supplemental application by FDA.

The proposed regulation regarding the use of chloroform as an ingredient in animal drug products would be applicable to all forms of such products regardless of the route of administration or method of application, since the scientific literature indicates that chloroform is absorbed from the gastrointestinal tract, through the respiratory system, and through the skin.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 512, 701(a), 52 Stat. 1042–1043 as amended, 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 331, 351, 352, 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 510 be amended by adding new § 510.413 to read as follows:

§ 510.413 Chloroform used as an ingredient (active or inactive) in animal drug products.

(a) Chloroform has been used as an ingredient in animal drug products such as cough preparations, linaments, and some pastes. Although considered safe for many years, recent information has become available associating chloroform with carcinogenic effects in animals. Studies conducted by the National Cancer Institute have demonstrated that the oral administration of chloroform to mice and rats induced hepatocellular carcinomas (liver cancer) in mice and renal tumors in male rates.

(b) Any drug product intended for use in or on animals and containing chloroform as an ingredient is deemed to be either (1) a new animal drug within the meaning of section 201(w) of the act, and unsafe within the meaning of section 512 of the act and subject to regulatory action under section 501 of the act and subject to regulatory action under sections 301, 501, and 512 of the act; or (2) misbranded under section 502 of the act, and therefore subject to regulatory action under sections 301 and 502 of the act. Any animal drug product containing chloroform in residual amounts from its use as a processing solvent during manufacture of the drug product, or from the synthesis of a drug ingredient, is not, for the purpose of this regulation, considered to contain chloroform as an ingredient.

(c) Any holder of an approved new animal drug application for a drug product containing chloroform as an ingredient shall submit to the Food and Drug Administration on or before (the effective date of this regulation) a supplemental application providing for a revised formulation removing chloroform as an ingredient.

(1) The supplemental application shall contain:

(i) A full list of articles used as components and a full statement of the composition of the drug product.

(ii) The date that the composition of the drug product will be changed.

(iii) Data showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug product, or that the assay and other control procedures are revised to make them adequate.

(iv) Data available to establish the stability of the revised formulation and, if the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment from the applicant:

(*a*) To test the stability of marketed batches at reasonable intervals;

(*b*) To submit the data as they become available; and

(*c*) To recall from the market any batch found to fall outside the approved specifications for the drug.

(v) Copies of the label and all other labeling to be used for the drug product—a total of nine copies if in final printed form, three copies if in draft form.

(2) If such drug product contains more than 1 percent chloroform, the revised formulation containing no chloroform shall not be marketed before the receipt of written notice of approval of the supplemental application by the Food and Drug Administration.

(3) If such drug product now contains 1 percent or less chloroform, the revised formulation containing no chloroform may be marketed after submission of the supplemental application but prior to the receipt of written notice of its approval by the Food and Drug Administration.

(d) Any sponsor of a "Notice of Claimed Investigational Exemption for a New Animal Drug" (INAD notice) for an animal drug product containing chloroform as an ingredient shall amend the INAD notice on or before (the effective date of this regulation) to revise the formulation removing chloroform as an ingredient.

(e) The Commissioner will initiate action to withdraw approval of a new animal drug application or terminate an INAD notice in accordance with the applicable provisions of section 512 of the act and Parts 511 and 514 of this chapter upon failure of a holder of an approved new animal drug application or sponsor of an INAD notice to comply with the provisions of paragraph (c) or (d) of this section.

(f) Any drug product intended for animal use containing chloroform that is introduced or delivered for introduction into interstate commerce following the effective date of this regulation will be subject to regulatory action under sections 301, 501, 502, and 512 of the act.

Interested persons may, on or before December 30, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Comments should be in quintuplicate (except that individuals may submit single copies) and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office listed above, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

NOVEMBER 22, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–34960 Filed 11–29–76;8:45 am]

DEPARTMENT OF STATE

Bureau of Security and Consular Affairs

[22 CFR Part 42]

[Docket No. SD-124]

INELIGIBLE CLASSES OF IMMIGRANTS

Extension of Comment Period

This notice extends the period for comments to the notice of proposed rulemaking published October 15, 1976 (41 FR 45571) concerning public charge regulations.

The extension of time is further extended from December 1, 1976 to December 15, 1976 at the request of the American Council of Voluntary Agencies for Foreign Service, Inc., to allow its member agencies additional time to review and respond to draft comments provided to them by the American Council.

Dated: November 26, 1976.

JOHN W. DEWITT,
Acting Administrator, Bureau of Security and Consular Affairs.

[FR Doc.76-35300 Filed 11-29-76;8:45 am]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2607]

DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Notice of Proposed Rulemaking

The Pension Benefit Guaranty Corporation is considering a revision of its Privacy Act regulation (29 CFR Part 2607). 29 CFR 2607.10 is proposed to be revised to read as stated below. This section of the rules exempts a system of records from the application of certain provisions of the Privacy Act.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the General Counsel, Pension Benefit Guaranty Corporation, Room 7200, 2020 K Street, NW., Washington, D.C. 20006. Each person submitting comments should include his or her name and address, identify this notice, and give reasons for any recommendations. Comments should be submitted on or before December 30, 1976. Copies of written comments will be available for a reasonable period in the Office of Communications of the Pension Benefit Guaranty Corporation, Room 7100 at the above address between the hours of 9 a.m. and 4 p.m., for examination by interested parties. The proposal may be changed in light of comments received.

In consideration of the foregoing it is proposed to amend Part 2607 of Title 29, Code of Federal Regulations, by substituting for the present language of § 2607.10 the following:

§ 2607.10 Specific exemptions.

Under the authority granted by 5 U.S.C. 552a(k)(5), the PBGC hereby exempts the system entitled "Personnel Records—PBGC" from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability for employment, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revelation of the identities of persons who have furnished or will furnish information to PBGC in confidence.

(Pub. L. 93-579, 88 Stat. 1900; Pub. L. 93-406, 88 Stat. 829.)

Issued in Washington, D.C. this 18th day of November 1976.

W. J. USERY,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.76-34969 Filed 11-29-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 221]

TIMBER SALE BIDDING PROCEDURES

Extension of Time for Comments

In the November 17, 1976 FEDERAL REGISTER (41 FR 50699), the Forest Service published an advance notice of proposed rulemaking requesting comments on situations where it may be in the public interest to use oral auction or some other bidding method in lieu of sealed bidding. In order to provide adequate time for response to this notice, the deadline for submitting comments is hereby extended.

Comments should be submitted not later than December 15, 1976, to the Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C. 20250.

THOMAS C. NELSON,
Acting Chief.

NOVEMBER 24, 1976.

[FR Doc.76-35286 Filed 11-29-76;8:45 am]

[36 CFR 231]

GRAZING FEES

Notice of Proposed Rulemaking

Grazing fees on National Forests in the eleven contiguous western States for the fee year starting March 1, 1977, will be held at the 1976 level. Sec. 401(a) of the Federal Land Policy and Management Act of 1976 directs that fees on these lands shall not increase until a study on value of grazing is completed and a report thereon has been submitted to the Congress. Such report is due on or before October 21, 1977, one year from the date the Act became effective.

While not required by the Act, it is also proposed to hold the 1977 grazing fees on the National Forests in South Dakota and Nebraska and the National Grasslands at the 1976 level. This action provides equity among grazing permittees. Many of these lands are adjacent to or intermingled with National Forest areas and public lands which are covered by the Act, and some permittees graze livestock on lands in each of these classifications.

Views concerning the proposed extension of the continuance of 1976 fees through the 1977 fee year may be sent to:

Director, Range Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

All material received within thirty days after date of Federal Register publication will be considered.

All written submissions made pursuant to this notice will be available for public inspection in Room 610, 1621 North Kent Street, Arlington, Virginia, during regular business hours (17 CFR 1.27(b)).

In consideration of the foregoing, it is proposed to amend § 231.5, paragraph (a)(4), of Chapter II of Title 36 to read as follows:

§ 231.5 Fees, payments, and refunds or credits.

(a) Fees. * * *

(4) Adjustment between the 1966 average fair market value (base rate) of $1.23 and fees paid in 1966 will be made in annual installments and will be completed by 1980. Average installments of 7.2 cents were added in 1969, 1971, 1973, and 1974; an installment of 9.0 cents was added in 1976. In addition, increases or decreases in the base rate because of changes in fair market value as determined by the index of private land grazing lease rates will be made each year. Fair market value between 1966 and 1975 increased by 71 cents to $1.94 per animal unit month for the 1976 fee year. Where competitive bidding is used to establish a fee structure representing fair market value, the fee established shall remain unchanged during the period specified in the bid. For 1977, fees on the National Grasslands and Land Utilization Projects, and on the National Forests in the eleven contiguous western States and in South Dakota and Nebraska, will be limited to their 1976 levels.

* * * * *

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a); Pub. L. 94-579)

PAUL A. VANDER MYDE,
Deputy Assistant Secretary, Department of Agriculture.

NOVEMBER 24, 1976.

[FR Doc.76-35205 Filed 11-29-76;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

[36 CFR Part 606]

THE OFFICIAL COMMEMORATIVE LICENSING PROGRAM

Disposition of Inventory

Licensing agreements of the American Revolution Bicentennial Administration (ARBA) for "Officially Recognized Commemoratives of the ARBA" provide for the sale of such commemoratives for a specified period of time. Many of these licensing agreements are now approaching the end of their sales period. The ARBA now proposes that at the end of a license period, the licensees be authorized to dispose of inventory on hand and/or in process of manufacture on that date without payment of royalty thereon for a period of 60 calendar days thereafter.

Interested persons are invited to submit written comments on the proposal to the General Counsel, American Revolution Bicentennial Administration, 2401 E Street NW., Washington, D.C. 20276. Comments received on or before December 30, 1976, will be considered before final action is taken on the proposal. Copies of all written comments will be available for examination by interested parties in Room 7240, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

It is proposed to amend 36 CFR Part 606 by the addition of § 606.106 "Disposition of Inventory" as follows:

§ 606.106 Disposition of Inventory.

The licensee is authorized to sell inventory on hand and/or in process of manufacture on the date of expiration of the license, for an additional 60 calendar days thereafter without payment of royalty thereon.

JEAN MCKEE,
Acting Administrator.

NOVEMBER 23, 1976.

[FR Doc.76-35050 Filed 11-29-76;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 1]

INTERFERENCE PRACTICE

Notice of Proposed Rulemaking

Notice is hereby given that, pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6) as amended on October 5, 1971 (Pub. L. 92-132, 85 Stat. 364), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 1.205, 1.207, 1.215, 1.216, 1.217, 1.222, 1.223, 1.225, 1.245, 1.247, 3.44, 3.45 and 5.3 and by adding § 1.246.

All persons are invited to present their views, objections, recommendations or suggestions relating to the proposed rule changes to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 on or before January 21, 1977. All comments received will be available for public inspection in Room 11E10 of Building 3, at 2021 Jefferson Davis Highway, Arlington, Virginia. No oral hearing will be held.

This proposal has been reviewed and determined to have no major inflationary impact.

These rule changes are intended to improve the practice before the Board of Patent Interferences and to correct some inconsistencies in the rules. The rule changes (1) provide a patentee with notice as soon as a claim is copied from the patent so that the patentee can preserve the invention records from the moment he receives said notice until the time, in some instances many years later, when an interference is ultimately declared between the patentee and the copier, (2) bring § 1.207(b) in conformity with § 1.207(a), (3) simplify the rules relating to preliminary statements in view of the decisions, *Reddy* v. *Davis*, 187 USPQ 386 (Comm. Dec. 1975) and *Reddy* v. *Dann*, 188 USPQ 644 (CCPA 1976), (4) fill a void now existing in § 1.225, (5) make minor changes in §§ 1.245 and 1.247 and create new § 1.246 and (6) make § 1.217 consistent with § 1.215.

ATTENTION

The texts of the following proposed amendments are using ►◄ arrows to indicate additions and [] brackets to indicate deletions.

It is proposed to amend 37 CFR, Parts 1, 3 and 5 as follows:

1. Revising § 1.205 by adding paragraph (c) thereto as follows:

§ 1.205 Interference with a patent; copying claims from patent.

* * * * *

►(c) A notice that one or more claims of a patent have been copied, or substantially copied by an applicant(s), will be placed in the file wrapper of the patent and a copy of said notice will be sent to the patentee. However, the identity of the applicant(s) will not be disclosed to the patentee unless an interference is declared.◄

2. By revising § 1.207(b) to read as follows:

§ 1.207 Preparation of interference papers and declaration of interference.

* * * * *

(b) A patent interference examiner will institute and declare the interference by forwarding notices to the several parties to the proceeding. Each notice shall include the name and residence of each of the other parties and those of his attorney or agent, and of any assignee, and will identify the application of each opposing party by serial number and filing date, or in the case of a patentee by the number and date of the patent. The notices shall also specify the issue of the interference, which shall be clearly and concisely defined in only as many counts as may be necessary to define the interfering subject matter (but in the case of an interference with a patent all the claims of the patent which can be made by the applicant should constitute the counts), and shall indicate the claim or claims of the respective cases corresponding to the count or counts. [If the application or patent of a party included in the interference is a division, continuation or continuation-in-part of a prior application and the examiner has determined that it is entitled to the filing date of such prior application, the notices shall so state.] ►If the primary examiner has indicated that the patent or application of any party included in the interference is entitled to the benefit of the filing date of any prior applications as to the subject matter in issue, the notices shall so state and shall specify such prior applications.◄ Except as noted in paragraph (e) of this section, the notices shall also set a schedule of times for taking various actions as follows:

(1) For filing the preliminary statements required by § 1.215 and serving notice of such filing, not less than 2 months from the date of declaration.

(2) For each party who files a preliminary statement to serve a copy thereof on each opposing party who also files a preliminary statement as required by § 1.215(b), not less than 15 days after the expiration of the time for filing preliminary statements.

(3) For filing motions under § 1.231, not less than 4 months from declaration.

* * * * *

3. By revising § 1.215(b) to read as follows:

§ 1.215 Preliminary statement required.

* * * * *

(b) A party who files a preliminary statement shall at the same time notify all opposing parties of that fact and by the time set for that purpose he shall serve a copy of his preliminary statement [and all attached documents on every opposing party from whom he has received notification of the filing of a statement.] ►on every opposing party from whom he has received notification of the filing of a statement.◄

* * * * *

4. By revising § 1.216 to read as follows:

§ 1.216 Contents of the preliminary statement.

(a) The preliminary statement must state that the party made the invention set forth by each count of the interference, and whether the invention was made in the United States or abroad. When the invention was made in the United States the preliminary statement must set forth as to the invention defined by each count the following facts:

(1) The date upon which the [first drawing of the invention was made; if a drawing of the invention has not been made prior to the filing date of the application, it must be so stated.] ►invention of each count was conceived.◄

(2) The date [upon which the first written description of the invention was made; if a written description of the in-

vention has not been made prior to the filing date of the application, it must be so stated.] ►after conception of said invention when active exercise of reasonable diligence toward reducing the invention to practice began.◄

(3) The date [upon which the invention was first disclosed to another person; if the invention was not disclosed to another person prior to the filing date of the application, it must be so stated.] ►of the actual reduction to practice of the invention; if the invention has not actually been reduced to practice before the filing date of the involved application, it must be so stated.◄

[(4) The date of the first act or acts susceptible of proof (other than making a drawing or written description or disclosing the invention to another person) which, if proven, would establish conception of the invention, and a brief description of such act or acts; if there have been no such acts, it must be so stated.

(5) The date of the actual reduction to practice of the invention; if the invention has not been actually reduced to practice before the filing date of the application, it must be so stated.

(6) The date after conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.]

Paragraph (b) is deleted and present paragraph (c) is substituted as new paragraph (b) as follows:

[(b) When an allegation as to the first drawing (paragraph (a)(1) of this section) and/or as to the first written description (paragraph (a)(2) of this section) is made, a copy of such drawing and/or written description must be attached to the statement. (See § 1.223 (c).)]

[(c)] ►(b)◄ If a party intends to rely solely on a prior application, domestic or foreign, and on no other evidence, the preliminary statement may so state and need not be signed or sworn to or declaration made by the inventor.

5. By revising § 1.217 to read as follows:

§ 1.217 Contents of the preliminary statement; invention made abroad.

[(a)] When the invention was made abroad the facts specified by § 1.216(a)(1) to [(6)] ►(3)◄ are not required, and in lieu thereof there should be stated:

(1) When the invention was introduced into this country by or on behalf of the party, giving the circumstances with the dates connected therewith which are relied upon to establish the fact and, when appropriate, including allegations of activity in this country of the nature of that represented by § 1.216(a)(1) to [(6)] ►(3).◄ [and documentary attachments if the allegations relate to a drawing or written description.] ►Such statement may be signed and sworn to, or made in the form of a declaration, either by the inventor or by one authorized to make the statement and having knowledge of the facts alleged therein.◄

(2) If a party is entitled to the benefit of the second sentence of 35 U.S.C. 104, he must so state and his preliminary statement must include allegations of activity abroad corresponding to those required by § 1.215(a)(1) to [(6)] (3).

6. By revising § 1.222 to read as follows:

§ 1.222 Correction of statement on motion.

In case of material error arising through inadvertence or mistake, the statement [or attachments] may be corrected [or omitted attachments may be supplied on motion] (see § 1.243), upon a satisfactory showing that such action is essential to the ends of justice. The motion must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

7. By revising § 1.223(c) to read as follows:

§ 1.223 Effect of statement.

* * * * *

(c) If a party to an interference fails to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to his effective filing date. [If a party alleges in his statement a date of first drawing or first written description but does not attach a copy of such drawing or written description as required by § 1.216(b), he will be restricted to his effective filing date as to that allegation unless such copy is admitted by motion under § 1.222.]

* * * * *

8. By revising § 1.225 to read as follows:

§ 1.225 Failure of junior party to file statements or to overcome filing date of senior party.

If a junior party to an interference fails to file a preliminary statement, or if his statement fails to overcome the effective filing date of the application of another party, judgment on the record will be entered against such junior party unless he has filed a proper motion under § 1.231, within the time set for such motions, seeking some action in the interference. If such motion has been timely filed but does not result in action in the interference which removes the basis for a judgment on the record, such judgment will be entered unless the motion related to a matter which may be reviewed at final hearing under § 1.258, and within 30 days of the decision denying his motion, or a later time set by the patent interference examiner, the junior party concerned requests that final hearing be set to review such matter. ►If, as a result of a decision on motion, the original senior party is deprived of the benefit of an earlier filed application and is thereby made a junior party and if in addition he relies solely on said earlier filed application in his preliminary statement, he stands in the same position as a junior party whose statement fails to overcome the effective filing date of the senior party as in the first sentence of § 1.225.◄ Also, such a junior party may within such 30 day period, or time set, request a final hearing to review such a matter raised by his opposition to a motion under § 1.231(a), (2), (3), (4), or (5) which was granted over his opposition. Such a junior party will not be permitted to take testimony except on granting of a motion accompanied by a showing of good cause, which should normally include names of proposed witnesses and affidavits or declarations by them giving them their expected testimony.

9. Revising § 1.245 by deleting the second sentence thereof so as to read as follows:

§ 1.245 Extension of time.

Extensions of time in any case not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension. [A motion not timely made may be considered upon a showing of sufficient cause as to why such motion was not timely presented.]

10. By adding new rule § 1.246 as follows:

►**§ 1.246 Late papers.**

A motion or other paper belatedly filed will not normally be considered except upon a showing, under oath or in the form of a declaration (§ 1.68), of sufficient cause as to why such motion or paper was not timely presented.◄

11. Revising the format of § 1.247 so as to read as follows:

§ 1.247 Service of papers.

►(a)◄ Every paper filed in the Patent and Trademark Office in interference proceedings must be served upon the other parties in the manner provided in § 1.248, except the following:

[(a)] ►(1)◄ Preliminary statements at the time of filing but see § 1.215(b) and (c).

[(b)] ►(2)◄ Documentary exhibits introduced at the taking of a deposition.

[(c)] ►(3)◄ Certified transcripts of testimony under § 1.276 (but copies of the record must be served (§ 1.253(a)).

[(d)] ►(4)◄ Statutory disclaimers under 35 U.S.C. 253.

►(b)◄ The specification in certain sections that a designated paper must be served does not imply that other papers, not expected above need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. Proof of service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service.

12. By revising § 3.44 to read as follows:

§ 3.44 Interference; preliminary statement of domestic inventor.

Preliminary statement _____

_____ } v. _____ } Interference No. _____

_____ } _____ } ss

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by [the counts] ►each count◄ of the interference in the United States; that

(1) [The first drawing of the invention was made] ►The invention of each count was conceived◄ on _____, 19____. [A copy is attached.[1]]

(2) [The first written description of the invention was made] ►Active exercise of reasonable diligence toward reducing the invention to practice began◄ on _____, 19____. [A copy is attached.[1]]

(3) The invention was [first disclosed to others] ►actually reduced to practice◄ on _____, 19____.[1]

[(4) The date of the first act or acts susceptible of proof, other than acts of the character specified in (1), (2), and (3) which, if proven, would establish conception of the invention, and a brief description of such act or acts are (e.g. the making of a non-operating model on _____, 19____).

(5) The invention was actually reduced to practice on _____, 19____.

(6) Active exercise of reasonable diligence toward reducing the invention to practice began on _____, 19____.[1]]

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this ____ date of _____, 19____.

[SEAL]

_____
(Signature of notary public officer)

_____
(Official charactor)

13. Revising § 3.45 by changing line 3 of the last paragraph of the section.

§ 3.45 Interference; preliminary statement of foreign inventor.

* * * * *

* * * When acts were performed in the United States corresponding to the allegations (1) through [(6)] ►(3)◄ in the preliminary statement of a domestic inventor (§ 3.44) these acts should be included by appropriate allegations in the preliminary statement of a foreign inventor.

14. Revising § 5.3(b) by adding a third sentence as follows:

§ 5.3 Prosecution of application under secrecy order; withholding patent.

* * * * *

(b) * * * An interference will not be declared involving applications under secrecy order. However, if an application under secrecy order copies claims from an issued patent, a notice of that fact will be placed in the file wrapper of the patent. ►See § 1.205(c).◄

* * * * *

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Dated: November 19, 1976.

Approved:
BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.76-35049 Filed 11-29-76;8:45 am]

[1] If there were no act corresponding to this allegation prior to the filing date of the application, it must be so stated. [Note, however, date of completion of application drawing and specification, date of disclosure to person preparing the application, and diligence in preparing the application.]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 650-6]

APPROVAL AND PROMULGATION OF INDEPENDENT PLANS

Reproposal of Amendments to Stage II Vapor Recovery Regulations and Test Procedures and Notice of Public Hearings; Correction

In FR Doc. 76-31573 beginning at page 48044 in the FEDERAL REGISTER of November 1, 1976, the following changes should be made on page 48053:

1. Subscripts were omitted from the list of pressure, temperature and volume terms of section 8.1 of the short test procedure. This list of terms should have appeared as follows:

P_{atm}—atmospheric pressure (in. Hg).
P_{gd}—gauge pressure on dry gas meter at dispenser (in Hg vac.).
P_{gv}—gauge pressure on dry gas meter at vent or control device (in. Hg vac.).
T_a—ambient temperature (°F).
T_{gd}—temperature of vapor at dry gas meter on dispenser (°F).
T_{gv}—temperature of vapor at dry gas meter on vent or control device (°F).
V_{fd}—final volume reading of gas meter at dispenser (ft^3).
V_{fv}—final volume reading of gas meter at vent or control device (ft^3).
V_{id}—initial volume reading of gas meter at dispenser (ft^3).
V_{iv}—initial volume reading of gas meter or control device (ft^3).
V_{sd}—volume of vapors collected from each vehicle at standard condition (ft^3).
V_{sv}—volume of vapors collected from each vent or control device at standard conditions (ft^3).

2. The equation under section 8.2 is corrected to read:

$$V_{sd}=(V_{fd}-V_{id})\cdot\frac{(P_{atm}-P_{gd})}{29.92}\cdot\frac{530}{T_{gd}+460}$$

3. The equation under section 8.4 is corrected to read:

$$(\dot{m}/L)_{di}=\frac{\sum_i M_d}{\sum_i L_d}$$

4. The equation under section 8.5 is corrected to read:

$$(m/L)_d=\sum_{i=1}K_i(m/L)_{di}$$

Dated: November 22, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement (EN-329).

[FR Doc.76-35031 Filed 11-29-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 70]

REVIEW OF THE STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Advance Notice of Proposed Rulemaking

CROSS REFERENCE: For an Advance Notice of Proposed Rulemaking document proposing to recodify present 45 CFR Part 70 under 5 CFR Chapter I relating to Standards for a Merit System of Personnel Administration, see FR Doc. 76-35060 appearing in the Proposed Rules Section of this issue.

Office of Education

[45 CFR Part 158]

FOLLOW THROUGH PROGRAM

Notice of Proposed Rulemaking

The Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend the regulations in Title 45 of CFR Part 158 governing the Follow Through Program: (1) to reorganize and modify the requirements now contained in 45 CFR 158.65 authorizing the Commissioner to increase the Federal share of project costs to be contributed to grant recipients under Subpart B of Part 158 for providing services to eligible children; (2) to authorize awards of additional funds to grant recipients under Subpart B for conducting demonstration activities, and to state the funding criteria governing these awards; and (3) to permit the Commissioner to adjust on a case by case basis the prescribed funding levels for grants and contracts for technical assistance under Subpart C. In addition, the proposed rule makes several clarifying changes, and corrects several technical errors.

The changes to the regulation proposed in this notice have not been previously published in the FEDERAL REGISTER in any form; nor has the public participated in the drafting of these proposed regulations.

1. *Background.* Follow Through is a community services program established in 1967 under an amendment to the Economic Opportunity Act of 1964 for children in kindergarten and the elementary grades who are from low-income families. The program was designed to sustain and expand on the gains made by children in Head Start or similar preschool programs. The majority of the children served by the program are from low-income families, and the majority of

the children served were previously enrolled in Head Start or a similar preschool program. The program emphasizes community and parental involvement as well as encouraging the focusing of available local, State, private, and resources on low-income persons.

Follow Through has been implemented as an experimental program based on the concept of "planned variation," the purpose of which is to explore the effects of several different approaches to education of low-income children in kindergarten and the elementary grades and to provide documentation on these various approaches. These approaches have been developed by several community agencies or institutions of higher education, designated as "sponsors."

Three types of awards are being made:

(A) Grants for local Follow Through Projects (Subpart B);

(B) Grants and Contracts for Technical Assistance (Subpart C); and

(C) Grants and Contracts for Demonstration (Subpart D).

The grants for local projects under Subpart B are being awarded primarily to local educational agencies which must provide comprehensive services to participating low-income children. The activities of the local projects include instruction, medical, and dental services, nutrition services, social services, staff development, and career advancement for instructional staff. All these components must be systematically evaluated. Local projects implement one of the "sponsored" approaches or one that they have developed themselves. Most of the Subpart B local project grantees are sponsored and agree to carry out their projects in cooperation with the "sponsors."

The grants and contracts for technical assistance under Subpart C allow State educational agencies and/or other appropriate agencies to provide techincal assistance to local projects and to disseminate information to other communities in their States. The grants and contracts for demonstration under Subpart D fund the "sponsors" so that they might assist the local projects implementing their approaches.

At this time all grants made under Subpart B and D are continuations: i.e., grants are made only to continue grants which have been satisfactorily operated under Subpart B or Subpart D (as the case may be) in the immediate prior year.

The enabling statute authorizes $60,000,000 for the fiscal years 1975–1977. Congress has appropriated $55,000,000 for the program in fiscal year 1975 and $59,000,000 in both fiscal years 1976 and 1977. The program currently is serving approximately 75,700 low-income children.

2. *Changes to existing regulation.* The statute governing Follow Through (Title V of the Economic Opportunity Act, section 552(d), 42 U.S.C. 2929a(b)), provides that Federal financial assistance for providing services to eligible children shall not exceed 80 percent of the approved costs of the assisted programs or activities. The statute however authorizes the Secretary to increase the Federal share of a Follow Through Project "if he [the Secretary] determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of this part (Part B—Follow Through programs)." The Current Follow Through regulation pertaining to increase of the Federal share (45 CFR 158.65, "Waiver of Non-Federal share) permits increase of that share based on the amount of per capita income in the geographic area where the project is located, or if the project serves migratory children or Indian children residing on reservations, based on the per capita income of the group being served. The proposed amendment to these regulations would revise upward the minimum per capita income required, to a figure which is realistic in light of cost of living increases which have occurred since the present regulation was issued. Also, in connection with increase of the Federal share, the regulation adds a definition of a "major disaster"; and, in light of the financial difficulties being experienced by some local educational agencies, adds a new standard permitting increase where the Follow Through project is located in a community recognized by Federal law as presently being unable to obtain or in danger of obtaining seasonal or current financing. The amendment deletes language in the present regulation authorizing increase of the Federal share in cases where the grantee has ceased to qualify for this increase on other grounds and at the same time the cost of the project has significantly increased. Based on program experience, it appears that this provision is unnecessary.

The proposed changes affecting the Federal share conform closely to the proposed regulations governing the Head Start program (45 CFR § 1301.4–2, published as notice of proposed rulemaking in the FEDERAL REGISTER on May 5, 1976 (41 FR 18608–18609)). A similar statutory requirement governing the Federal share applies to the Head Start program.

The second substantive change is the addition of a new § 158.15a which authorizes the Commissioner to award additional funds to Subpart B grant recipients for conducting demonstration activities, and states the funding criteria which would govern those awards. (School year 1977–1978 is the first year for which these funds will be available). Grantees will be selected for funding under this section based on their ranking with respect to past implementation of the instructional component required by § 158.26(a) and their project's effectiveness to date as measured by the criteria in § 158.24(b), and their capability of demonstrating educational practices to large numbers of persons.

The only other substantive change which this amendment would make concerns the maximum funding level prescribed by § 158.42 for grants and contracts for technical assistance. The present regulations limit the dollar amount which can be provided for this purpose to each recipient, and do not permit exceptions to that policy. The amendment would permit the Commissioner to make exceptions to the general policy. Program experience has demonstrated that this flexibility is desirable. A reason for this is that not all eligible agencies apply for technical assistance funding, with the result that funds may remain available which could be used by some eligible agencies which do apply.

The changes in § 158.64 concerning the percent of the non-Federal share of a subpart B project are clarifying, not substantive. The percent figures stated in the present regulation are computed against the approved Federal cost of the project, not the total (combined Federal and non-Federal) approved cost. The percent figures substituted by the amendment would be computed against the total (combined Federal and non-Federal) approved cost. Mathematically the result is the same. This revision is being made because the present regulation has caused confusion, being interpreted by some as being inconsistent with the governing statutory provisions which, as noted above, generally require a non-Federal share of not less than 20 percent of the total (combined Federal and non-Federal) approved cost of the project.

Interested persons are invited to submit written comments, suggestions, or objections to the proposed amendments to: Ms. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3624–C, ROB–3), Washington, D.C. 20202. Oral inquiries concerning the proposed amendments may be directed to: Fred Bresnick, Follow Through Program Coordinator, Room 3624, ROB 3, U.S. Office of Education, Washington, D.C., Telephone 202–245–2500.

All written comments must be received not later than January 14, 1977. The proposals contained in this notice may be changed in light of written comments received. Written comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:00 p.m.

These amendments are proposed under the authority of Title V, sections 551–554 of the Economic Opportunity Act of 1964 as amended by Public Law 93–644, section 8(a) (42 U.S.C. 2929–2929c).

It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821, and does not require an Inflation Impact Evaluation.

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through.)

Dated: October 8, 1976.

Approved: November 4, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

It is proposed to amend Part 158 of 45 CFR Chapter I as follows:

Subpart A—Purpose and Definitions

1. By adding to the table of contents listing after § 158.15 the following new listing:

* * * * *

Sec.
158.15a Additional funds for demonstration.

2. By revising the Center heading after the table of contents listing for § 158.65 to read:

CRITERIA FOR INCREASE IN FEDERAL SHARE

3. By adding after the table of contents listing for § 158.65 the following new listing:

* * * * *

Sec.
158.65a Applications for increase in Federal share and review of applications.

§ 158.2 [Amended]

4. By revising the definition of "Head Start Agency" in § 158.2 to read as follows:

"Head Start Agency" means an organization funded in whole or in part by the Office of Child Development, HEW, pursuant to Title V, Part A of the Act.

Subpart B—Grants for Local Follow Through Projects

§ 158.15 [Amended]

5. By revising the first sentence of § 158.15 to read as follows:

In accordance with the provisions of § 158.13(b) and the criteria set forth in § 100a.26(b) of this chapter, the Commissioner reviews funding for projects under this subpart on the basis that the applicant has satisfactorily operated a federally-funded Follow Through project in the immediate prior year consistent with the purposes of the program as set forth in § 158.1. * * *

6. By revising the first two lines of paragraph (m) of § 158.15 to read as follows:

* * * * *

(m) The provision and coordination of comprehensive services as required by §§ 158.26 and 158.25(b), respectively, * * *

7. By deleting subparagraph (6) of § 158.15(m).

8. By revising paragraph (n) of § 158.15 to read as follows:

* * * * *

(n) The use or the coordination, or both, of other resources and programs with the project in accordance with § 158.25(b); and

9. By adding a new § 158.15a after § 158.15, to read as follows:

§ 158.15a Additional funds for demonstration.

For the purpose of conducting expanded demonstration activities, the Commissioner may make additional funds available to certain applicants who have been selected for funding in accordance with § 158.15 for the same year for which the additional funds are to be made available. These applicants must have received a satisfactory rating with respect to all the funding criteria listed in § 158.15, and must have received an outstanding rating with respect to the funding criteria listed in § 158.15 paragraphs (l) and (o). The following additional criterion will be applied in making awards under this section: the extent to which the applicant has the capability of demonstrating educational practices to large numbers of interested persons. Factors to be used in determining this capability include the following: geographic location, ease of accessibility, availability of transportation and lodging facilities for large numbers of persons, and personnel resources. The requirements imposed by § 158.64 of this part with respect to non-Federal share do not apply to funds made available under this section.

(42 U.S.C. 2929b(a)(1))

10. By revising § 158.16 to read as follows:

§ 158.16 Financial support of projects.

The grantee shall support project activities conducted under this subpart through the following combination of resources:

(a) The normal effort (in funds and services) which the grantee is required to maintain under § 158.67 and upon which the project builds;

(b) The Federal funds appropriated under the Act and distributed under this subpart; and

(c) The non-Federal contribution required by §§ 158.64 and 158.65.

(42 U.S.C. 2929, 2929a)

§ 158.19 [Amended]

11. By revising paragraph (a) of § 158.19 to read as follows:

(a) Purpose. Each grantee shall, upon the identification of Follow Through project children, establish a Policy Advisory Committee, selected in accordance with paragraphs (b) and (c) of this section, to assist with the planning and operation of project activities and to actively participate in decision making concerning these activities.

12. By revising the last sentence of § 158.19, paragraph (d) to substitute Roman numerals "(i)" and "(ii)" for Roman numerals "(iv)" and "(v)", respectively.

13. By revising the last sentence of § 158.20 to read as follows:

§ 158.20 Employment of low-income persons.

* * * The grantee shall establish hiring procedures which assure that the Policy Advisory Committee will be primarily responsible for recommending the filling of nonprofessional and paraprofessional positions in accordance with § 158.19(d)(4).

Subpart C—Grants and Contracts for Technical Assistance

14. By revising §§ 158.42, paragraph (a), to read as follows:

§ 158.42 Criteria for approval and funding of grants or contracts.

(a) *Level of funding.* The amount of a grant or contract awarded under this subpart may not exceed the total of:

(1) $4,000, which is the base rate;

(2) $2,000, for each Follow Through project expected to be in operation during the period for which the application is being made; and

(3) an amount arrived at by multiplying the relative incidence of children from low-income families in the State by the amount remaining after subtraction of the total amount computed for all States under paragraph (1) and (2) of this section from the total amount available for funding grants and contracts under this subpart. The Commissioner may adjust the amounts stated in paragraph (a)(2) of the preceding sentence on a case by case basis.

Subpart E—Federal Financial Participation

§ 158.63 [Amended]

15. By revising § 158.63(a) to read:

(a) For local projects under Subpart B of this part (excluding Supplementary Training and the additional funds for demonstration awarded under § 158.15(a)), the difference between the non-Federal share required by § 158.64 and total expenditures;

* * * * *

16. By revising § 158.63(c) to read as follows:

§ 158.63 Federal share of expenditures.

* * * * *

(c) For demonstration programs under § 158.15(a) of Subpart B and Subpart D of this part, 100 percent of expenditures.

17. By revising the first two sentences of § 158.64 to read as follows:

§ 158.64 Non-Federal share.

Subject to the provisions of § 158.63, the grantee shall share part of the costs of a Follow Through project funded under Subpart B of this part. That share (hereinafter, "non-Federal share") is an amount equal to not more than:

(a) 20 percent of the total (combined Federal and non-Federal) approved cost of the project if the project comprises one grade level;

(b) 18.5 percent of that cost if the project comprises two grade levels;

(c) 14.5 percent of that cost if the project comprises three grade levels; and

(d) 12.5 percent of that cost if the project comprises four or more grade levels.

Once the project has reached its highest grade level (at least four grades, unless no kindergarten is in operation in the school district) and has operated at that level for a period of two project years, the non-Federal share increases again up to the maximum 20 percent, rising in the same increments (one per year) in which it decreased to its lowest point.

18. By revising § 158.65 to read as follows:

§ 158.65 Criteria for increase in Federal share.

The Commissioner is authorized to increase the Federal share of the cost of a project indicated in § 158.63(a) under the following circumstances:

(a) *Minimum per capita income of area which project serves.* (1) Where the total per capita personal income in 1973 in the county in which the Follow Through project serves was less than $3,000 per year as stated in the April 1975 edution of "Survey of Current Business" published by the U.S. Department of Commerce (tables on pages 36–53); or

(2) If, based on more recent reliable data than that indicated in the preceding subparagraph, the total per capita personal income of the county which the Follow Through project serves was less than $3,000 per year in a year later than 1973; or

(3) If the recipient can demonstrate, using reliable data, that the total per capita personal income of the political subdivision of the county which the Follow Through project serves, or of the project area, was less than $3,000 in 1973 or any later year; or

(4) If, in the case of a project serving migratory children or Indian children on reservations, it is demonstrated, based on reliable data, that the total per capita personal income of the group being served by that project was less than $3,000 in 1973 or any later year.

(b) *Major disaster in project area.* Where a major disaster has occurred in the area served by the Follow Through project and that major disaster affects the capability of the applicant to operate the project unless the Federal share of the total approved cost is increased above 80 percent. For purposes of this paragraph "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other natural catastrophe.

(c) *Inability of local support agency to obtain current financing.* If the Follow Through is being supported wholly or in part by local funds and the county or city (or political subdivision of the county or city) which provides local funds to the grantee is recognized under Federal law as being eligible for Federal financial assistance during the fiscal year in which the project is carried out, because of the inability or threatened inability of that county, city, or political subdivision to obtain current or seasonal financing from its customary sources;

(d) *Unusual circumstance.* If the financial or human resources which would otherwise be available for use in the Follow Through project have been significantly reduced by unusual circumstances (other than those referred to in paragraphs (b) and (c) of this section) affecting the city, county, or political subdivision of the city or county, being served by the project.

(42 U.S.C. 2929a(b))

19. By adding a new § 158.65a after § 158.65 to read as follows:

§ 158.65a Application for increase in Federal share and review of applications.

(a) *Contents of application.* An applicant who desires an increase in the Federal share of a Follow Through project as authorized by § 158.65 shall request this increase in writing and in this request include the following:

(1) A statement of the applicant's reason for requesting the increase, supported by information sufficient to enable the Commissioner to determine the validity of the reason for the request. This information shall indicate, where relevant, the total per capita personal income of the county, city, or political subdivision of the county or city served by the project, or the total per capita personal income of the group being served by the project, and the source or sources of this information concerning total per capita personal income;

(2) Information showing that the applicant has made a reasonable effort to provide the non-Federal share required by § 158.64;

(3) A statement of the amount of the non-Federal share which the applicant is able to provide, and the extent to which this contribution is in kind.

(b) *Projects serving more than one area.* An applicant whose project serves more than one county, city, or political subdivision of a county or city, may apply for financial assistance in excess of 80 percent of the total (combined Federal and non-Federal) approved cost of that portion of the project serving the county, city or political subdivision which is eligible for an increase in the Federal share under § 158.65.

(c) *Review of applications.* Based on the Commissioner's review of an application submitted under paragraph (a) of this section and such additional evidence as may be required, the Commissioner may approve the application for a reason specified in § 158.65 in any amount up to 100 percent of the total approved cost of the project, or may disapprove the application. The Commissioner shall render a decision in writing and shall include a statement of the facts and the reasons for the decision.

(d) *Period of increase.* The Commissioner may not approve an increase in the Federal share for any period in excess of one year, but may renew approval upon resubmission of a written application that complies with this section.

(42 U.S.C. 2929a(b))

Subpart F—General Provisions

20. By revising § 158.84(d) to read:

§ 158.84 Suspension, termination, and refusal to refund.

* * * * *

(d) The Commissioner may not deny applications for refunding under this part unless the applicant has been given reasonable notice and opportunity to show cause why this action should not be taken.

[FR Doc.76-35217 Filed 11-29-76;8:45 am]

Social and Rehabilitation Service

[45 CFR Parts 205 and 214]

FAIR HEARINGS

Notice of Intent

Notice is hereby given that the Administrator, Social and Rehabilitation Service, with the approval of the Secretary, is seeking comment and guidance as to whether, and in what form, he should regulate hearings.

PURPOSE

The purpose of this notice is to invite public participation to clarify policy on Fair Hearings for the financial assistance programs (titles I, IV–A, X, XIV, and XVI (AABD); the medical assistance program (title XIX); and the social services programs (title I, IV–A (and IV–B), X, XIV, XVI and XX) administered by the States.

STATUTORY AUTHORITY

The Statutory language pertinent to fair hearings is almost identical in each of the titles mentioned above. It reads: "A State plan . . . must . . . provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim . . . is denied or is not acted upon with reasonable promptness." (There is no language pertinent to fair hearings in title IV–B)

The Administrator, under section 1102 of the Act, must decide what regulations, if any, are necessary for the proper and efficient administration of fair hearings.

BACKGROUND

Prior to 1970, somewhat informal conferences characterized fair hearings. The U.S. Supreme Court in the case of *Goldberg* v. *Kelly* 397 U.S. 254 (1970), and other cases decided subsequently, changed this historical approach by requiring adherence to more formal due process requirements. Due process involves procedures for notifying individuals of actions by the State that may affect their rights, the procedures whereby they may request a hearing, the conduct of the hearing, the evidence to be considered in rendering a decision and the content of the decision.

45 CFR § 205.10 published February 13, 1971 (36 FR 3034) was the first attempt by the Service to implement the Goldberg requirements.

The 1971 regulations created problems for States resulting in litigation and major program changes. Section 205.10 was amended in 1973 (38 FR 22007) to provide States greater flexibility in the administration of hearings.

When title XX was enacted in 1975 (Pub. L. 93–647), the provisions and procedures in § 205.10 were made applicable to the Social Services program pending a complete revision of § 205.10 (See 45 CFR 228.14). The need for revision of § 205.10 was recognized as it was apparent that many of the unique aspects of the new services program made the provisions of § 205.10 difficult to apply.

Work was begun on a revision of § 205.10 in the summer of 1975. Consistent with the Department's goals of sim-

plifying regulations and making them easier to read, we decided to move the regulation from one section to a separate Part with subparts and many sections. This would have the benefit of providing the user with an extensive index of the subject matter as well as breaking the regulation down into easily identifiable subparts and sections.

Beginning in December 1975, early drafts were circulated extensively to States, legal service organizations, recipient groups and other interested parties. Several meetings and workshops were conducted with recipient organizations and state officials. The comments submitted and the results of discussions are reflected in the latest draft, attached at the end of this notice.

Secretary Mathews has instructed that all components of the Department review the necessity for particular regulations, and the extent to which they may go beyond the statutory requirements; and assure that they reflect to the extent possible the views of the broadest spectrum of the public. Accordingly this notice poses questions which have been raised to date. Where tentative decisions have been reached, we indicate what they are, what alternatives have been considered, and our reason for the tentative conclusion.

Therefore, before deciding whether to publish or in what form to publish a proposed regulation, we are inviting additional public participation by eliciting comments on both the overall approach to fair hearings regulations and specific aspects of particular sections.

This Notice of Intent, prepared by the SRS staff, includes a draft of a revised hearings regulation which would be published as § 214 of 45 CFR. Following review of comments received in response to this Notice of Intent, tentative decisions will be made by SRS on the questions posed herein. Assuming the decision is to proceed with regulations, a Notice of Proposed Rule Making will then be published, providing a further opportunity for public comment prior to issuance of final regulations.

For those who are interested in comparing the language in § 205.10 with the draft language in Part 214, following is a comparative chart.

205.10(a)	214.2.
205.10(a) (i) and (ii)	214.3.
205.10(a) (2) and (3)	214.4.
205.10(a) (4) (i) and (iii)	214.10, 11, and 12.
205.10(a) (4) (ii)	214.15(a).
205.10(a) (4) (iv)	214.15(b).
205.10(a) (5)	214.20, 21, and 22.
205.10(a) (5) (i) and (ii)	214.30.
205.10(a) (5) (iii)	214.31.
205.10(a) (5) (iv)	214.34.
205.10(a) (5) (v)	214.33.
205.10(a) (6)	214.32.
205.10(a) (6) (iii)	214.46.
205.10(a) (7)	214.31 and 214.32 (c).
205.10(a) (8)	214.40.
205.10(a) (9)	214.41.
205.10(a) (10)	214.41(b).
205.10(a) (11)	214.42.
205.10(a) (12)	214.41(b).
205.10(a) (13)	214.43.
205.10(a) (13) (ii), (iii), (iv), (v) and (vi)	214.44.
205.10(a) (14) and (15)	214.45.
205.10(a) (16)	214.45(b).
205.10(a) (17)	214.45(c).
205.10(a) (18)	214.48.
205.10(a) (19)	omitted.
205.10(b)	214.5.

GENERAL ISSUES — OVERALL APPROACH

(1) *Should SRS rescind § 205.10 and have no regulation?* This would permit each state to adopt its own procedures within the parameters of the statutory language as interpreted by *Goldberg* and other related cases. It would be up to each State to determine what is required to satisfy due process and meet the needs of its residents.

(2) *Should SRS issue a regulation reflecting the language of the statute?* This would give States as much flexibility as option (1) but would set forth the statutory requirements in the Code of Federal regulations.

(3) *Should SRS issue comprehensive regulations reflecting the statutory language and our interpretation of due process requirements?* Assuming we choose this course, three alternative approaches appear available:

(a) each program bureau (assistance payments, social services, and medical assistance) could develop a regulation appropriate for its program and publish it with its other program regulations.

(b) the procedures that are common to all programs, such as conduct of the hearing, could be published in one Part, and those unique to only a particular program appear with other regulations of that program.

(c) all aspects relative to due process could be published under one Part with particular portions duplicated and also published with particular program regulations where appropriate. For example, notice of action on an application appears under 45 CFR § 206.10 and would also appear under 45 § 214.10; right to a hearing on designation of protective payees appears under 45 CFR § 234.60 and would also appear under 45 CFR § 214.20.

TENTATIVE CONCLUSION—OVERALL APPROACH

We have tentatively concluded that a comprehensive regulation under alternative (c) appears appropriate. A number of States either have already, or are considering, conducting all hearings through a central hearings agency. For this reason there needs to be uniformity in hearings procedures and one Part where all due process requirements are located. Requirements, such as notice should be duplicated in program regulations to facilitate agency use and awareness.

SPECIFIC ISSUES

§ *214.1 Definitions.*

(a) *Authorized representative.* An authorized representative is an individual who may request a hearing on behalf of an applicant or recipient, who may have access to the individual's case record and who may represent him at the hearing.

(1) Who may be an authorized representative? Should the regulation require that the designation of an authorized representative by an applicant or recipient be in writing?

(2) Should a foster parent, or staff of a child care institution, etc. be permitted to be a representative?

(b) *Appeals from local hearings.* Under § 205.10, a hearing decision of a local agency in a State supervised system is appealable to the State agency.

Should the decision of a local office of the State agency in a State administered system also be appealable to the parent State agency?

(c) *Claim denied.* Should "denied" be defined? If so, how should it be defined? Besides being a denial of eligibility upon application, "denied" may have other meanings. For example, because of the nature of the social services and medical assistance programs an individual may start with one or two services or types of medical assistance, then switch to others. The agency may reduce or discontinue a particular service at the end of a specified time usually because the service by its nature is time limited. Possibilities for changes in services and medical care are therefore limitless. How can we avoid trapping agencies and recipients into an expensive, meaningless paper game of sending and receiving notices everytime there is a change and yet not jeopardize the individual's right to a hearing? Is it necessary to offer the right to a hearing (i.e. send a notice) when a change is made with the recipient's concurrence? Could "denied" mean not only a denial of eligibility but a discontinuance of a social or medical service without the eligible person's knowledge and concurrence?

§ *214.2 State plan requirements.*

Should regulations require hearings under IV–B as well as IV–A? There is no statutory language requiring that fair hearings be granted under the IV–B program.

§ *214.3 Hearing system.*

What flexibility should states be permitted regarding hearing systems? The 1971 regulation permitted only State hearings. The 1973 regulation permits local hearings with an appeal to a State hearing. An applicant or recipient has the right to request a new hearing at the State level following the same rules as the original.

The draft proposal provides for a hearing on the merits at the initial hearing whether local or State level. The applicant or recipient would have a right of appeal to the State but the State hearing would be more in the nature of a true appellant procedure. The State could limit the appeal to a substantial evidence review of the record from the local hearing; provide for reweighing the evidence in the record from the local hearing plus such new evidence as the State hearing official deems necessary, or could provide for new hearing on the merits.

§ 214.3(b) *Administrative review.*

Should the regulation give the States the option of permitting a local agency or the applicant or recipient to request administrative review of the final agency decision?

For recipients and applicants, courts are often not an available forum due to lack of available attorneys to represent them (plus an inherent fear of the judicial system in many cases). For counties who believe an error has occurred, often it is more of a nuisance to go to court than to live with the error. This provision would allow a reconsideration within a specified period where it may take six months to a year in court. A State could permit this procedure as a supplement to judicial review i.e. (a) permit the local agency, or the applicant or recipient (parties), to proceed directly to court; (b) permit a party to seek administrative review as an alternative, while preserving rights to judicial review or (c) permit a party to proceed simultaneously. A state could also require exhaustion of this forum prior to judicial review.

§ 214.5 *Federal financial participation (FFP).*

The provisions for FFP will be the subject of a separate notice of intent which will be issued in the near future. It will focus on the specific issues in that area.

Subpart B—Notice

§ 214.11 *Reduction or discontinuance of assistance or services.*

(1) *Social Services.* The application of the fair hearings process to social services presents many difficult questions, particularly in the time period between initial eligibility and ultimate ineligibility. For example, under what circumstances should States be required to send notices of changes involving social services? How should a State handle notice and hearings provisions where it runs out of money to continue to provide a service; when it amends its services plan; when the agency decides a recipient no longer needs a service aimed at a particular goal; or reduces a service e.g. counseling five times a month to once a month or the agency changes the recipient from one type of service to another such as home delivered to congregate meals?

Can the requirement be limited to situations where the State takes action on an individual case without the concurrence of the recipient?

(2) *Medical assistance.* How should the regulation handle the inter-relation between the Utilization Review Committee (UR) process and fair hearings? For example, where a physician or the Committee determines that the individual no longer needs skilled nursing care. Is implementation of a UR decision "State action" requiring due process?

Is it necessary or desirable to provide an appeal from a UR determination? Does the UR process provide notice and opportunity for the patient to be heard as required by due process? If not, can the UR process be changed so it clearly provides notice and opportunity to be heard? For instance, should there be some way for the patient to participate or be represented in the UR process?

If the fair hearing process should apply where UR has found that a lesser level of care is appropriate, is it necessary to maintain the higher level of care pending a hearing. At the present time, Title XIX regulations do not provide a required time for states to implement a UR decision. Title XVIII regulations require a change within 3 days if a bed is available.

With respect to Professional Standards Review Organization (PSRO), how, and in what form, should the State title XIX agency notice to the recipient be given?

Where a State has entered into an agreement with the Social Security Administration (SSA) pursuant to § 1634 of the Act, whereby SSA determines eligibility for Medicaid for applicants and recipients of SSI, is it necessary for the State title XIX agency to send notices of the SSA determination?

§ 214.11 *Advance notice.*

Should the provisions for advance notice be changed? The 1971 regulations required a minimum 15 day notice. This was changed in 1973 to 10 days with an addition 10 days after the date of action at State option. The present 10 day requirement is a minimum. States are free to provide a longer advance notice period, and some do. The court in *Goldberg* determined that 7 days was not unconstitutional per se but that in some circumstances a longer period would be desirable.

§ 214.12 *Changes in the State program which affect groups (classes) of recipients.*

Should the States be required to send individual notice when the State makes a change in its program that affects a class of receipents? The 1971 regulations required a personalized, individual notice and did not recognize class changes. The current regulations require individual notice, but without the degree of specificity required in 1971.

This is an area which has caused States many problems when implementing cutbacks in title XIX services; ratable reductions in financial assistance; adoption of flat grants; changes in social services program plans etc.

This is particularly true in medicaid and social services where the group within the recipient universe affected by the pending change cannot be identified. For example, one State faced the dilemma of sending individual notice to 425,000 medicaid recipients of a change affecting an unidentifiable group of only 6,000 recipients.

While we believe some notice is necessary to advise recipients so they may prepare for the pending change, it appears that an individual notice may not legally be required where a change has been made through the legislative or quasi-legislative processes. (See generally 87 Harvard Law Review 782, 787 for a discussion and reference to court decisions) The draft regulation, published herewith, therefore, proposes three levels of notice. (1) Implementation of a State or Federal legislative change without agency rulemaking would still require individual notice. (2) Where the State agency implements a change through procedures the same or similar to those required by the Federal Administrative Procedure Act, designed to inform and invite participation of the public at large, alternative methods of informing the affected class would be permitted. For example, a change affecting only patients in nursing homes could be implemented through posting on nursing home bulletin boards; handouts, etc. (3) Since changes in title XX service program plans are designed to give notice and an opportunity to the services universe to participate in the rulemaking process, no further notice would be required.

Comment is particularly requested on suggested effective forms of notice that would both safeguard recipients' rights and relieve States of undue administrative burdens.

§ 214.13 *Notice and opportunity for a hearing where an agency intends to change the placement of a child in a foster care home.*

This provision of the draft generated intense discussion both within SRS and with outside groups. Because the desirability of applying the hearings process to foster care placement is unsettled, we tentatively decided to withdraw this section and study the problem as part of our projected study of all aspects of foster care. However, since we decided to publish this NOI, we are publishing the draft language in order to obtain additional views from which we may gain further insight into the problems.

A review of the court cases on this subject reveal two lines of cases. The first is the traditional view that the rights of the natural parents are paramount to any other consideration. This thinking apparently extends to those acting in *loco parentis* e.g., a state agency having care and custody of a child pursuant to a court ordered removal from the home.

A second line of cases, emerging with increasing emphasis over the past few years, is concerned primarily with the best interests of the child. Under this line of cases, courts have permitted participation by foster parents and have based their rulings on whether the child's best interests are properly served by a change in placement. For discussion of case law see the National Association of Attornies General study, *Legal Issues In Foster Care*, (available from that organization for $3.00) 3901 Barrett Dr., Raleigh, North Carolina 27609. The premise upon which many of these decisions are based is that at some point in time there develops a "Psychological Parent—Child Relationship" which should not be disturbed absent good cause. Studies have indicated that if a child remains in foster care placement for over 18 months, the chances of him returning to his natural parent are sig-

nificantly diminished. It appears that placement decisions therefore should be based on an assessment of the potential for return to the natural parents and where long-term placement is indicated the best interests of the child dictate a placement providing a continuous relationship with at least one adult who will become his psychological parent. See *Beyond the Best Interest of the Child*, Joseph Goldstein, Anna Freud, Albert J. Schmit, 1973, by The Free Press, a division of MacMillan Publishing Co., Inc., New York. The court in *Organization of Foster Families for Equality and Reform (OFFER) et al.* v. *Dumpson et al.* 74 CIV 2010 3 Judge USDC SDNY Mar. 22, 1976 ruled that this relationship arises after one year. This case is presently on appeal to the U.S. Supreme Court. Another court stated: absent "an imminent danger to the child's health or safety . . . when the child's disadvantage is potential or ultimate, the public interest may with equanimity afford the time and effort consumed by due process." *C.* v. *Superior Court* 1973, 29 Cal. App. 3d 909, 106 Cal. Rptr. 123. (This case involved a pre-adoptive placement). Alternatives to the fair hearing process were discussed such as a conference with the social worker and her supervisor, or other agency personnel. The Court in *OFFER* rejected this as the only procedure on the grounds that the issues involved are such that an objective review by a well qualified hearing official with meaningful opportunity for all directly interested parties to participate is considered necessary for a proper determination of whether the child's best interests are served by the move. The basis for a right to a hearing is that a hearing dispels the appearance and minimizes the possibility of arbitrary or misinformed action.

OFFER Opinion Page 9, *Goldberg* v. *Kelly*, 397 U.S. 254, 266 (1970). States that already provide such hearings have apparently encountered no undue administrative burden and have found that the availability of the hearing procedure enhances the program.

§ 214.14 Waiver of Notice.

Should States be permitted to waive written, advance notice where a recipient agrees to the change? Should oral waivers be permitted or only written waivers? Should this concept apply only to certain programs? What problems would you anticipate if this were permitted? What suggestions do you have which would permit utilization of the procedure, but which would eliminate or minimize the problems? Do States presently use waivers? Under what circumstances? What problems, if any, have been encountered?

§ 214.15 Exceptions to advance notice.

What, if any, exceptions should be permitted from the advance notice requirement? Are there other situations where the facts would generally not be in question where advance notice is inappropriate?

§ 214.15(b) 5 Day notice—wilful withholding of information.

Is it appropriate to continue to provide only a 5 day advance notice where the agency has discovered and verified that the recipient has income or assets which he has concealed from the agency.

§ 214.31 Time limit on requests for hearing.

Should there be a time limit on requests for a hearing? If so, are the proposed time limits reasonable? The 1971 regulations contained no limits on the time within which an individual could request a hearing, thus States were free to set any limit they deemed appropriate. In 1973, a 90-day time limit was adopted.

One recipient organization reports that apparently some States do not permit an appeal after the expiration of the advance notice period. For this reason, the draft proposal would require States to accept an appeal filed within 30 days but would not permit an appeal after 90 days.

§ 214.32 Continuation of Assistance or Services.

Under what circumstances should financial assistance, medical assistance, or social services be continued pending a hearing or pending a hearing decision following the hearing? Have the States encountered problems with fact/policy distinctions? How does the *Goldberg* "brutal need" concept apply to programs other than financial assistance, if at all? (See § 214.32(b).) This aspect of the *Goldberg* decision requires that a benefit conferred by statute be continued pending a hearing, where an erroneous termination of the benefit "may deprive an eligible recipient of the very means by which to live . . ." While the court was considering only financial assistance, the rationale appears applicable to other situations. Under what circumstances do you believe this rationale applies to the continuation of social services or medical assistance pending a hearing? The draft regulation addresses two possible circumstances involving social services without addressing particular services. It would be up to each State to determine what services, or combination of services, if any, in its services plan could impose such hardship if they were to be erroneously terminated. This is a very difficult area where no clear guidelines are available. This problem has been discussed with some State administrators. The general consensus was that serious administrative problems exist in trying to distinguish the kinds of services which might or might not be continued pending a hearing (many suggested continuing all or none). We are suggesting that States may continue any service pending a hearing, but presently believe that certain services must be continued pending a hearing where circumstances similar to *Goldberg* could exist if such services were terminated in error. See also the discussion regarding UR under § 214.11.

§ 214.32(d) Recoupment of amounts or cost of assistance or services provided pending a hearing.

Should the State be permitted to recover expenditures for assistance or services provided pending the hearing?

This is presently a State option. It was inserted in 1973 at the request States. Any recoupment from a recipient may take place only under the procedures set forth in 45 CFR 233.20(a)(12).

§ 214.33 Denial or dismissal of request for hearing.

When should the State agency be permitted to deny or dismiss a request for a hearing? A particular problem area is the title XIX interrelationship with SSI (214.33(a)(6)). Where SSI criteria apply for medicaid eligibility, should the SSI hearing process be permitted to substitute for the State's hearing procedure? In other words, should the State title XIX agency be required to grant a hearing where eligibility for XIX requires SSI eligibility and SSI has determined after notice and opportunity for a hearing that the individual is ineligible for SSI benefits? See also the questions under §§ 214.41 and 214.45.

§ 214.41 Hearing official.

(1) Should the State be permitted to delegate the conduct of the hearing to a hearing official who is not an employee of the State or local agency? For example, if a change of circumstances affects eligibility for financial assistance, medical assistance and social services, must we require that the individual be afforded three hearings? Do States presently provide for a hearing before each agency?

(2) Should qualifications for hearing officials be adopted? If so what standards should apply?

(3) Should State title XX agencies be permitted to delegate conduct of hearings to providers under a purchase of service agreement; to both private agencies and public agencies; to public agencies only? What problems would you foresee?

(4) Where a State title XIX agency has entered into an agreement with the Social Security Administration, (SSA) pursuant to § 1634 of the Act, whereby SSA will determine eligibility for medicaid at the same time as it determines eligibility for SSI, should States also be permtted to delegate the hearing function to SSA?

§ 214.43 Access to records.

Should a recipient be permitted access to his entire case record or only to the documents the agency intends to use at the hearing? Should an agency be permitted to distinguish between a case record and a treatment record? How would you define them? If an agency can adopt special procedures for sensitive records (medical and psychological), how can the recipient be assured that they are considered by the hearing official? How do you handle situations involving confidential informants?

§ 214.45 Hearing decisions.

Should State or local agencies be permitted to delegate final decision authority to the hearing official? How about a hearing official who is not an employee of the agency? In particular, see the questions raised under § 214.33 and § 214.41 regarding title XIX.

§ 214.45(b) Time limit for decisions.

Are the time limits for rendering decisions reasonable? If not, what time limits would you propose? What is the average time for fair hearing decisions in your State?

Following is a copy of the draft regulation. When commenting, it would be helpful if you will refer to specific regulation sections where appropriate. Suggestions which will assist us to improve the format and layout of our regulations are welcome. Alternative suggestions for handling the situations addressed by the draft proposal will be carefully considered. Also, if you believe there are agency actions which are not addressed by the regulation but which you believe should be addressed, please identify them and state what policy you believe should be adopted.

Prior to the issuance of proposed rulemaking, consideration will be given to any comments, suggestions, or alternatives which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013, on or before January 31, 1977.

Such comments will not be acknowledged but will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, S.W., 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. (For answers to specific questions please contact Donald Thayer area code 202–245–0421.)

Dated: October 29, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: November 23, 1976.

MARJORIE LYNCH,
Acting Secretary.

PART 214—FAIR HEARINGS

Sec.

Subpart A—General

§ 214.0 Scope.

This part sets forth the requirements for systems of fair hearings required by sections 2(a)(4), 402(a)(4), 1002(a)(4), 1402(a)(4), 1602(a)(4), 1902(a)(3), and 2003(d)(1) of the Act. It requires the States to provide notice and an opportunity for a hearing to any applicant or recipient when the State agency's intended action, or failure to act would adversely affect the individual's or family's eligibility for or amount or type of financial assistance, medical assistance or social services, or where action on a claim for such assistance or services is unreasonably delayed.

§ 214.1 Definitions.

For purposes of this Part: *Act* means the Social Security Act.

Assistance means financial and medical assistance.

Authorized representative means a parent or other caretaker relative, conservator, legal guardian, foster caregiver, attorney or paralegal acting under the supervision of an attorney, friend or other spokesman acting on behalf of the applicant or recipient.

Date of action means the date any agency action would become effective.

Financial assistance means money, vendor or protective payments under titles I, IV, X, XIV or XVI (AABD) of the Act.

Hearing Official means an impartial individual or panel responsible for conducting a hearing and issuing a recommended or final decision on the issues in question.

Local agency means an agency of a political subdivision of a State in a State supervised system and the local unit of the State agency in a State administered system.

Local hearing means a hearing before a hearing official responsible to a local agency.

Medical assistance means medical and remedial care and services provided under title XIX of the Act.

Services means social services provided under title I, IV, X, XIV, XVI (AABD), or XX of the Act.

State agency means the agency of the State, responsible for administering or supervising the administration of a program under title I, IV, X, XIV, XVI (AABD), XIX, or XX of the Act. It does not include local units of such State agencies in a State administered system.

State agency hearing means a hearing before a hearing official responsible only to the State agency.

§ 214.2 State plan requirements.

A State plan under title I, IV–A, IV–B, X, XIV, XVI (AABD), XIX or XX shall provide for a system of hearings which meets the requirements set forth in this Part.

§ 214.3 Hearing system.

(a) The system of hearings shall consist of either: (1) a single hearing before the state agency; or (2) a hearing before the local agency with a right of appeal to a State agency hearing; or (3) a combination of (a) and (b) whereby the State agency may permit local hearings in some political subdivisions and in others provide for a single hearing before the State agency; and

(b) May, in addition, provide for a review before the State agency where any party believes the State agency decision was in error. Such review may be based on the record of the hearing and may be limited solely to a question of whether the hearing decision was correctly rendered pursuant to existing law or regulations.

§ 214.4 Adoption of procedures.

Hearing procedures implementing the requirements under this Part shall be issued and made available so each applicant and recipient is informed at the time of application and at the time of any adverse action affecting his eligibility for assistance or services: of his right to a hearing; how he may obtain a hearing; and that he may represent himself or be represented by an authorized representative.

§ 214.5 Federal financial participation.

The provisions for FFP will be the subject of a separate notice intent which will be issued in the near future. It will focus on the specific issues in that area.

Subpart B—Notice

§ 214.10 Action on application.

Except as provided in § 214.14, notice shall be mailed or otherwise provided to an applicant, at the time a decision is made on the application, to inform him that assistance or services has been authorized (including the amount of financial assistance) or that the application has been denied. Under this requirement, notice shall consist of a written notice that includes a statement of the action taken, the reasons for and regulations supporting such action, and an explanation of the individual's right to a hearing and the procedures to obtain one.

§ 214.11 Action to reduce or discontinue assistance or services.

Except as otherwise provided in this Subpart, individual notice shall be mailed or otherwise provided to a recipient at least 10 days in advance of the State or local agency date of action to reduce or discontinue assistance or services. Under this requirement, notice shall be in writing and shall include a statement of what action the agency intends to take, the date of action, and the reasons and regulations supporting it; an explanation of the individual's right to request a hearing and the circumstances under which assistance or services will be continued if a hearing is requested; a telephone number and location where he may obtain information. Nothing in this section shall preclude a State or local agency from initiating administrative procedures to implement the change on the date of action so long as it has procedures to reinstate assistance or services within 10 days of receipt of a request for hearing. (See § 214.22 for continuation of assistance and services).

§ 214.12 Action to implement class change.

(a) When changes in either State or Federal law require reductions in assistance or services for classes of recipients, individual notice of such reductions shall be given at least 10 days prior to the date of action. Such notice shall include a statement of the intended action as it affects the class, the reason for the action, a statement of the specific change in law requiring it and a statement of the circumstances, if any, under which a hearing may be obtained and assistance or services continued.

(b) However, where changes resulting in reductions in assistance or services are adopted or implemented through rulemaking procedures which are equal or similar to the rulemaking provisions set forth in the Federal Administrative Procedure Act, 5 U.S.C. 551 *et seq*, the State may use methods other than individual notice to advise the class of the change.

(c) Where a state title XX agency makes changes in its comprehensive services program plan following the procedures set forth in § 228.33, 228.34 and 228.35 of this chapter, no notice other than that set forth in those sections is required.

§ 214.13 Change in placement—child in foster home.

(a) Where placement and care of a child is the responsibility of the State or local agency and such child has been in continuous placement with a foster parent for one year or more, notice and an opportunity for a hearing shall be provided the foster parent on behalf of the child at least 10 days prior to any change in placement unless:

(1) Such change is required by court order;

(2) The child is to be returned to its natural parent;

(3) Removal is based on a licensing denial or revocation and there is an available appeal under the licensing process;

(4) The agency reasonably believes the health and welfare of the child is clearly endangered by reason of neglect, cruelty, depravity, or physical abuse by his foster parent or other person residing in the home.

The notice shall be in writing and shall include the intended date of change, the reasons for the change and how a hearing may be obtained prior to removal of the child.

(b) When the child is removed because he is clearly endangered, the foster parent shall be informed in writing within five days, of the reasons for removal and his right to a post removal hearing.

§ 214.14 Waiver of notice.

No notice is necessary where an applicant or recipient agrees with the agency action and knowingly waives his right to notice and opportunity for a hearing. Such waiver may be oral or in writing, but must be retained or documented in the case record.

However, if the applicant or recipient requests a hearing within the time limits set forth in § 214.31, a hearing shall be granted.

§ 214.15 Exceptions from advance notice.

(a) The State or local agency may disregard the requirement for 10 day advance notice under § 214.11 but shall send the notice required by that section no later than the date of action when:

(1) The agency has factual information confirming the death of a recipient or death or absence of the AFDC payee;

(2) The agency receives a written statement signed by a recipient that gives information which requires discontinuance or reduction of assistance or services or imposition of or increase in a fee for services and states that he understands that this must be the result of supplying such information;

(3) The recipient has been admitted or committed to an institution, and because of such institutionalization is ineligible for further assistance or eligible only for reduced services or assistance, or for services or assistance provided in a different form.

(4) The recipients whereabouts are unknown. Notice shall be sent to last known address and assistance or services reinstated if his whereabouts become known during the period he was eligible for assistance or services.

(5) A recipient has been accepted for assistance or services by another State or another jurisdiction (or geographical area) within the same State and that fact has been established by the State or jurisdiction previously providing assistance or services.

(6) An AFDC child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his legal guardian.

(7) A special need, or service, granted for a specified period, is discounted and the recipient has been advised in writing at the time of authorization that it would automatically discontinue at the end of the specified time.

(8) The basis for the agency action is that the attending physician has concurred with a Utilization Review Committee recommendation and has issued medical orders consistent with the recommendation.

(b) When the agency obtains facts indicating that assistance or services should be discontinued or reduced because the recipient has concealed information regarding available income or resources and, where possible, such facts have been verified through collateral sources, notice shall be mailed at least five (5) days before the date of action.

Subpart C—Right to Hearing

§ 214.20 Financial assistance.

An opportunity for a hearing shall be granted to any applicant who requests a hearing because he was denied the opportunity to apply; or his application was denied, or not acted upon with reasonable promptness, and to any recipient who challenges the correctness of any agency action resulting in reduction, or discontinuance of financial assistance or a change in the manner or form of payment (including restrictive or protective payments).

§ 214.21 Medical assistance.

An opportunity for a hearing shall be granted to any applicant who requests a hearing because his claim for medical assistance is denied, or is not acted upon with reasonable promptness, and to any recipient who believes any agency action resulting in reduction, or discontinuance of medical assistance is incorrect.

§ 214.22 Services.

An opportunity for a hearing shall be granted to any applicant who requests a hearing because his application for services is denied, or is not acted upon with reasonable promptness, and to any recipient who believes any agency action resulting in change, reduction, or discontinuance of service is incorrect.

§ 214.23 Foster care.

(a) *Preremoval hearing.* Except in those circumstances specified in § 214.13, an opportunity for a hearing prior to removal shall be provided to or on behalf of a child in a foster family home when such child has been in continuous placement for a period of one year or more. The sole issue to be decided at the hearing is whether the best interests of the child are served by the intended change in placement.

(b) *Post-removal hearing.* Where a child has been removed from a foster home pursuant to § 214.13(b), an opportunity for a post removal hearing regarding the reasons for removal shall be provided to the foster parent either through procedures set forth in this Part or through the States license revocation procedures.

§ 214.30 Request for hearing.

A request for a hearing is defined as a clear expression by the applicant or re-

cipient (or his authorized representative acting for him) that he wants the opportunity for a hearing. The State may require a written request. The freedom to make such a request shall not be limited or interfered with. The agency may assist the individual in submitting and processing his request.

§ 214.31 Time limit on requests for hearing and continuation of benefits.

The applicant or recipient shall be provided reasonable time, not less than 30 nor more than 90 days, in which to request the initial hearing. For assistance or services to continue pending the initial hearing, the hearing request must be filed prior to the date of action; or, at State option, within an additional period not to exceed 10 days following the date of action.

§ 214.32 Continuation or reinstatement of assistance or services pending hearing.

If the recipient requests a hearing prior to the date of action or within an additional period specified by the State pursuant to § 214.31:

(a) *Continuation of assistance.* Where a recipient of assistance requests a hearing, assistance shall continue or be promptly reinstated, until a decision is rendered after a hearing unless:

(1) The hearing official determines at the hearing that the sole issue is one of State or Federal law or policy, or change in State or Federal law or regulation, and not one of incorrect application of such law or regulation; or

(2) A change affecting the recipient's benefits occurs while the hearing decision is pending and the individual fails to request a hearing after notice of the change;

(3) The agency action is based on orders or prescriptions for medical or remedial services issued by the recipient's attending physician, or on the attending physician's concurrence with a Utilization Review Committee recommendation.

(b) *Continuation of service.* Where a recipient of services requests a hearing regarding the continuation of particular service, such service may continue or be reinstated pending the hearing decision. The agency shall continue or promptly reinstate such service pending the hearing decision when it determines that discontinuance of the service would impair the recipient's ability to continue an independent living arrangement or maintain employment unless:

(1) The hearing official determines at the hearing that the sole issue is one of State or Federal law or policy or regulation, and not one of incorrect application of such law or regulation or

(2) A change affecting receipt of other services occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of the change.

(c) *Reinstatement of assistance or services where action is taken without advance notice.* In any case where action was taken without advance notice pursuant to § 214.15, if the recipient requests a hearing within 10 days of the date of action and the agency determines that the action resulted from other than the application of State or Federal law or policy or a change in State or Federal law or regulation, assistance or services (pursuant to paragraph (a) or (b) of this section) shall be reinstated and continued until a decision is rendered after the hearing.

(d) *Recoupment.* Amounts of assistance and cost of medical assistances or services may be subject to recoupment by the agency if its action is sustained by the hearing decision.

(e) The agency shall promptly inform the recipient in writing if assistance or services is to be discontinued pending the hearing decision and, if assistance or services is continued, whether it is subject to recoupment if the agency action is sustained.

§ 214.33 Denial or dismissal of request for hearing.

(a) Notwithstanding the provisions of Subpart C, the agency may deny or dismiss a request for a hearing:

(1) Where it has been withdrawn by the claimant:

(2) Where the sole issue is one of State or Federal law or regulation requiring automatic adjustment in assistance or services for classes of recipients unless the reason for an individual appeal is incorrect application of the law or regulation to his individual case.

(3) Where it is abandoned. A hearing may be considered abandoned if the applicant or recipient has failed to notify the agency prior to the time of hearing, that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing. Good cause may be established because of death in the family, personal injury or illness or injury or illness of family members or sudden and unexpected emergencies which reasonably prevent the applicant or recipient from attending the hearing.

(4) Where the request was not filed within the time limit permitted by the State.

(5) Where the basis for the request is a determination under section 1155(a) of the Act by a Professional Standards Review Organization (PSRO), including a conditional PSRO, which has assumed full review responsibility in the particular facility at the time the medical care was provided to the claimant. (See 42 CFR Part 101)

(6) Where the subject of the request for hearing is denial of eligibility for medical assistance and:

(i) The State requires SSI eligibility as a condition of eligibility for medical assistance; or.

(ii) The State has entered into an agreement with the Social Security Administration pursuant to section 1634 of the Act, under which SSA agrees to determine eligibility for medical assistance; and

(iii) SSI has determined; after notice and opportunity for a hearing, that the individual is not eligible for SSI. The State agency shall inform the individual of his right to apply for medical assistance on any other basis, other than SSI eligibility, which the State plan provides.

(b) Notwithstanding the provisions of Subpart C, the agency shall dismiss a request for hearing where a decision has been rendered after a WIN hearing before the manpower agency that a participant has, without good cause, refused to accept employment or participate in the WIN program, or has failed to request such a hearing after notice of intended action for such refusal;

§ 214.34 Consolidated hearings.

Agencies may respond to a series of individual requests for hearing by conducting a single group hearing. Agencies may consolidate only cases in which the sole issue involved is one of State or Federal law or policy, changes in State or Federal law or regulation or a question of fact common to the group. In all group hearings, the standards set forth in this Part shall be followed. Each individual shall be permitted to present his own case or be represented by an authorized representative.

Subpart E—Procedures

§ 214.40 Notification of Time and Place of Hearing.

The hearing shall be conducted at a reasonable time, date and place, and adequate preliminary written notice shall be given. Such notification shall:

(a) Advise the applicant or recipient (or authorized representative) whom to notify (name, address, and phone number) in the event the scheduled appointment cannot be kept;

(b) Specify that the agency may consider the request abandoned if the individual or his representative, without good cause and prior notice to the agency, fails to show for the hearing;

(c) Inform the individual that the reason given for not showing is subject to agency determination that "good cause" did or did not exist, and state the action the agency will take based on this determination.

§ 214.41 Hearing Official.

Hearings shall be conducted by an impartial official (or panel) who was not directly involved in the initial determination of the action in question.

(a) *Designation of hearing official.* The hearing official (or panel) may be: (1) an employee of or individual under contract with the agency;

(2) An employee of another public agency designated by the State or local agency to conduct hearings; (3) For the title XX services program, an employee or official of another public agency pursuant to an agreement in accordance with 45 CFR Part 228, Subpart G of this Chapter designated by such agreement to conduct hearings (a hearing conducted by a provider shall be considered a local hearing and shall be subject to appeal to a State agency hearing); or

(4) A member or official of a statutory board or other legal entity designated by the State or local agency to conduct hearings.

(b) *Powers and Duties.* The hearing official shall:

(1) Administer oaths and affirmation if required by the State;

(2) Assure that all relevant issues are considered;

(3) Receive or request and make part of the record, such evidence as he deems sufficient and necessary to decide the issues in question;

(4) Regulate the conduct and course of the hearing and, where necessary, take such action as is consistent with due process to insure an orderly hearing;

(5) At his discretion, order that a medical assessment or other professional evaluation other than that of the person or persons involved in making the original assessment or evaluation shall be obtained at agency expense and made part of the record; and

(6) Render a recommended or final hearing decision.

(c) *Jurisdiction.* The hearing official shall not have jurisdiction to recommend or render any decision regarding either the validity or constitutionality of any Federal or State law, regulation or policy.

§ 214.42 Parties and participation.

(a) The parties to the hearing, and any appeal therefrom shall include:

(1) The applicant or recipient.

(2) Each agency responsible for the initial decision on any of the issues in question. Where more than one agency is responsible for the issue or issues in question, one agency may be delegated the responsibility for collecting and presenting the evidence on the issues.

(b) If an issue to be decided involves services provided under contract pursuant to 45 CFR Part 228 Subpart G of this chapter, the provider or his representative shall participate in the hearing where appropriate, but shall not be considered a party.

§ 214.43 Availability of case records.

The applicant or recipient or his representative, shall have adequate opportunity to examine the entire contents of his case record and obtain copies of all documents and records to be used by the agency at the hearing at a reasonable time before the date of the hearing as well as during the hearing; except, that the agency may establish special procedures, such as transmission of medical or psychological records to a doctor or lawyer named by the requesting individual, where deemed necessary for the disclosure of the recipient's medical or psychological records. For purposes of this Part case record means the official repository of all materials including the original application form, documents of verification etc. used by the agency to determine or redetermine an individuals eligibility for, and the amount or type of assistance or services; treatment record means the official repository of documents relating to medical treatment or services received by a recipient. Except where treatment records are to be used by the agency at the hearing, disclosure is subject to the rules of confidentiality set forth under § 205.50 of this Chapter and appropriate State law.

§ 214.44 Conduct of the hearing.

(a) Applicant or recipient or his authorized representative shall be afforded the opportunity:

(1) At his option, to present his case himself or with the aid of an authorized representative;

(2) To bring witnesses;

(3) To establish all pertinent facts and circumstances;

(4) To advance any arguments without undue interference;

(5) To question or refute any testimony or evidence including opportunity to confront and cross-examine adverse witnesses.

(b) The testimony at the hearing shall be recorded either electronically or by other reasonable means to insure availability in case of administrative appeal or judicial review.

§ 214.45 Hearing decisions.

(a) *Basis for decision.* Recommendations or decision of the hearing official shall be based exclusively on evidence and other material introduced at the hearing. The recording of testimony and exhibits, together with all papers and requests filed in the proceeding, and the decision of the hearing official shall constitute the exclusive record and shall be available to the applicant or recipient or his representative at a reasonable time and place.

(b) *Time limit for decisions.* (1) A final decision after the initial hearing (whether local or State agency), shall be issued within 90 days of the request for such hearing. Where a hearing has been continued due to the applicant or recipient's good cause inability to appear, a final decision shall be rendered within 60 days of the conclusion of the hearing. For appeals from local hearings, and for reviews, the State shall render a decision within 60 days of receipt of an appeal or the granting of a request for review.

(c) *Recommended for final decision.* At state option, the hearing official may render either a recommended or final decision (The State or local agency may permit some hearing officials to issue final decisions and others to issue only recommended decisions). If the hearing official issues a recommended decision, the final decision shall be issued by the head of the agency or his designee. If the hearing official is delegated authority to render a final decision, he may render an oral decision at the close of the hearing followed by a written decision pursuant to paragraph (d) of this section.

(d) *Content of the decision.* (1) A final decision after an initial hearing shall consist of a written decision summarizing the facts; identifying each issue considered; reasons for the decision on each issue and the specific regulations supporting such decision. (2) A decision following an appeal or rehearing may consist of an affirmation of the original decision, reversal, or other appropriate action. It shall include a statement of reasons for the decision. If the appeal hearing is a *de novo* hearing, the appeal decision shall follow the form and substance of the initial decision.

(e) *Notice of decision.* Each party to the hearing shall be provided a copy of the decision and shall be advised of any existing right to administrative or judicial review.

(f) *Implementation of decision.* When the hearing decision is favorable to the claimant, or when the agency decides in favor of the claimant prior to the hearing, the agency shall promptly reinstate assistance retroactive to the date the incorrect action was taken but in no case more than 12 months prior to the date the agency became aware of the incorrect action; unless implementation is stayed pending review pursuant to § 214.48(b). A decision adverse to a recipient shall be promptly implemented unless stayed pursuant to § 214.48(a).

§ 214.46 Appeal from local hearing.

(a) In any case where the decision of local hearing is adverse to the claimant, he shall be informed of and afforded the right, within 15 days of the mailing of such adverse decision, to request a State agency hearing and a stay of the original decision pending appeal. Such hearing may consist of a review of the local hearing record to determine whether the decision was supported by substantial evidence or, at state option, may be a *de novo* review or a *de novo* hearing.

(b) A de novo hearing means a new hearing conducted in the same manner as the initial hearing. The record for decision shall include the record from the new hearing and from the original hearing.

(c) A de novo review means a reexamination and reconsideration of the original record. At the hearing officer's discretion, additional written evidence may be requested or oral testimony from witnesses may be presented and made part of the record to be considered by the hearing officer in his recommended or final decision.

§ 214.47 Request for review.

Where a State provides for a review pursuant to § 214.3(b), any party who believes the original decision is incorrect may, within 15 days of the mailing of such decision, request a review and a stay pending review. A request for review shall be granted or denied within 15 working days of its receipt by the State agency.

§ 214.48 Stay of decision pending appeal or review.

(a) *Pending appeal.* Assistance shall not be continued after a decision adverse to a recipient at the initial hearing, unless, at the option of the State agency, implementation of the decision is stayed pending appeal.

(b) *Pending review.* Where a party to a hearing requests a review of the final State agency decision, implementation of a decision favorable to an applicant or recipient may be stayed as to payment of a retroactive lump sum but shall be promptly prospectively implemented as to assistance or services.

[FR Doc.76-35121 Filed 11-29-76;8:45 am]

[45 CFR Part 250]

MEDICAL ASSISTANCE PROGRAM

Upper Limits for Payments to Individual Practitioners

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The purpose of the proposed regulations is to implement that part of section 224(c) of Pub. L. 92–603 which sets certain limits on increases in prevailing charges for physicians' services for which payment is made under State Medicaid programs (title XIX, Social Security Act), and to set upper limits for payments to certain other individual practitioners pursuant to section 1902(a)(30) of the Act. The basis for this proposal is the statutory provision with respect to physicians' services and the Department's belief that the specification for certain other individual practitioners is necessary to assure that payments are not in excess of reasonable charges.

The regulations provide that, in the case of individual practitioners' services, the prevailing charge level for any twelve-month period beginning after June 30, 1973, may not exceed the level for the fiscal year ending on that date, except to the extent that increases are justified by economic index data reflecting changes in expenses of practice and changes in earning levels. Medicare regulations for this provision (required by section 224(a) of Pub. L. 92–603) were published in the FEDERAL REGISTER on June 16, 1975 (40 FR 25446), as well as the economic index governing the period June 1, 1975 through June 30, 1976 (40 FR 25502).

Further, the proposed amendments implement for individual practitioner services the provisions of Pub. L. 94–182 (December 31, 1975), and Pub. L. 94–368 (July 16, 1976), which provide that, in the case of physician's services, prevailing charge levels for the twelve-month period beginning on July 1 in any calendar year after 1974 will not be reduced below the prevailing charge levels for the fiscal year ending June 30, 1975 because of the initial application of the economic index limitation.

The change with respect to other individual practitioners specifies that chiropractors and optometrists (in certain cases) are included as practitioners to whom the economic index governing the upper limits for recognition of charges will apply.

Prior to the adoption of the proposed regulations, consideration will be given to written comments, suggestions, or objections thereto addressed to the Administrator, Social and Rehabilitation Service, Department of Health, Education and Welfare, P.O. Box 2366, Washington, D.C. 20013, and received on or before January 14, 1976.

Such comments will be available for public inspection in Room 5223 of the Department's office at 330 C Street, SW, Washington, D.C. 20201 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. (area code 202–245–0950). Answers to specific questions may be obtained by calling Charles Gardner, 202–245–8822.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302), (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program).)

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

Dated: October 5, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Services.

Approved November 23, 1976.

MARJORIE LYNCH,
Acting Secretary.

Section 250.30(a)(9)(ii) and (b)(3) of Part 250, Chapter II, Title 45 of the Code of Federal Regulations are amended as set forth below:

§ 250.30 Reasonable charges.

(a) *State plan requirements.*

* * * * *

(9) * * *

(i) An estimate of the percentile of the range of customary charges to which the revised payment structure equates and a description of the methods used in arriving at the estimate.

(ii) An estimate of the composite average percentage increase of the revised fee structure over its predecessor. Criteria for meeting Federal requirements pertaining to such payment structures are set forth in paragraph (b)(3) of this section.

(b) *Upper limits.*

* * * * *

(3) *Payments to individual practitioners.* This applies to services of doctors of medicine, dentistry, osteopathy, chiropractic, optometry (but only with respect to establishing the necessity for prosthetic lenses), and podiatry. At the option of the State, other individual practitioner services may be included. A payment structure will meet Federal requirements if (as documented in State manuals or other official files):

(i) Payment to the individual practitioner is limited to the lowest of

(A) His actual charge for service;

(B) The median of his charge for a given service derived from claims processed or from claims or services rendered during all the calendar year preceding the start of the twelve-month period beginning on July 1 of each year in which the determination is made; or

(C) His reasonable charge recognized under part B, title XVIII.

(ii) In no case may payment exceed the prevailing charge level for similar services that represents the 75th percentile of the range of weighted customary charges in the same localities established under title XVIII during the calendar year preceding the start of the twelve-month period beginning on July 1 of each year in which the determination is made. However, each prevailing charge in each locality for any twelve-month period beginning after June 30, 1973, may not exceed the level determined for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data as determined under 20 CFR 405.502, that the increase is justified by economic changes.

Future increases will be justified only to the degree that they do not exceed further rises in the economic index. Nevertheless, the prevailing charge level in the case of an individual practitioner service in a particular locality for the twelve-month period beginning on July 1 in any calendar year after 1974, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, by reason of the application of economic index data, be raised to the prevailing charge level for the fiscal year ending June 30, 1975.

* * * * *

[FR Doc.76-35120 Filed 11-29-76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 298]

VESSEL FINANCING ASSISTANCE

Obligation Guarantees; Amended Notice of Proposed Rulemaking

In Doc. No. 76–29688 appearing in the FEDERAL REGISTER on October 8, 1976 (41 F.R. 44408) notice was given of the intention of the Maritime Administration, to revise Part 298, Title 46, Code of Federal Regulations, by proposing revised regulations relating to the operation of the program of Obligation Guarantees (Title XI program) authorized by Title XI of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1271–1279.

Interested parties were invited to submit comments by November 30, 1976.

Said notice is hereby amended to extend the date for submission of comments to December 17, 1976.

Dated: November 23, 1976.

By order of the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-35037 Filed 11-29-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

FM BROADCAST STATIONS IN BENTON, LOUISIANA

Proposed Table of Assignments

Adopted: November 16, 1976.

Released: November 22, 1976.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM

Broadcast Stations. (Benton, Louisiana), Docket No. 21001. RM-2753.

1. *Petitioner, proposal, and comments.* (a) Notice of proposed rulemaking is hereby issued concerning the amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with regard to the community of Benton, Louisiana.

(b) A "Petition for Rule Making"[1] was filed on behalf of Blossman Associates, Inc. ("Blossman") proposing the assignment of Channel 221A to Benton, Louisiana, as a first FM assignment to the community. No opposition responses to the filing of the petition have been received.

2. *Community data.*—(a) *Location.* Benton, the seat of Bossier Parish, is located approximately 19 kilometers (12 miles) north of Shreveport, Louisiana, and approximately 450 kilometers (280 miles) northwest of New Orleans.

(b) *Population.* Benton, 1,493; Bossier Parish, 64,519.[2]

(c) *Local broadcast service.* Benton has no local aural service.

3. *Economic data.* Blossman states that Benton is a small community, governed by a mayor and five alderman, and derives its main income from industries, cattle and farming. Blossman also submitted information with respect to education, churches, transportation and civic organizations, and notes that Benton is served by one bank.

4. *Additional considerations.* Blossman points out that although the area is served by six weekly newspapers, one of which originates in Benton, Bossier Parish has no commercial radio or television stations. It states that if the proposed channel is assigned to Benton, it would promptly file an application for a construction permit, and if granted, would immediately construct and operate a station.

5. In view of the apparent need for a local broadcast service in Bossier County, we believe the proposal to assign Channel 221A to Benton, Louisiana, merits consideration in a rulemaking proceeding.

6. Comments are invited on the following proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, for the community listed below:

City	Channel No.	
	Present	Proposed
Benton, La.		221A

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

[1] Public Notice of the filing of the petition was issued on September 27, 1976 (Report No. 1005).

[2] All population statistics cited are from the 1970 U.S. Census.

8. Interested parties may file comments on or before January 3, 1977, and reply comments on or before January 24, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this Notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this *notice of proposed rulemaking.* All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76-34988 Filed 11-29-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 393]

[Docket No. MC-75; Notice 76-23]

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Proposed Fire Resistance Test for Nonmetallic Fuel Tanks

• *Purpose.* This Notice proposes a new fire resistance test for nonmetallic fuel tanks as an alternative to the safety venting system test presently contained in the Federal Motor Carrier Safety Regulations (FMCSR).•

Section 393.67(d)(1) of the FMCSR (49 CFR 393.67(d)(1)) presently contains a safety venting system test which all fuel tanks on motor vehicles operated in interstate or foreign commerce must be capable of passing. This test is directed toward the testing of pressure venting systems on tanks that could explode in a violent manner if the fuel vapor pressure caused by an external fire were not safely released.

Barry Plastic Industries, Inc. (BPI), has petitioned the Bureau of Motor Carrier Safety to specify an alternative test to the safety venting system test for fuel tanks which are not made of metal. The BPI has developed a large capacity fuel tank made of high density, cross-linked polyethylene in a rotationally molded process, and hopes to market the tank for interstate commercial vehicle applications.

The petitioner contends that his tanks have definite advantages over conventional metal tanks. As an example, a 100-gallon capacity tank made of plastic weighs a mere 50 pounds as contrasted to 130 pounds for an equal size tank made of steel. If two of the plastic tanks were installed in an over-the-road truck tractor in place of two steel tanks of equal capacity, there would be a weight saving of approximately 160 pounds. For reasons of economics and benefit to the public, this weight differential could be made up in a load carrying capacity rather than being wasted.

In December 1973, the petitioner produced a series of prototype 70-gallon plastic tanks and commenced testing them on trucks. In aggregate, they exposed individual tanks to various severe tests involving, in some instances, a minimum of 50,000 road miles with temperatures ranging from desert climates to cold weather in excess of 40° F below zero. These prototype tanks were also

successfully exposed to the 30-foot impact test specified in § 393.67(e)(1) of the FMCSR. The petitioner further subjected its prototype tanks to the other requirements outlined in § 393.67. By and large, these tests proved successful and convinced the petitioner's management that their tanks would be a significant improvement over metal tanks because of inherent advantages in the area of safety and fuel conservation. In performing the tests, however, the petitioner did encounter difficulties in applying to its plastic tanks certain testing requirements designed to protect tanks from explosion caused by fire or heat induced expansion of the contents.

As an example, the petitioner found that its tank had inherent insulating qualities that prevented any significant pressure rise within the tanks when testing for conformance with § 393.67(c) (8), (9), and (d)(1). These subsections deal with the performance of the tank safety venting system when subjected to fire. The petitioner found, when its prototype tanks were exposed to the enveloping flame test of subsection (d)(1), the insulating qualities of the tank were such that a temperature rise of only approximately 2°F per minute could be achieved instead of the 6–8°F per minute required. By the time the contents of the tank were raised by 10°F in a period of approximately 5 minutes, the tank itself acted as a safety valve by releasing the contents through a nonviolent rupture.

In view of the differences in fire-related hazards associated with metal tanks vs. nonmetallic tanks, it appears that the petitioner's arguments for separate tests are meritorious and deserving of public comment. The BPI petition included a suggested fire resistance test for nonmetallic fuel tanks which is modeled after tests established by the American Boat and Yacht Council and Underwriters Laboratories, Inc., for plastic fuel tanks on boats. A review of the suggested fire resistance test resulted in certain technical modifications.

In consideration of the foregoing, it is proposed to amend 49 CFR 393.67(d) to read as follows:

§ 393.67 **Liquid fuel tanks.**

* * * * *

(d) *Liquid fuel tank tests.* Each liquid fuel tank manufactured of metal must be capable of passing the tests specified in subparagraphs (1) and (3) of this paragraph, and each nonmetallic liquid fuel tank must be capable of passing the tests specified in subparagraphs (2) and (3) of this paragraph.

(1) *Safety venting system test (metal tanks)*—(i) *Procedure.* Fill the tank three-fourths full with fuel, seal the fuel feed outlet, and invert the tank. When the fuel temperature is between 50°F and 80°F, apply an enveloping flame to the tank so that the temperature of the fuel rises at a rate of not less than 6°F and not more than 8°F per minute.

(ii) *Required performance.* The safety venting system required by paragraph (c)(8) of this section must activate before the internal pressure in the tank exceeds 50 pounds per square inch, gauge, and the internal pressure must not thereafter exceed the pressure at which the system activated by more than 5 pounds per square inch despite any further increase in the temperature of the fuel.

(2) *Fire resistance test (nonmetallic tanks)*—(i) *Procedure.* (A) Mount the tank in position with the fittings and brackets either furnished with the tank or intended to be used in its installation.

(B) Fill the tank one-quarter full of gasoline (or diesel fuel if the tank is intended especially for such fuel).

(C) Place the tank in its mountings over a fire pan containing 1—2 inches of water covered with ¼–½ inch of gasoline. The fire pan shall be at least equal in size to the vertical plan outline of the tank. Place a thermocouple even with the top level of the fuel in the tank and approximately one-half inch outside of the tank. Calibrate the thermocouple to continuously read flame temperatures at this position during the test. Regulate the vertical distance of the tank from the fire in order to maintain flame temperatures of approximately 1,000°F at the top of the fuel. A record of the temperatures shall be maintained during the test.

(D) The tank fill and vent opening shall be sealed in the manner they are designed to function on a motor vehicle.

(E) Ignite the gasoline in the fire pan, and begin timing of the test when the height of the tank has been regulated so that the temperature at the thermocouple is stabilized at a minmum of 1,000° F.. The timing shall be started not less than 10 seconds from the time of ignition, and the test shall be conducted in still air. Extinguish the flames after 3 minutes.

(ii) *Required performance.* The tank shall not release any of its contents during the test, and, except for minor vapor leakage around tank fittings, shall not exhibit any evidence of leakage of its contents while remaining in the position in which it was subjected to the fire test. Permanent deformation or loss of structural integrity above the fuel level does not provide cause for failure of the fire test.

(3) *Leakage test*—(i) *Procedure.* Fill the tank to capacity with fuel having a temperature between 50° F. and 80° F. With the fill-pipe cap installed, turn the tank through an angle of 150° in any direction about any axis from its normal position.

(ii) *Required performance.* Neither the tank nor any fitting shall leak more than a total of 1 ounce by weight of fuel per minute in any position the tank assumes during the test.

* * * * *

Interested persons are invited to submit written data, views, or arguments pertaining to adoption of the fire resistance test proposed in paragraph (d)(2) above. Additionally, data and views are sought concerning the age hardening, stress corrosion cracking, and seepage characteristics of nonmetallic fuel tanks. All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. Comments received before the close of business on February 1, 1977, will be considered before further action is taken. Comments received will be available for examination by any interested person in the docket room of the Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street, SW., Washington, D.C., both before and after the closing date for comments.

(Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304), Sec. 6, Public Law 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48; 49 CFR 389.4).

The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued on November 24, 1976.

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

[FR Doc.76-35172 Filed 11-29-76;8:45 am]

[49 CFR Parts 1056, 1100]

[Ex Parte No. MC–19 (Sub-No. 30); No. 36235]

SPECIAL PROCEDURES FOR TARIFFS GOVERNING RATES AND CHARGES ON HOUSEHOLD GOODS

Petition Seeking Institution of Rulemaking Proceeding

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 17th day of November, 1976.

By petition filed August 22, 1975, Household Goods Carriers' Bureau, Inc. (petitioner) requested a rulemaking proceeding to revise Rules 42 (b) and (e), and 200(c) of the Commission's General Rules of Practice [49 CFR 1100.42 (b) and (e), and 1100.200 (c)]; and to add a new Rule 42(f) and Rule 200(d), 49 CFR 1100.42(f) and § 1100.200(d).[1] These modifications would affect certain tariff proposals of motor common carriers of household goods changing rates and charges. With regard to such tariffs, the rule changes proposed affect the times (1) for the filing of protests and replies, and (2) in which the Commission must act, and as a result afford the carriers earlier notice on the Commission's disposition of their proposal than under present regulations. Petitioner's request for such rulemaking (assigned Docket No. 36235) was initially denied by order entered January 29, 1976, but a subsequent petition for reconsideration of that order (wherein

[1] The changes proposed herein will refer to Rules 42 and 200 as they currently read, and not as suggested in Ex Parte No. 55 (Sub-No. 24), *Revised Rules of Practice.*

petitioner also further revised and amended the intitial proposal) as persuaded the Commission that institution of a rulemaking proceeding is in fact warranted. Accordingly, it is the purpose of this notice to initiate such a rulemaking, inform all interested parties of its scope, and invite comment thereon.

We believe that adoption of some or all of the proposed special rules for tariffs changing rates and charges on movements of household goods may on not less than 45 days' notice may be warranted in order to reduce the incidence of errors in estimating charges on movements of these commodities. Errors on such estimates arise when a rate increase proposal is pending before the Commission and the carriers are thereby faced with uncertainty regarding what the rate the Commission may authorize. The proposed revision would reduce such uncertainty (and errors resulting therefrom) by advancing the time at which the carrier will know the Commission's disposition of the proposed rate change. To achieve this objective we propose altering the times for filing protests and replies thereto, and to expedite Commission action thereon.

The proposed modifications are as follows:

§ 1100.42 [Amended]

Rule 42(b), 49 CFR 1100.42(b). Change the period at the end of the second sentence to a semicolon and insert the following thereafter:

Provided, however, that protests against and requests for suspension of tariffs applicable on household goods as defined in 49 CFR § 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR § 1042.2(b) on not less than 45-days notice, shall reach the Commission no later than 27 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer.

Rule 42(e), 49 CFR § 1100.42(e). Change the period at the end of the sentence to a semicolon and add the following thereafter:

Provided, however, that a reply to protest against a tariff applicable on household goods as defined in 49 CFR § 1056.1 (a), when published for the account of household goods carriers as defined in 49 CFR § 1042.2(b) on not less than 45-days notice, shall be filed with the Commission not more than 5 days after the protest is filed.

Rule 42(f), 49 CFR § 1100.42(f). Add a new subsection (f) reading as follows:

The Suspension and Fourth Section Board will act on protests against or requests for suspension of tariffs applicable on household goods as defined in 49 CFR § 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR § 1042.2(b) on not less than 45-days notice, no later than 18 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer.

§ 1100.200 [Amended]

Rule 200(c), 49 CFR § 1100.200(c). Change the period at the end of the first sentence to a semicolon and insert the following thereafter:

Provided, however, that when the Suspension and Fourth Section Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR § 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR § 1042.2(b) on not less than 45-days notice, such petition shall be filed within two work-days after the Suspension and Fourth Section Board has acted.

Rule 200(d), 49 CFR § 1100.200(d). Add a new subsection (d) reading as follows:

When the Suspension and Fourth Section Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR § 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR § 1042.2(b) on not less than 45-days notice, the designated appellate division will act on petitions for reconsideration no later than two work-days after the petition is filed.

In justification of the proposal, petitioner recites the serious problems encountered by the household goods carriers—which are, in many ways unique. Specifically, it is pointed out that household goods carriers are required by law to provide, upon request, estimates of charges for proposed services [49 CFR 1056.8(a)]; to extend credit for all charges more than 10 percent above the estimate [49 CFR 1056.8(b)]; to report quarterly to the Commission all instances in which actual charges are more than 10 percent above or below the estimate [49 CFR 1056.8(e)]; and to provide shippers with an annual performance report indicating the percentage of shipments for which the estimate was 10 percent above and 10 percent below the actual charges [49 CFR 1056.(b) 3(b) and 10.-56.7(b) 3(e)]. While the above requirements are necessary for the protection of the unsophisticated household goods shipper, petitioner alleges that the present investigation and suspension rules uniquely and adversely affect household goods carriers' services in complying with the above requirements, and that its proposed rule modifications will correct such inequities. We recognize that the above regulations concerning estimates do differentiate household goods carriers from other carriers and adoption of the petitioner's proposed revisions might ultimately benefit the shipper. Finally, it is alleged that the administrative, financial, and public relations impact of the Commission's requirements dictate that estimating be as accurate as possible, and that the proposed modifications could eliminate overestimates or underestimates experienced under the present procedures.

The result of the proposed rules would often give the household goods carriers 18 days' notice of the effective date of its tariff proposal, assuming the Suspension and Fourth Section Board declined to suspend and no petitions for reconsideration of this decision were filed. If, however, there were such petitions, the proposed rules would require that they be filed within 2 work-days after the Suspension Board action, and in this event the Appellate Division 2 action would have to be completed no later than 2 work-days after the petitions were filed. In effect, then, the household goods carrier would have approximately two weeks' notice of whether its rate would be effective, whereas under the currently applicable rules, the carriers might not know until the day before the scheduled effective date whether the rate change will take effect.

(a) * * *

A possible alternative to the revision in the present rules as enumerated by petitioner, would be to require the carrier to give the shipper a dual estimate, i.e., one figure based on exclusion of pending rate changes and one figure based on such changes. Such dual estimates may conceivably eliminate the need for the changes being proposed by petitioner, but provision of dual estimates must be mandatory. Since it could be reasonably argued that in the absence of definite knowledge that a pending rate increase will, in fact, become effective, carrier representatives may be reluctant to risk the loss of a sale of their company's services by even suggesting such a possibility to a prospective customer. Thus, we also suggest for consideration and invite comment on the following additional or alternative modification of existing rules: namely revise 49 CFR 1056.8(a) as follows:

49 CFR § 1056.8(a). Insert after the end of the first sentence the following:

§ 1056.8 Estimates of charges.

Such estimate shall also include charges based on pending rate proposals that have been duly published even though such prosposals are not effective at the time of the estimate.

* * * * *

The proposed rulemaking proposals herein under consideration do not appear to constitute a major Federal action requiring preparation of an environmental impact statement under the procedures of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq. However, comments regarding environmental issues, if any, should be included in statements filed with the Commission in responding to this notice and order.

It is ordered, That the petition for rulemaking be, and it is hereby, granted, and that a rulemaking proceeding be, and it is hereby, instituted pursuant to authority under Part II of the Interstate Commerce Act, 49 U.S.C. 304(a)(1), 304(a)(6), 316(b), and 316(g), and sections 553 and 559 of the Administrative Procedure Act, 5 U.S.C. 553 and 559 with the objective of reducing the incidence of errors in estimating the charges to potential household goods shippers.

It is further ordered, That all motor common carriers of household goods be, and they are hereby, made respondents in the above-entitled proceeding.

It is further ordered, That respondents and other interested persons hereto with views or comments on these matters are

directed to file an original and 15 copies (if possible) of their views and comments with the Interstate Commerce Commission, Office of Proceedings, Room 5342, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423 on or before 45 days from the date of service of this order.

It is further ordered, That to expedite procedures and to avoid the delay and expense associated with cross-service of pleadings by parties on each other, we will only require that the above views and comments be filed with this Commission, one set of which will be available in the Secretary's Office for public inspection during regular business hours of the Commission; and that, since this is not an adversary proceeding, the filing of replies to the views and comments is not warranted and will not be required.

And it is further ordered, That a copy of this notice and order be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that statutory notice of the institution of this proceeding be given to the general public by delivering a copy to the Director, Office of the Federal Register, for publication therein.

By the Commission. (Chairman Stafford concurred. Commissioner Murphy dissenting in part with separate expression; and Commissioner Corber did not participate.)

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.76-35219 Filed 11-29-76;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 AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A402]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Crockett County, Tennessee, as a result of a severe hailstorm August 24, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than January 7, 1977, for physical losses and August 5, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 23rd day of November, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–35116 Filed 11–29–76;8:45 am]

Forest Service

NORTHERN CALIFORNIA SUBCOMMITTEE PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

A meeting of the Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will be held beginning at 10 a.m. on December 10, 1976, at the Custom Building, Room 102, 555 Battery Street, San Francisco, California. The purpose of the Pacific Crest National Scenic Trail Advisory Council is to advise the Secretary of Agriculture on matters relating to the Pacific Crest National Scenic Trail.

Agenda items include right-of-way programs and progress, trail construction program for next year, and discussion of a draft Recreation Facility Guide.

The meeting will be open to the public For additional information, contact the Forest Service by telephone (415–556–6986) or by mail (Regional Forester, California Region, 630 Sansome Street, San Francisco, California 94111).

J. W. DEINEMA,
Deputy Chief.

NOVEMBER 19, 1976.

[FR Doc.76–34965 Filed 11–26–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76–11–51; Docket 29488]

AVIATION CONSUMER ACTION PROJECT

Order Dismissing Petition and Denying Motion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of November, 1976.

Petition of Aviation Consumer Action Project for an investigation of the fares charged by Eastern Air Lines, Inc. for its "Air-Shuttle" service, and motion to produce documents.

On July 8, 1976, the Aviation Consumer Action Project (ACAP) filed a petition requesting an investigation of the lawfulness of the fares charged by Eastern Air Lines, Inc. (Eastern) for its nonreservation "Air-Shuttle" flights between Washington and New York and between New York and Boston.

ACAP alleges that the "Air-Shuttle" service, for which Eastern charges full coach-level fares, is "an economy type service, of a distinctly inferior quality" because there is no meal or beverage service, no reservation service, and no optional in-flight entertainment; and that the operations at New York's La Guardia airport are from a separate "distinctly spartan" terminal building. ACAP argues that the proper differential between coach and economy fares should be based upon cost savings associated with the fewer amenities offered to economy-class passengers. ACAP charges that "the absence of comforts and amenities is the hallmark of the Eastern Air Lines' Shuttle service" and submits that, in accordance with Board policy,[1] Eastern's "changing coach level fares for third level shuttle service is an unjust and unreasonable rate, and in accordance with Section 1002(d) of the Act, the Board should prescribe the lawful classification and the lawful rate." It is ACAP's position that the shuttle is a distinctly different and less costly level of service and that the cost savings must be passed on to consumers in the form of lower fares.

ACAP has also filed a motion requesting that the Board direct Eastern to produce certain documents relating to operating, traffic, and financial data on Eastern's "Air-Shuttle" service to "enhance the record available to the Board in determining the need for the investigation of 'Air-Shuttle' fares requested by ACAP."

Eastern has answered, urging the Board to dismiss the petition and to deny the motion to produce documents. Eastern argues that contrary to ACAP's petition the public overwhelmingly chooses its shuttle service even though conventional coach service is available at the same price; and that the guaranteed-seat aspect of the shuttle service not only is a superior service, but that the costs of providing such service have not been considered by ACAP. Eastern alleges that ACAP has failed to comply with the Board's Rules of Practice in that it did "not state facts which warrant an investigation or action" (Rule 503), nor did ACAP "state the reasons why the * * * fares * * * are unlawful and * * * support such reasons with a full factual analysis" (Rule 502). Eastern charges that ACAP filed its motion to compensate for the inadequacy of its petition, but that the motion is only "to provide ACAP with some appearance of factual support for its allegations." Eastern alleges that, as demonstrated in its answer to ACAP's petition for investigation of the "Air-Shuttle" service, ACAP not only failed to support that request but based its position on a total misunderstanding of the nature and economics of the "Air-Shuttle." Accordingly, Eastern requests that the motion be denied.

We have carefully considered the arguments set forth in ACAP's petition and motion and the answer thereto submitted by Eastern, and we have determined to dismiss the petition and also to deny the motion to produce documents.

The issue before the Board is whether Eastern's "Air-Shuttle" service is a "lower level" of service than conventional reservation coach service and thus warrants a lower fare. In our view, no showing has been made and there is no reason to conclude that the shuttle service is less costly to provide nor, by any other measure, that it is inferior to regular coach service. The maintenance of backup crews and equipment involves an added element of cost not present with regular coach service and it is highly unlikely that the savings in reservations expense and from the absence of the

[1] ACAP cites Board Order 72–5–100 (the Board's Opinion and Order in the U.S. Mainland-Hawaii Fares case Docket 22364) in which the Board found that "the carriers shall be prohibited from providing second-class service at third class fare levels or the converse."

limited on-board amenities that are available on regular coach flights in the shuttle markets materially exceed the "backup service" costs.[2]

In any event the domestic fare level, as determined by the Board in the DPFI, is based upon industry average operating results and need, and individual fares are based upon a uniform mileage-related formula. Costs may vary from market to market for a variety of reasons, yet fares are the same for all markets of the same distance under the principles of the DPFI. With such a fare structure a carrier's financial results can vary from market to market. The Board is prepared to accept that Eastern's "Air-Shuttle" is profitable but that issue is not germane. The fare charged by Eastern conforms to the DPFI fare structure which establishes the fares charged in all domestic markets whether the markets are above or below average cost and irrespective of the contribution to profit the particular market may make.

Furthermore, Eastern has demonstrated in the marketplace that the public does not perceive the "Air-Shuttle" as an inferior service. Conventional reservation coach service is provided in competition with the shuttle service by Eastern and other carriers (in some instances, at identical departure times); nevertheless, the Board's Origin and Destination Survey shows that for the year ended September 30, 1975, Eastern carried 72 percent of the total single-carrier traffic in the New York-Washington market, and 74 percent in the Boston-New York market. Thus, we do not believe that the no-reservations feature of the service renders the shuttle service inferior to reservation coach service. To the contrary, the "guaranteed seat" aspect of the shuttle makes this service a very desirable type of service in this heavily traveled business-oriented market.

In consideration of all of the foregoing, we find that ACAP has not shown that an investigation of Eastern's "Air-Shuttle" fares is warranted. In view of this, no useful purpose would be served by requiring Eastern to produce documents with regard to this service and ACAP's motion will therefore be denied.

Accordingly, *It is ordered*, That:

1. The petition for an investigation in Docket 29488 is hereby dismissed;

2. The motion to produce documents in Docket 29488 is hereby denied; and

3. Copies of this order will be served upon the Aviation Consumer Action Project and Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[2] Of 164 schedules in the New York-Washington market, only 22 offer any snack service. Of 110 schedules only 16 offer snack service in the Boston-New York market.

Minetti and West, Members, Dissenting:

We would grant the motion to produce documents and would defer action on the petition to institute an investigation. While in our view neither the cost to Eastern of providing its "Air-Shuttle" service in the Washington-New York and New York-Boston markets, as compared with the cost of providing conventional reservation-type service in the same markets, nor the profitability of the former service are necessarily dispositive of the issues raised by the petitioner, we are not prepared to say these factors are not germane to the issues. Disposition of the petition for an investigation should await completion of petitioner's legitimate discovery efforts. See our recent dissent in Order 76-11-43, November 9, 1976, Petition of Consumers Union for Rulemaking.

G. JOSEPH MINETTI
LEE R. WEST

[FR Doc.76-34850 Filed 11-29-76;8:45 am]

[Order 76-11-107; Docket 27573, Agreements C.A.B. 26244, 26246]

JOINT TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Agreements

NOVEMBER 19, 1976.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA).

Agreement C.A.B. 26244 names a new specific commodity rate, as set forth below, adopted at the 22nd meeting of the Joint Specific Commodity Rates Board held in Miami during October 1976, while Agreement C.A.B. 26246 extends a specific commodity rate beyond December 31, 1976, as set forth below, reflecting a reduction from general cargo rates, and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated November 5, 1976.

Agreement CAB	Specific commodity item No.	Description and rate
26244	7103	Books, postcards, greeting cards, calendars, credit card blanks, paper envelopes, and paper bags [1] [2] 235 cents per kg, minimum weight 100 kg. From New York to Dubai.
26246	1204	Leather, tanned, dyed, finished or semifinished.[1] 104 cents per kg, minimum weight 1,000 kg. From New York to Malta.

[1] See applicable tariffs for complete commodity description.
[2] Expires June 30, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *It is ordered* that:

Agreements C.A.B. 26244 and C.A.B. 26246 are approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief Passenger and Cargo Rates Division, Bureau of Economics.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc. 76-34851 Filed 11-29-76;8:45 am]

[Order 76-11-108; Docket 29293]

SEABOARD WORLD AIRLINES INC.

Flag-Stop Service at Bangor, Maine; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of November, 1976.

Application of Seaboard World Airlines, Inc. for amendment of its certificate of public convenience and necessity for Route 119 so as to permit flag-stop service at a Bangor, Maine.

On May 20, 1976, Seaboard World Airlines filed an application, pursuant to section 401 of the Act, for amendment of its certificate for Route 119 so as to renew its authority to serve Bangor, Maine, limited to the carriage of property on a permissive basis, for a further period of three years. The carrier's present certificate authority expires by its terms on November 16, 1976.[1]

The City of Bangor, Maine and the Greater Bangor Area Chamber of Com-

[1] By Order 74-1-99, dated November 16, 1973, the Board authorized Seaboard to enplane and deplane property at Bangor on Routes 119 and 119-A on a permissive basis for a period of three years. The carrier has invoked the automatic etxension provisions of 5 U.S.C. 558(c).

merce (Bangor) filed an answer on September 21, 1976, supporting Seaboard's renewal application.[2] The civic parties point to the growth and development of Bangor International Airport, evidenced by the establishment of a bonded warehouse and international air freight terminal as well as a twelve-acre duty-free foreign trade zone. Bangor indicates that the zone will offer full services including storage rentals and warehouse handling capabilities for carriers and shippers as well as prime sites for industrial manufacturers, processors, and assemblers. The parties state further that easy access to these facilities offers potential international as well as domestic shippers a 24-hour overland freight delivery service. Bangor urges the use by the Board of show-cause procedures in processing the instant application.

Upon consideration of the foregoing and all the relevant facts, we have decided to issue an order to show cause which proposes to renew Seaboard's authority to serve Bangor, Maine, on a temporary, permissive basis on its Routes 119 and 119–A.[3] The authority to serve Bangor will be limited to the carriage of cargo only on all-cargo flights for a further period of three years, effective until January 21, 1980.[4]

We tentatively find and conclude that the public convenience and necessity require the amendment of Seaboard's certificate as outlined above.[5] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

The factors which prompted the Board to grant the original authority in Order 75–1–99 remain valid today. Thus, the airport at Bangor is uncongested, offers carriers excellent facilities, and is on or close to the great-circle route between much of the United States and Europe. Furthermore, flag-stop authority at Bangor can facilitate the handling of international air cargo by alleviating the burden on existing cargo facilities, by promoting the export of goods, such as seafood, and by helping to attract light manufacturing industries to the State of Maine. Seaboard has utilized its permissive Bangor authority to provide a needed public service, as indicated by the fact that during fiscal year 1976 the carrier operated 56 departures which enplaned 648.57 tons of cargo. Thus, continuation of such authority will permit it to tailor its services to the needs of the shipping public as demand for all-cargo service grows. We note that no answers in opposition to the present application have been received. Thus, under these circumstances and in view of these tentative findings, we tentatively conclude that renewal of Seaboard's certificate authority to serve Bangor, Maine, on a temporary, permissive basis on Routes 119 and 119–A, limited to the carriage of cargo only, for an additional period of three years, is in the public interest.[6]

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Seaboard World Airlines, Inc., for Route 119 so as to add Bangor, Maine, as a temporary point thereto, subject to the condition that the authority to serve Bangor will be limited to the carriage of cargo on a permissive basis, until January 21, 1980;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein, shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 6 below a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; and answers to objections shall be filed 10 days thereafter;[7]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board amy proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. The requirement of Part 312 that Seaboard World Airlines, Inc. file an environmental evaluation, be and it hereby is waived; and

6. A copy of this order shall be served upon Seaboard World Airlines, Inc.; Pan American World Airways, Inc.; Delta Air Lines, Inc.; Air New England, Inc.; Governor, State of Maine; City Manager of Bangor; the Greater Bangor Area Chamber of Commerce; The Maine Department of Aeronautics; The Flying Tiger Line Inc.; Trans World Airlines, Inc.; National Airlines, Inc.; Northwest Airlines, Inc.; American Airlines, Inc.; and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–34852 Filed 11–29–76;8:45 am]

[Docket No. 27936]

DELTA AIR LINES, INC.

Hearing Regarding Subpart N Application (Memphis-Tampa)

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 10, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard V. Backley.

Dated at Washington, D.C., November 23, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76–35168 Filed 11–29–76;8:45 am]

[Docket Nos. 29123, 27573; Agreement C.A.B. 26175, etc.; Order 76–11–122]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding to Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of November 1976.

[2] Bangor also supports an application by Pan American World Airways for renewal of its temporary permissive authority to serve Bangor as a flag stop (Docket 26153), in which the Board issued an order to show cause on September 16, 1976 (Order 76–9–90).

[3] Amendment of Route 119 automatically amends the authority granted by the certificate for Route 119–A. Therefore, no actual amendment to the wording of the Route 119–A certificate is required.

[4] For purposes of administrative convenience we are making the duration of permissive authority proposed herein coextensive with identical authority which we recently proposed to grant to Pan American in show-cause Order 76–9–90.

[5] We also tentatively find that Seaboard is fit, willing, and able to properly perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[6] We have also determined that the proposed certificate amendment is by its very nature not one which could lead to a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). Since Seaboard already has authority to serve Bangor on a permissive basis, the proposed renewal herein will maintain the status quo with regard to services provided at Bangor. Therefore, it is unreasonable to suppose on the face of the matter that renewal authorization of flag-stop service at Bangor will lead to more than very minor environmental changes. Accordingly, the requirement that Seaboard file an environmental evaluation in accordance with section 312.12 will be waived.

[7] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted at the Composite Passenger Conference in Miami held during September 1976, or by mail vote.

The agreements would revise fare levels for travel between various points in Traffic Conference 3 to reflect changes in currency relationships, and would increase the currency surcharge or reduction factor on sale of passenger and cargo transportation originating in Sri Lanka and Afghanistan to points worldwide. In addition, Agreement C.A.B. 2625 would increase first class, normal economy and excursion fares between various points within Traffic Conference 3 by 2 to 10 percent.[1] We will approve the agreements insofar as they indirectly affect air transportation within the meaning of the Act, or revise fare relationships to better reflect current market rates of exchange between U.S. and foreign currency.

Pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a) and 412 thereof, it is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[1] None of the fare increases involve transportation to or from American possessions in Traffic Conference 3.

Agreement CAB	IATA No.	Title	Application
26175:			
R-1	022e	TC3 Special Rules for Sale of Passenger Air Transportation (Amending)	3.
R-2	022f	JT23/JT123 Special Rules for Sales of Passenger Air Transportation (Amending).	2/3; 1/2/3.
26207:			
R-1	022a	TC3 Special Rules for Sales of Cargo Air Transportation (Amending)	3.
R-2	022b	JT23/JT123 Special Rules for Sales of Cargo Air Transportation (Amending).	2/3; 1/2/3.
26230:			
R-1	022uu	TC3 Special Rules for Sales of Cargo Air Transportation (Amending)	3.
R-2	022mm	JT23/JT123 Special Rules for Sales of Cargo Air Transportation (Amending).	2/3; 1/2/3.
R-3	022pp	JT3/1 (North and Central Pacific) Special Rules for Sales of Cargo Air Transportation (Amending).	3/1.
R-1	002r	Expedited—special amending resolution	1; 2; 3.
R-2	002u	Expedited—TC3 Special Rules for Sales of Passenger Air Transportation (Amending).	3.
R-3	053	Expedited—TC3 First Class Fares (Amending)	3.
R-4	063	Expedited—TC3 Excursion Fares (Amending)	3.
R-5	070a	Expedited—TC3 Excursion Fares (Amending)	3.
R-6	070a	Expedited—TC3 Excursion Fares (Amending)	3.

Agreement C.A.B.	*IATA resolution*
26236	100(Mail 71)021b
	200(Mail 71)021b
	300(Mail 71)021b
26245	JT23(62)022rr
	JT31(66)022rr
	JT123(74)022rr

Accordingly, it is ordered, That:

Agreements C.A.B. 26175, R–1 and R–2, C.A.B. 26207, R–1 and R–2, C.A.B. 26230, R–1 through R–3, C.A.B. 26235, R–1 through R–6, C.A.B. 26236 and C.A.B. 26245 be and hereby are approved, subject, where applicable to conditions previously imposed by the Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-35170 Filed 11-29-76;8:45 am]

[Docket No. 30055]

LAS VEGAS-RENO COMPETITIVE

Prehearing Conference Regarding Nonstop Service Proceeding

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on January 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard V. Backley.

In order to facilitate the conduct of the conference, parties are instructed to submit one cipy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before December 22, 1976, and the other parties on or before January 6, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 23, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-35169 Filed 11-29-76;8:45 am]

[Docket No. 26772; Agreement C.A.B. 24673; Order 76-11-117]

PACIFIC SEA TRANSPORTATION, LTD.

Order Regarding Hawaii Common Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of November 1976.

Pacific Sea Transportation, Ltd., (Pacific Sea) requests the Board to disapprove the Hawaii Common Fare Agreement, C.A.B. 24673 as contrary to the public interest unless, within 30 days, the agreement is modified to provide for an "open loop" or "open jaw" by which passengers travelling on the common fare may use hydrofoil service within Hawaii, without penalty, for a segment of their intra-Hawaii travel.[1]

Pacific Sea operates an Hawaiian inter-island commercial hydrofoil service, known as "Seaflight."[2] Seaflight's service, initiated in June 1975, is provided aboard a Boeing 929 Jetfoil, which is specially designed for rough waters. Pacific Sea operates 12 trips each day with three 190-seat hydrofoil boats.[3] Fares range from $20 to $45, as opposed to the $13 stopover charge which is paid by all common fare passengers for inter-island air travel.

The Hawaii Common Fare Agreement is a promotional arrangement imposed by the Board on Mainland-Hawaii and local Hawaiian air carriers to stimulate inter-island travel within Hawaii via Hawaiian Airlines and Aloha Airlines to compensate those carriers for revenues lost as a result of the certification of Mainland service to Hilo.[4] Under the arrangement, a traveller pays the same fare to any point in the islands, provided no stopovers (other than the outward destination) are made. However, when the passenger stops over at one or more intermediate points, a stopover charge of $13 (including tax) is assessed for each stopover made, including the ultimate destination, provided such travel is by either of the two local intra-Hawaiian carriers. The Mainland-Hawaii trunk carriers are required to pay Aloha and

[1] In connection therewith, Pacific Sea states that the Board might authorize discussions among the parties to the common fare agreement, allowing them to negotiate the "open loop" provision and other appropriate adjustments.

[2] Pacific Sea Transportation, Ltd., is a subsidiary of Kentron Hawaii, Ltd. which, in turn, is a wholly owned subsidiary of the LTV Aerospace Corporation. The Boeing Company and LTV are parties to a shareholders' agreement under which Kentron Hawaii owns 75 percent of Pacific Sea Transportation's capital stock and Boeing owns 25 percent thereof. Under the agreement, Kentron controls 80 percent of the voting stock of Pacific Sea Transportation.

[3] Seaflight's service was initiated on June 15, 1975, with one-daily round trip between Oahu and Maui, and one-daily round trip between Oahu and Kauai. On August 28, 1975, the first Jetfoil began two round trips daily between Oahu and Maui, and a second boat began one daily round trip between Oahu and Kauai. On October 24, 1975, a third boat began a scheduled operation with one-daily round trip between Oahu and Kailua/Kona, with a stop at Maui in each direction. Subject to the approval of the Public Utilities Commission of the State of Hawaii, Seaflight was proposing to suspend its service to Kailua/Kona on January 15, 1976.

[4] Hilo-Mainland Temporary Service Investigation, Order E-25253, June 6, 1967.

Hawaiian approximately 80% of the local fares in effect as of October, 1974.[5]

Pacific Sea alleges that the intra-Hawaiian air carriers are denying the $13 inter-island stopover privilege to those passengers who travel a segment of their inter-island itinerary by sea, and that, while United Airlines would not deny the $13 travel privilege to such passengers, it would charge the $13 "stopover fee" for those segments which are travelled by sea in addition to the sea fare. Pacific Sea states that either policy operates as a penalty to a passenger travelling one segment of his journey by sea, and that the confusion or disagreement among the air carriers as to the applicability of the common fare has itself discouraged travel agents from booking Seaflights' services for more than a one-day sightseeing option. Pacific Sea contends that the Hawaii Common Fare Agreement was established at a time when there was no common carrier providing waterborne transportation in Hawaii, that with the establishment of marine transportation, the agreement has become an anticompetitive device which denies passengers a choice as to transportation and which may prevent the development of waterborne transportation within Hawaii [6] and that prior Board approval of the arrangement does not diminish the Board's duty to reconsider since the anticompetitive effects have only now become manifest.[7] Pacific Sea believes that the trunkline carriers serving Hawaii would negotiate an "open loop" provision in the common fare agreement but states that the Hawaiian carriers are unwilling to do so.[8]

Answers in support were filed by the State of Hawaii and by Pan American World Airways. Answers in opposition were filed by Hawaiian and Aloha. Pacific Sea was moved for leave to file a Reply to Aloha and Hawaiian, and the latter carriers requested leave to answer Pacific Sea's Reply.[9]

Pan American states it is generally in support of Pacific Sea's objectives, but believes the Board should authorize negotiations among the carriers rather than directing modification of the agreement. The State of Hawaii states that it, as well as each of its counties, has encouraged Pacific Sea in the belief that Pacific Sea can meet a public need in Hawaii, viz: to supplement inter-island air service transportation with a surface mode. The State believes that the advent of Pacific Sea's operations create "new circumstances" concerning the provisions of the Hawaii Common Fare Agreement whih require further Board action, that, while the net effect on the operations of Hawaiian and Aloha remains to be analyzed, Pacific Sea's operations would generate new traffic which should offset diversion, and that the inherent competitive advantages the Hawaiian air carriers have over the Petitioner (e.g., speed, comfort, marketing) should dispel concerns the Board might have in this regard.

Hawaiian and Aloha oppose the petition, contending that the current agreement is not, or has not been shown to be, anticompetitive, that implementation of the requested modification would be detrimental to both carriers,[10] and that, in any event, the Board has no authority to make the modification without hearing.[11]

Aloha states that Pacific Sea has not shown that amendment of the common fare agreement would promote the public interest as that term is defined in section 102 of the Act.[12] Hawaiian states that Pacific Sea's request in effect asks the inter-island carriers to subsidize Pacific Sea's surface transportation and that the Board has no authority to require or permit a certificated air carrier to engage in the subsidization of a water carrier to the detriment of an air carrier.[13]

Upon consideration of the foregoing and all the relevant facts, we have concluded that the closed loop provision of the common fare agreement should be disapproved and that discussions should be authorized permitting consideration of such modification of the common fare agreement as may be required to eliminate the closed-loop provision and to make other appropriate adjustments.

At issue here is the impact of a previously latent provision of the common fare agreement on the recently developed sea transportation service within the Hawaiian Islands.

The original common fare agreement was implemented to compensate local Hawaiian carriers for the diversion resulting from newly certificated air service between the Mainland and Hilo.[14] In this connection, the requirement that intra-

[5] After the 80 percent "absorption" by Mainland-Hawaii trunk carriers and division of the "stopover fee," the local Hawaiian carriers were recouping approximately 89 percent to 91 percent of the applicable local fares, according to the pleadings. (A subsequent fare increase may have reduced the "absorption" ratio and altered the percentage of local fares recouped by the two Hawaiian carriers.)

[6] It states that the closed-loop feature is plainly repugnant to established antitrust principles and is therefore governed by the Local Cartage Agreement Case, 15 C.A.B. 850 (1952), which holds that when an agreement is one which restrains competition and runs counter to general antitrust principles, it cannot be found in the public interest unless it is clearly shown to be required by a serious transportation need, or in order to secure important public benefits.

[7] Pacific Sea further avers that an unbroken series of judicial opinions dealing with section 412 orders have held that "an evaluation of the 'public interest' includes a consideration of anticompetitive effects," U.S. v. CAB, 511 F.2d 1315, 1320 (D.C. Cir 1975), and that "it is essential in the face of an antitrust claim that the Board's approval rest upon a sufficient basis for tolerating the restraint," American Importers Ass'n. v. CAB, 436 F.2d 185, 192 (D.C. Cir. 1970).

[8] Pacific Sea contends that there is precedent for the requested modification in the common fare agreement itself, which provides for an "open loop" for overland transportation between Hilo and Kailua/Kona on the large island of Hawaii without penalty to the passenger.

[9] All motions for leave to file unauthorized documents will be granted.

[10] Hawaiian estimates that Pacific Sea, with the open loop, would divert approximately $1,800,000 in revenues from itself and $1,500,000 from Aloha. Aloha states only that the proposed amendment would deprive the inter-island carriers of at least some of the benefits derived from the common fare without benefiting air transportation at all. Hawaiian states that Pacific Sea concentrates on the most heavily travelled segments so that greatest diversion would be from Hawaiian's most profitable segments with the Hawaiian air carriers left solely responsible for service over the weaker segments. Finally, Hawaiian points out that the open-loop segment would have to be made available to air taxi operators (accounting for over 11 million passenger miles annually) on the same basis, as well as a contemplated inter-island ferry, if established, resulting in even greater diversion.

[11] Hawaiian argues that the common fares were required by conditions in the certificates of pubic convenience and necessity of the Mainland-Hawaii carriers and were implemented through the filing of appropriate tariff provisions, that under the provisions of section 1002(d) of the Act, as previously interpreted by the Board in the Hawaiian Common Fares Case, 37 CAB 269 (1962), new tariff provisions cannot be prescribed by the Board except upon a finding that the existing tariff provisions are unlawful, and that such finding cannot be made in the absence of notice and hearing. Aloha further states that the petition is devoid of any showing of the effect of the amendment on air transportation in the Hawaiian Islands, that the Board has twice found the Hawaii Common Fare Agreement to be in the public interest and Pacific Sea's Petition is insufficient to show that circumstances have changed so as to warrant the amendment.

[12] Aloha claims that in an unbroken line of cases, the Board has consistently held that "public interest" as used in section 412 is not a mere general reference to the public welfare but is governed by the statutory considerations set forth in section 102 of the Act and that the Board has no duty to promote surface transportation and is prohibited from doing so at the expense of air transportation. Aloha states Pacific Sea has failed to allege or prove that its relief would satisfy any of the section 102 criteria. Aloha cites the New York-Florida Case, 24 CAB 94 (1956), wherein the Board authorized air service without assessing the effect of such service on surface carriers operating between the same points, stating that there is no presumption that loss of revenue to air competition by any surface carrier is adverse to the public interest.

[13] It states that section 102 of the Act requires the Board to promote, encourage and develop civil aeronautics and that to weaken the intra-Hawaiian carriers merely to assist a surface carrier is forbidden by this direct congressional mandate.

[14] Prior to 1967, the only Mainland service to Hawaii was through Honolulu. All inter-island travel beyond this gateway was by an intra-island carrier, and necessarily involved both a departure and a return trip (the return trip constituting "backhaul traffic"). In the Hilo-Mainland Temporary Service Investigation, Order E-25253, June 6, 1967, the Board found that service directly to Hilo from the Mainland would afford substantial public benefits if such service could be authorized without undue diversion of revenues from the local Hawaiian carriers. To compensate for loss of the Hilo-Honolulu backhaul traffic, the Board imposed a common fare plan with stopover rights, permitting Mainland passengers to travel free within Hawaii on local carriers, subject to a minimum stop-

Hawaii travel be via Aloha or Hawaiian raised no question of possible adverse impact on sea transportation, which did not then exist.[15] What we here label the "closed-loop" provision was not focused on as being competitively restrictive or even embodying a significant aspect of the common fare arrangement. However, the recent development of a sea transportation service in Hawaii has cast new significance on this provision, which now apparently serves to deny the $13 stopover rights to any air passenger taking one or more segments of inter-island journey by sea. To the extent the closed loop provision adversely affects sea transportation, it embodies neither a purpose nor an impact that was previously intended by the Board. This conclusion is evident not only in the lack of attention in the prior record to the closed-loop provision, but in the fact that, in the absence of certification of Hilo—with the concomitant implementation of the common fare arrangement—Aloha and Hawaiian would still be faced with competition from Pacific Sea, and would have to compete on the strength of their local fares; rather than with the aid of the common fare. We are of the opinion that the closed-loop provision currently discourages Mainland travellers from utilizing Pacific Sea's services, thereby discriminating against certain air passengers. These results go beyond and are not necessary to the Board's purpose in implementing the common fare agreement.[16]

Contrary to the assertions of Aloha, Pacific Sea need not prove the extent of its injury under the common fare agreement or prove that the requested modification would remedy the matter. This is not the pertinent inquiry. Rather it is sufficient to show that the common fare agreement is applied so as to in fact impose a financial penalty upon passengers using Pacific Sea. We find the agreement so operates. Thus, a passenger planning only two stopovers in Hawaii would be granted the $13 stopover privilege if he reached both destinations by air, but a traveller visiting identical points by air would be denied the $13 stopover privilege if he had travelled to a prior stopover point by sea.

Since the competitive impact of the closed-loop provision on sea transportation was not originally raised or considered, continued approval of the closed-loop provision—in the face of Pacific Sea's contentions—would require further consideration of whether factors beyond the certification of service to Hilo now require the closed-loop provision. Neither Aloha nor Hawaiian has advanced any arguments for retaining the closed loop which establish a sound rationale, independent of or in connection with the Hilo certification, which would warrant continued approval of the closed-loop provision.[17] Continued Board approval of the closed-loop aspect of the arrangement would be inconsistent with the standards imposed by the courts that the Board must consider the anticompetitive implications of any agreement, "McLean Trucking Co. v. United States," 321 U.S. 67 (1944), and, where an agreement is clearly anticompetitive, must consider whether it is required by a serious transportation need, or in order to secure important public benefits. "Local Cartage Agreement Case," 15 C.A.B. 850, 853 (1952). Thus, when scrutinizing an agreement which may have anticompetitive implications, the Board must weigh the likely anticompetitive aspects of the agreement against the potential public benefits. The anticompetitive aspects of the agreement have been discussed above. In support of the continuation of the agreement without modification, Aloha and Hawaiian argue that, with an open loop, they would be subjected to substantial diversion of revenues, and consequently, that it would be in the public interest to protect them from this potential diversion. We are not convinced by Aloha's and Hawaiian's arguments. Aloha did not even submit an estimate of diversion while Hawaiian's estimate is subject to serious deficiencies. First, the traffic base used by Hawaiian to determine diversion is overstated to the extent that it assumes that all common fare passengers would be subject to diversion by Pacific Sea. Obviously, some passengers using the common fare, such as business passengers, are only interested in reaching their ultimate destination as quickly as possible and would not be interested in using Sea Flight's services. Second, Hawaiian assumes no stimulation for the institution of Pacific Sea's service. Finally, Hawaiian's estimate suffers from general conceptual problems in that it forecasts diversion as if Pacific Sea were an air carrier, e.g., it does not account for the basic competitive advantages which Aloha and Hawaiian have over Pacific Sea. For example, the travel time by air is substantially less than that by sea (e.g., ½ hour versus 2–4 hours) and the comfort of the aircraft is apparently better than that of the hydrofoil. Further, to date, Pacific Sea's service has been hampered by bad weather and mechanical difficulties. Finally, the local air fares of Hawaiian and Aloha are either equal to or below those which must be charged by Pacific Sea. In short, we find that Aloha and Hawaiian have not demonstrated that the removal of the closed loop will have a significant adverse impact on their financial health so that the public interest in maintaining the closed loop would outweigh the anticompetitive aspects of that feature of the common fare arrangement.

For all the foregoing reasons, we find that the closed-loop provision of the common fare agreement is adverse to the public interest and should be disapproved. We also find that discussions should be authorized permitting all air carriers serving Hawaii to meet with Pacific Sea for the purpose of discussing such modifications of the Hawaiian common fare as may be required to eliminate the closed loop provision and to make other appropriate adjustments. This discussion authority shall extend for a 40-day period, and, to permit an orderly modification of the agreement, disapproval of the closed-loop provision will be stayed for 45 days or until Board action on any amendment submitted within such 45-day period.

Hawaiian's characterization of any modification of the agreement as involving "forced subsidization" of surface transportation, and a violation of the congressional mandate to promote air transportation under section 102 of the Act, is totally inappropriate. The mere fact that our action here may result in decreased revenues to Aloha or Hawaiian by no means elevates the resulting economic impact to the status of forced subsidy. But it is not necessary to address these points further. In fact, the Board is not using its regulatory powers specifically to weaken Hawaiian to aid surface transportation. Rather, the Board is requiring modification of the agreement in response to a newly arising circumstance in order to limit the related antitrust immunity to those joint air carrier activities which are necessary to carry out the original purposes of the common fare. It is the promotion of the Board's original regulatory purposes and not the promotion of surface transportation, through subsidy or otherwise, which is the proper referent for characterization of our action.[18]

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over fee. This was intended to result in increased travel to Hawaii, and increased revenues for the local Hawaiian carriers.

[15] In fact, the arrangement expressly provided that the agreement was not to preclude public travel on the only land transportation service potentially affected at the time, thereby further obviating any implication that the closed-loop provision might have intended adverse competitive impact on another mode of transportation (see note 8, supra).

[16] Aloha and Hawaiian contend that the closed-loop provision does not have, or has not been demonstrated to have, an anticompetitive impact. We cannot agree. The common fare agreement effectively sets prices for intra-Hawaii travel and, in absence of prior Board approval, would constitute a per se violation of the antitrust laws.

[17] Hawaiian likens the arrangement to an inclusive tour package wherein a passenger must pay for all services in the package whether or not he uses them. However, in an inclusive tour arrangement, a passenger has other transportation alternatives; since the only way a Mainland traveller may reach Hawaii in a timely fashion is by air, the only true choice is whether to go at all. A traveller must accept the available fare structure. An even more important difference lies in the fact that the inclusive tour can be implemented by a single carrier, whereas the common fare is a joint arrangement by all carriers serving Hawaii which enjoys antitrust immunity. These differences require a far greater degree of regulatory scrutiny with respect to the common fare agreement.

[18] Our action herein will not require any modification in the certificates of the trunk carriers serving Hawaii. Moreover, we are not here taking any action with respect to current tariff filings which would require a hearing. By disapproving the closed-loop provision of the common fare agreement, that aspect of the common fare arrangement will no longer enjoy antitrust immunity under sections 412 and 414 of the Act. Continued application of the closed-loop provision would then have to stand scrutiny under normal antitrust principles.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 24673 be and it hereby is disapproved insofar as it requires all Hawaiian inter-island travel under the common fare to be by Aloha or Hawaiian: *Provided, however*, That such disapproval shall not become effective until 45 days after the date of service of this order, or until Board action on any amendment submitted within the 45-day period;

2. Aloha Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Hawaiian Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., may engage in meetings with Pacific Sea at which the Board's representatives may be present, for a 40-day period extending from the date of service of this order, to discuss such modification of the Hawaiian common fare as may be required to eliminate the closed loop provision and make other appropriate adjustments;

3. Any discussions authorized in paragraph 2 above may be held in Hawaii;

4. The discussions authorized in paragraph 2 above are conditioned on the requirement that the State of Hawaii and any subdivisions thereof be afforded the opportunity to participate in the discussions to the extent of submission of documents and exhibits and presentation of prefatory and concluding statements;

5. The Director of the Bureau of Operating Rights and the Director of the Bureau of Economics shall be given at least 48 hours notice of the time and place of meeting;

6. The carriers shall keep complete and accurate minutes of such discussions and a true copy of such minutes shall be filed with the Board's Docket Section not later than two weeks after the close of the discussions;

7. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958 and approved by the Board prior to being incorporated in a tariff filing or placed in effect;

8. Motions by Pacific Sea, Hawaiian and Aloha for leave to file unauthorized documents be and they hereby are granted; and

9. This order shall be served upon Aloha Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Hawaiian Airlines, Inc., Northwest Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Airline Tariff Publishers, Inc., the County of Hawaii, the State of Hawaii, Pacific Sea Transportation, Ltd., and the Department of Justice.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-35171 Filed 11-29-76;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Chief, Policy Support Division, Office of Telecommunications.

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

[FR Doc.76-35055 Filed 11-29-76;8:45 am]

EXECUTIVE OFFICE OF THE PRESIDENT

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Executive Office of the President to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Executive Direction and Administration, Office of Telecommunications Policy.

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

[FR Doc.76-35056 Filed 11-29-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Policy Development and Program Evaluation, Assistant Secretary for Policy Development and Research.

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

[FR Doc.76-35058 Filed 11-29-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Policy Development, Assistant Secretary for Policy Development and Research.

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

[FR Doc.76-35059 Filed 11-29-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Title Change In Noncareer Executive Assignment

By notice of August 11, 1971, FR Doc. 71-11528, the Civil Service Commission authorized the Department of the Interior to make a change in title for the position of Assistant to the Secretary and Director of Communications, Office of Communications, Office of the Secretary. This is notice that the title of this position is now being changed to Assistant to the Secretary and Director, Office of Public Affairs, Office of the Secretary.

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

[FR Doc.76-35057 Filed 11-29-76;8:45 am]

PRESIDENT'S COMMISSION ON PERSONNEL INTERCHANGE

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the President's Commission on Personnel Interchange to fill by noncareer executive assignment in the excepted service the position of Executive Director.

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

[FR Doc.76-35054 Filed 11-29-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

PRESIDENT'S EXPORT COUNCIL

Postponement of Open Meeting

The meeting of the President's Export Council, scheduled for Tuesday, December 7, and announced in the FEDERAL REGISTER on November 11 (41 FR 49875), has been postponed. When the meeting has been rescheduled, an announcement will appear in the FEDERAL REGISTER.

Inquiries may be addressed to Mr. Friedrich R. Crupe, Executive Secretary of the President's Export Council, U.S. Department of Commerce, Domestic and International Business Administration,

Bureau of International Commerce, Washington, D.C. 20230 (telephone 202-377-2373).

Dated: November 24, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant, Secretary for International Commerce.

[FR Doc.76-35147 Filed 11-29-76;8:45 am]

Maritime Administration

RECONSTRUCTION OF MA DESIGN C6-S-85b TYPE VESSELS TO PROVIDE FOR INCREASED CONTAINER CAPACITY

Intent to Compute Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost for the reconstruction of four MA Design C6-S-85b type vessels for American President Lines, Ltd., to provide for increased container capacity.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on December 15, 1976, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated: November 23, 1976.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-35039 Filed 11-29-76;8:45 am]

U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on December 14, 1976 at 10:00 a.m. in the Board Room at the U.S. Merchant Marine Academy, Kings Point, New York.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the maritime industry, labor, educational institutions, and other fields relating to the objectives of the Academy.

The Agenda for the meeting is:

1. Call meeting to order;
2. Approval of the minutes of the October 8, 1976 meeting;
3. Advisory Board Charter Renewal: (a) Part I—General—"Department of Commerce Committee Management Handbook," Sec. C.01b, Control Officer; (b) Comments of Board Members;
4. Reports by Board Members on present assignments;
5. Adjustment of present assignments;
6. Report by Superintendent on Academy activities, including status of vacancy, Head, Department of Engineering; and
7. Setting of date for next Board meeting.

This meeting is open to public observation and comment. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Committee Control Officer, Kathleen A. Shetler, Office of the Assistant Secretary for Maritime Affairs, Room 3731, Main Commerce Bulding, telephone A/C 202/377-2851.

Dated: November 22, 1976.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-35038 Filed 11-29-76;8:45 am]

National Oceanic and Atmospheric Administration

PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Pacific Regional Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Pacific Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The meeting will be held December 14, 15 and 16, 1976, in the Cosmopolitan Motor Hotel, 1030 Northeast Union Avenue, Portland, Oregon. The meeting will convene at 1:30 p.m. on December 14 and at 8 a.m. on December 15 and 16, and will adjourn at approximately 5 p.m. each day. Proposed Agenda:

1. Organization including Council staff, fishery advisory panels, research teams, and Council operational and procedural matters.
2. Council budget.
3. Consideration of development of management plans including salmon and anchovies.
4. Consideration of a fishery development program for underutilized species.
5. Review of applications for foreign fishing permits, if any.

This meeting is open to the public and there will be seating for approximately 150 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. John T. Gharrett, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 1700 Westlake Avenue North, Seattle, Washington 98109.

on or about December 6, 1976.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. John T. Gharrett at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: November 24, 1976.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.76-35117 Filed 11-29-76;8:45 am]

PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL'S SALMON ADVISORY PANEL

Public Meeting

Notice is hereby given of a meeting of the Pacific Regional Fishery Management Council's Salmon Advisory Panel established by section 302(g)(2) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The Salmon Advisory Panel, composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of the salmon resource, will act as an advisory body for the Pacific Council which will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Salmon Advisory Panel will assist the Council in the development or amendment of a salmon fishery plan.

The meeting will be held in the Cosmopolitan Motor Hotel, 1030 Northeast Union Avenue, Portland, Oregon, on December 14, 15, and 16, 1976. The meeting will convene at 1:30 p.m. on December 14 and at 8 a.m. on December 15 and 16, and will adjourn at approximately 5 p.m. each day.

PROPOSED AGENDA

1. Panel Organization.
2. Consideration of development of a salmon fishery management plan.

This meeting will be open to the public and there will be seating for approximately 50 members of the public on a first come, first served basis. Members of

the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. John T. Gharrett, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 1700 Westlake Avenue North, Seattle, Washington 98109

on or about December 6, 1976.

At the discretion of the Panel, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who wish to submit written comment should do so by addressing Mr. John T. Gharrett at the above address. To receive due consideration and facilitate inclusion of these comments in the record on the meeting, typewritten statements should be received within 10 days after the close of the Panel meeting.

Dated: November 24, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-35118 Filed 11-29-76;8:45 am]

PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the Pacific Regional Fishery Management Council's Scientific and Statistical Committee established by section 302(g)(1) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The Scientific and Statistical Committee will act as an advisory body for the Pacific Council which will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Committee assists the Council in the development, collection, and evaluation of such statistical (biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

The Scientific and Statistical Committee meeting will be held in the Cosmopolitan Motor Hotel, 1030 Northeast Union Avenue, Portland, Oregon, on December 14, 15, and 16, 1976. The meeting will convene at 9:30 a.m. on December 14 and at 8 a.m. on December 15 and 16, and will adjourn about 5 p.m. each day.

PROPOSED AGENDA

1. Consideration of development of fishery management plans, including salmon and anchovies.
2. Consideration of research teams.
3. Consideration of a fishery development program for underutilized species.
4. Consideration of Committee budget.

This meeting is open to the public and there will be seating for approximately 10 members of the public on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. John T. Gharrett, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 1700 Westlake Avenue North, Seattle, Washington 98109

on or about December 6, 1976.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to submit written comment should do so by addressing Mr. John T. Gharrett at the above address.

To receive due consideraton and facilitate inclusion of these comments in the record on the meeting, typewritten statements should be received within 10 days after the close of the Committee meeting.

Dated: November 24, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-35119 Filed 11-29-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERLY HANDICAPPED

PROCUREMENT LIST 1977

Additions and Proposed Additions; Corrections

In FR Doc 76-34344 and 76-34345 appearing on page 51054 in the FEDERAL REGISTER of Friday, November 19, 1976, the headings "Procurement List 1976" should read "Procurement List 1977," as set forth above.

In FR Doc 76-34345 appearing on page 51054 of the issue for Friday, November 19, 1976 the reference to proposed additions of commodities to the Procurement List now reading "Procurement List 1976, November 25, 1975 (40 FR 54742)" should read "Procurement List 1977 November 18, 1976 (41 FR 50975)."

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-35033 Filed 11-29-76;8:45 am]

PROCUREMENT LIST 1977

Amendment

Procurement List 1977, which was published in the FEDERAL REGISTER on November 19, 1976, (41 FR 50975), is amended to include the following:

COMMODITIES

Class 7920

Brush, Cleaning (IB), 7920-00-051-4384.

SERVICES

Bursting & Packaging of Commemorative Stamps (SH)

SIC 7349

Custodial Services (SH), Building No. 2600 (Chapel), Bergstrom Air Force Base, Texas.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-35034 Filed 11-29-76;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed additions of the following service and commodities to Procurement List 1977, November 18, 1976 (41 FR 50975).

VEHICLE DETAILING—DULUTH PLUS 50-MILE RADIUS

Class 7340

Flatware, Plastic, Heavy Duty, 7340-00-022-1315, 7340-00-022-1316, 7340-00-022-1317, 7340-00-401-8041.

Class 7510

Binder, Looseleaf, Vinyl, 7510-00-409-8647, 7510-00-409-8646.

Class 6230

Lantern, Electric, Head, 6230-00-643-3562.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the above commodities and service from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed additions may be filed with the Committee on or before December 31, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-35035 Filed 11-29-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 650-7; OPP-42028A]

DELAWARE

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program

under this section shall be maintained in accordance with the State plan approved under this section.

On August 17, 1976, notice was published in the FEDERAL REGISTER (41 FR 34814) of the intent of the Regional Administrator, EPA Region III, to approve, on a contingency basis, the Delaware Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Delaware State Plan). Contingency approval was requested by the State of Delaware pending enactment of enabling legislation and the promulgation of implementing regulations. Complete copies of the Deleware State Plan were made available for public inspection at the Division of Production and Promotion, Delaware Department of Agriculture, Dover, Delaware; Pesticides Branch, Air and Hazardous Materials Division, EPA Region III, Philadelphia; and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

Written comments were received only from the National Canners Association. These comments were carefully reviewed and evaluated by EPA and by the Delaware Department of Agriculture, which has been designated as the State lead agency responsible for implementing the Delaware State Plan.

The National Canners Association commented that, because pesticide applicator training is not required by the FIFRA, the proposed training budget of the Delaware Cooperative Extension Service should not be considered by EPA in its assessment of the adequacy of funding to support the State plan. Because the State of Delaware plans to utilize training programs as an integral part of the pesticide applicator certification program to be implemented under the State plan, estimtaed funds for training were identified and included as an attachment to the State plan. However, the Agency assessed the proposed certification program on the basis of funding data, exclusive of the proposed training funds.

Concern was raised over the State's intention to require a certification fee for pesticide applicators. Section 4 of the amended FIFRA establishes a coordinated State/Federal program for certifying applicators, with Section 4(a)(1) making EPA responsible for prescribing applicator certification standards. Section 4(a)(2) provides that if a State, at any time, desires to certify applicators of pesticides, the Governor shall submit a State plan for such purposes. Further, under Section 24 of FIFRA, the States are given agreat deal of flexibility in developing their individual programs provided those programs meet the prescribed Federal standards. This comment pertains to regulatory requirements proposed under Delaware's enabling legislation, but addresses an issue which is not germane to the acceptability of the Plan under Federal regulations. Therefore, the Agency has forwarded this comment to the Delaware Department of Agriculture for consideration.

Under the State plan, a subcategory for fumigation has been provided for commercial applicators engaged in Industrial, Institutional, Structural and Health Related Pest Control (Category VII). The National Canners Association commented that when subcategories are created, the entire category must be accountedf or, either by a complete list of specific subcategories or by inclusion of a general subcategory to include all other applicators who would not fit the proposed categories.

According to the lead agency, the requirements of this category are applicable to all commercial applicators seeking certification under it. "Fumigation" is the only subcategory of Category VII and only those commercial applicators engaged in fumigation pest control will be required to demonstrate additional competence. Thus, all Category VII applicators are addressed under the Plan.

The Delaware State Plan will remain available for public inspection at Room 115, Agricultural Building, Dover, Delaware.

It has been determined that the Delaware State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171 if necessary enabling legislation is enacted and implementing regulations are promulgated. Accordingly, the Delaware State Plan is approved contingent upon enactment of enabling legislation and upon promulgation of implementing regulations in accordance with and as prescribed in the State plan.

This contingency approval shall expire on October 21, 1977, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Delaware plan as a result thereof.

Effective date: Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the Delaware plan shall be effective immediately. Neither the Delaware plan itself nor this Agency's contingency approval of the plan create any direct or immediate obligations on pesticide applicators or other persons in the State of Delaware. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: November 9, 1976.

DANIEL J. SNYDER, III,
Regional Administrator.

[FR Doc.76-35028 Filed 11-29-76;8:45 am]

[FRL 646-5]

PEST CONTROL DEVICES PROCEDURES

Consolidation and Clarification of Requirements

Correction

In FR Doc. 76-34119 appearing on page 51065 in the issue for Friday, November 19, 1976, on page 51066, middle column, third full paragraph, in the 12th line, "January 18, 1976" should have read "January 18, 1977".

[FRL 651-2; PFT19]

CHEMAGRO AGRICULTURAL DIVISION, MOBAY CHEMICAL CORP.

Filing of Food Additive Petition

Chemagro Agricultural Division, Mobay Chemical Corp., P.O. Box 4913, Kansas City, Mo. 64120 has submitted a petition (FAP 6H5148) to the Environmental Protection Agency which proposes to amend 21 CFR Parts 193 and 561 by establishing a food additive regulation permitting the use of the nematicide ethyl 3-methyl-4-(methylthio)-phenyl(methylethyl)phosphoramidate in a proposed experimental program involving application of the nematicide to growing apples and peaches with a tolerance limitation of 10 parts per million in dried peaches and 0.2 part per million in dried apples and apple pomace for residues of the nematicide and its cholinesterase-inhibiting metabolites.

Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, East Tower, Room 401, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5148". Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8 a.m. to 4:30 p.m. Monday through Friday.

Dated: November 22, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-35209 Filed 11-29-76;8:45 am]

[FRL 651-3]

SOLID WASTE MANAGEMENT

Public Discussion

The President on October 21, 1976, signed into law the Resource Conserva-

tion and Recovery Act of 1976 (Pub. L. 94-580). This significant new environmental legislation provides the opportunity for EPA, the States, and local governments to develop comprehensive solid waste management programs which will control hazardous wastes, eliminate the open dump as a principal disposal practice, and increase the opportunities for resource conservation.

The Act provides for public participation in the planning and implementation, and in the enforcement of any regulation, guideline or program carried out under the Act. As a first step in public involvement, EPA is holding a one-day public discussion on Thursday, December 16, at St. Augustine's Episcopal Church, 600 M Street, SW., opposite the EPA headquarters in southwest Washington, D.C. The meeting will begin at 9 a.m.

The primary purpose of the meeting is to enable representatives of environmental, industrial, governmental, and other organizations who are potentially affected by the new Act to offer their preliminary views, attitudes, and suggestions for EPA's guidance.

The meeting is open to the public and will be moderated by EPA's Deputy Assistant Administrator for Solid Waste. Time will be allotted, as indicated, for the following discussion topics:

9-9:45	Introduction.
9:45-11	Hazardous Wastes.
11-12	Land Disposal.
1:30-2:30	Resource Conservation and Recovery.
2:30-3:30	State Program Development.
3:30-4:30	Technical Assistance, Training, Public Information/Participation.

Anyone desiring additional information on the meeting is requested to contact: Mr. Thomas F. Williams, Director, Technical Information and Communications Branch, Office of Solid Waste Management Programs (AW-462), Environmental Protection Agency, Washington, D.C. 20460 (telephone 202-755-9160).

EDWARD F. TURK,
Acting Assistant Administrator for Air and Waste Management.

November 21, 1976.

[FR Doc.76-35210 Filed 11-29-76;8:45 am]

[FRL 651-4; OPP-42035]

STATE OF OKLAHOMA

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (October 9, 1974) and 40 CFR 11698 (March 12, 1975)), the Honorable David Boren, Governor of the State of Oklahoma, has submitted a State Plan for Certification of Pesticide Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for contingency approval, pending enactment of proposed legislation and promulgation of a record keeping regulation thereunder.

Pursuant to 40 CFR 171.7(b)(1)(ii) notice is hereby given of the intention of the Regional Administrator, EPA, Region VI, to approve this plan contingent upon enactment of proposed legislation and promulgation of the record keeping regulation.

A summary of the plan follows. The entire plan, together with all attached appendices, except for sample examinations, may be examined during normal business hours at the following locations:

Oklahoma Department of Agriculture, Director, Entomology and Plant Industry Division, 312 NE 28th Street, Room 108, Oklahoma City, Oklahoma 73105. Phone: 405-521-2243.

U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Pesticides and Hazardous Materials Branch, 1201 Elm Street, 1st International Building, Dallas, Texas 75270. Phone: 214-749-1121.

U.S. Environmental Protection Agency, Federal Register Section, Technical Services Division WH-569, Office of Pesticide Programs, East Tower, Waterside Mall, 401 M. Street, S.W., Room 401, Washington, D.C. 20460. Phone: 202-755-4854.

SUMMARY OF OKLAHOMA STATE PLAN

The Oklahoma Department of Agriculture has been designated the State Lead Agency responsible for administering the plan throughout the State and will be the certifying agency for applicators in both the private and commercial applicator categories.

The Oklahoma State University Cooperative Extension Service and the State Health Department will cooperate with the State Lead Agency to provide applicator training. Training in the federal Generator Standards for commercial applicators (40 CFR 171.4(b) and 171.6) will be based on the EPA Core Manual and conducted by State Department of Agriculture personnel and Extension Specialists. Personnel from the State Department of Agriculture, Extension Service, and Health Department and industry representatives will conduct training on the federal Specific Category Standards (40 CFR 171.4(c)). All private applicator training will be done by the State Extension Service.

Legal authority for the program is contained in the proposed Oklahoma Pesticide Control Act (OPCA) of 1976 and a record keeping regulation to be promulgated thereunder. A copy of the proposed Act is attached to the State plan. The record keeping regulation is specified in section 6(J) of the proposed Act.

The plan indicates that the State Lead Agency and cooperating agencies have sufficient funds and personnel necessary to carry out the program.

The Oklahoma Departmet of Agriculture will provide an annual report to EPA by March 1st to indicate the previous year's activities and other reasonable reports as may be required.

The State of Oklahoma will use the two EPA classes of certified applicators, Private and Commercial. However, Oklahoma has proposed to further divide the latter into two State subclasses. The two Oklahoma subclasses are Non-commercial and Commercial. A non-commercial applicator is an applicator who uses or supervises the use of restricted use pesticides and who is not an Oklahoma Commercial Applicator (for hire) or a Private Applicator. The non-commercial applicator subclass will include those persons needing to use restricted use pesticides as a part of their regular duties, including, but not limited to, golf course superintendents or apartment house owners that may wish to do their own pest control work on their own property. A commercial applicator is an applicator for hire who applies pesticides to the property of another person.

The major categories for commercial and non-commercial applicators in Oklahoma will conform to those listed in 40 CFR 171.3. Aerial application will be a subcategory under the categories and the agricultural subcategory listed below:

(a) Agricultural Pest Control (i) Plant.
(b) Forest Pest Control.
(c) Aquatic Pest Control.
(d) Right-of-way Pest Control.
(e) Public Health Pest Control.
(f) Demonstration and Research Pest Control.

The State estimates that 1,902 commercial and non-commercial applicators and over 20,000 private applicators will need to be certified.

Writen examinations will be a requirement for determining competency for all commercial and non-commercial applicators in the general standards (40 CFR 171.4(b) and 171.6) and in the specific standards (40 CFR 171.4(c)) as appropriate for any category for which an applicator applies for certification. The Oklahoma State Department of Agriculture will administer all examinations for commercial and non-commercial applicators.

Aerial applicators will be required to pass a written exam on aerial application in addition to those required for the general standards and the specific category standards in which they may apply for certification.

The standards of competency for certifying private applicators to use restricted use pesticides will be those set forth in 40 CFR 171.5 and 171.6.

Private applicators will routinely be certified by one of two methods:

Completion of a Private Pesticide Applicator Hand book of self-programmed instruction developed by the State Department of Agriculture; and

Completion of a State Extension Service training course and passing an exam corrected by the State Department of Agriculture.

Applicators who are unable to read or find it extremely difficult to comply with the preceding certification mechanisms may be certified by an oral procedure. A fieldman of the State Department of Agriculture will discuss the label for and aspects of using the restricted use pesticides the private applicator needs to use and certify him to use only those products.

In an emergency, a field inspector of the Department may certify an applicator for a single purchase/single use of a restricted use pesticide after conducting an interview with the applicator to determine his competency.

All applicators certified will receive a wallet size card verifying that they have been certified to use restricted use pesticides.

Within 60 days of final approval of GAP, Oklahoma will submit a statement relative to certification requirements for federal employees in Oklahoma.

The Oklahoma State Department of Agriculture is prepared to enter into cooperative agreements with any Indian governing entity who may wish to use all or part of the State Certification Program. Copies of these agreements will be forwarded to EPA.

Oklahoma has no reciprocity agreements and is not planning for such agreements. As certification programs are further developed, reciprocal agreements may be established. Copies of these agreements will be forwarded to EPA.

In addition to authorizing applicator certification programs, Oklahoma's Pesticide Control Act authorizes additional regulatory activities which will contribute to improvement in pesticide handling and use practices. These include: (1) Dealer licensing, (2) registration of pesticides, (3) pesticide sampling and analysis, and (4) participation in the Pesticide Episode Reporting System.

Several methods have been listed for maintaining a current certification status. The methods listed are: (1) Mail-out questionnaire; (2) annual attendance at an approved training course; (3) slide-tape presentations; (4) extension fact sheets; (5) re-examination; and (6) auto-tutorial materials, e.g., workbooks.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Oklahoma to the Chief, Pesticides Branch, Region VI, Environmental Protection Agency, 1201 Elm Street, 1st International Building, Dallas, Texas 75270. The comments must be received on or before January 3, 1977, and should bear the identifying notation OPP-42035. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned location from 8:30 am to 3:30 pm Monday through Friday.

Dated: July 30, 1976.

JOHN C. WHITE,
Regional Administrator, Environmental Protection Agency, Region VI.

[FR Doc.76-35208 Filed 11-29-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-290]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

NOVEMBER 22, 1976.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to reurn any of these applications if, upon further examination, it is determined they are defective and not in conformance wtih the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Correction: Report No. I-284, dated 11-1-76. 28-DSE-P-77, Comsat General Corp., Loysville, Pennsylvania, not Louisiana.

SSA-L-77, Western Union Telegraph Company, McLean, Virginia, should have been SSA-1-77.

Amendment, Imperial Valley Cable TV, El Centro, California. Amendment to application 103-DSE-P/L-76 to relocate the antenna. Lat. 32°51'30", Long. 115°30'47".

43-DSE-MP/ML-77, American Video Corp. (WB65), Pompano Beach, Florida. Modification of license to permit, on a cost-sharing basis, with Coral Springs Cablevision, Inc., an unaffiliated cable system, reception of signals received at the licensee's earth station.

44-DSE-ML-77, CPI Satellite Telecommunications, Inc. (KD21), North Little Rock, Arkansas. Modification of license to permit the reception of Channel 17, WTCG-TV, Atlanta, Georgia.

45-DSE-ML-77, American Television and Communications Corporation (WB46), Jackson, Mississippi. Modification of license to permit the reception of Channel 17, WTCG-TV, Atlanta, Georgia.

46-DSE-P/L-77, Crosswicks Industries, Point Pleasant Beach, New Jersey. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 40°05'55" Long. 74°07'17". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 10 meter antenna.

SSA-2-77, Western Union Telegraph Co., Glenwood, New Jersey. Request for Special Temporary Authorization to conduct Radio Transmission Tests from the Glenwood, New Jersey earth station WB20 to four Receive-Only small aperture terminals.

262-CSG-R-77, Kentron Hawaii, Ltd. (KA22), Fairbanks, Alaska. Renewal of license from December 31, 1976 to December 31, 1977.

[FR Doc.76-35198 Filed 11-29-76;8:45 am]

[Report No. 832]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

NOVEMBER 15, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING NOVEMBER 15, 1976

DOMESTIC PUBLIC MOBILE RADIO SERVICE

20179-CD-P-77, Hendricks Telephone Corporation (KWT929), C.P. to change antenna system operating on 158.10 MHz located at ¼ mile W. of Hwy. No. 236, 4 Miles NW. of Danville, Indiana.

20180–CD–P/ML–77, Courtesy Communications, Inc. (KWT984), C.P. to replace transmitters operating on 454.150 454.100 454.350 MHz located at Baldy Hill, 7/8 mile NW. of Felts Field, Spokane Municipal Airport, Spokane, Washington.

20181–CD–P–(6)–77, Willis B. Johnson d/b/a Telanswer Radiophone Service (KOA739), C.P. to change antenna system, relocate facilities operating on 152.21 (Base); Additional facilities to operate on 454.175 454.20 454.225 MHz; change 459.10 MHz (Repeater) to 2164.0 MHz to be located at Shafer Butte, 12½ miles N.E. (at Loc. No. 1); change antenna system, replace transmitter and change frequency 454.10 MHz to 2114.0 (Control Loc. No. 2) MHz to be located at 1310 State Street, Boise, Idaho.

20182–CD–P–77, Radio Paging & Telephone Answering Service of Charlotte Inc. (KIM 905) C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 2; to be located Two Fairview Plaza Building 5950 Fairview Road Charlotte North Carolina.

20183–CD–P/ML–77 Airsignal International, Inc. (KIE953), C.P. to relocated facilities operating on 35.58 MHz (Loc. No. 3) to be located at 1895 Phoenix Blvd., College Park, Georgia.

20184–CD–P–77, William G. Bowles Jr. d/b as Mid-Missouri Mobilfone (KUS410), C.P. to relocated facilities, change antenna system and replace transmitter operating on 152.24 MHz to be located KJPW/KYSD–FM Radio station tower city Route 66½ miles I–44 Jct., St. Robert, Missouri.

20185–CD–P–77 Rural Telephone Service Co., Inc. (New), C.P. for a new station to operate on 152.57 MHz to be located Approx. 1 mile SE. of Long Island Kansas.

20186–CD–P–77, Airsignal of Colorado, Inc. (New), C.P. for a new Developmental station to construct Control facilities on 75.46 MHz to be located 2.2 miles south of Golden, Lookout Mountain, Colorado, operating in conjunction with station KAQ606.

20187–CD–P–77, Cumberland Telephone Company (New), C.P. for a new station to operate on 152.66 MHz to be located 1.5 miles SW. of Cumberland, Iowa.

20188–CD–P–(4)–77, AAA Mobilfone Service Company, Inc. (KEJ884), C.P. for additional facilities to operate on 454.200 454.225 MHz (Loc. No. 1:) to be located Chestnut Ridge 0.1 mile S. of Hammond Hill Rd., Nr. Dover Plains, N.Y.: Add a new site described as Loc. No. 3 to be located at Redl's Ridge, Rt. 55, 3.5 miles ESE of Poughkeepsie, New York.

20189–CD–P–77, Harbor Communications, Inc. (KLF591), C.P. to change antenna system and relocate facilities operating on 152.15 MHz to be located 1001 Popestone Street, Benton Harbor, Michigan.

20190–CD–P–(3)–77, Mt. Shasta Radiotelephone, Inc. (KUS379), C.P. for additional facilities to operate on 454.025 454.075 454.100 MHz (Loc. No. 2) to be located at Summit Gray Butte, 7.1 Miles Northeast of Mt. Shasta City, California.

20191–CD–P–77, Mt. Shasta Radiotelephone, Inc. (New), C.P. for a new 1–Way station to operate on 43.58 MHz to be located at Summit Gray Butte, 7.1 miles northeast of Mt. Shasta City, California.

20192–CD–P–77, David L. Costello d/b as Commercial Communication Company (New), C.P. for a new station to operate on 152.06 MHz to be located .92 mile north of city center, Tipton, Indiana.

20193–CD–P–77, Southern Radio-Phone, Inc. (KSV941), C.P. to change antenna system operating on 152.06 MHz located off U.S. Highway No. 1, Sugar Loaf Key, Florida.

20194–CD–P–77, Grants Radiotelephone Service (KUD202), C.P. for additional facilities to operate on 152.06 MHz to be located at a new site described as Loc. No. 2; Washington Pass, 37.5 miles North of Gallup, New Mexico.

20195–CD–P–77, Kaplan Telephone Company, Inc. (New), C.P. for a new 1-way station to operate on 152.84 MHz to be located SE Corner of South LeMoire & Hwy No. 35 South, Kaplan, Louisiana.

20196–CD–P–77, Metrotec, Inc. (KTS283), C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 8; 1410 Lake Avenue, Elyria, Ohio.

20197–CD–P–77, Breda Telephone Corporation (KUS310), C.P. to change antenna system: additional facilities to operate on 152.75 MHz to be located at Corner of First and Main Street, Near Lidderdale, Iowa.

20055–CD–MP/ML–77, Tel-Page Corporation (KUO590), Modification of construction and Modification of License (20892–CD–P–76) requesting a Waiver of Section 21.501 (c) to permit 454.100 MHz facility to be utilized exclusively for 1-Way signaling service under call Sign KGI787.

Developmental renewal of license expiring December 11, 1976, Term: December 11, 1976 to December 11, 1977

The Pacific Telephone & Telegraph Co., California, K A 4 3 2 6.

Major amendment

22544–CD–P–76, Massachusetts-Connecticut Mobile Telephone Company (KQZ 747), amend to change PN–818 Accepted for filing data from relocation to located at a new site described as location No. 12: All other particulars to remain the same as reported on PN–818, dated August 9, 1976.

8828–C2–P–72, E & J Mobile Radio Service (New), amend to change frequency from 454.150 MHz to 454.275 MHz. All other particulars to remain the same as reported on PN No. 601, dated June 19, 1972.

21948–CD–P–76, Terre Haute Communications, Inc. (KSB655), Terre Haute, Indiana. Amend to change base frequency 152.03 MHz to 152.12 MHz. All other particulars are to remain as reported on PN No. 805 dated May 10, 1976.

RURAL RADIO

60016–CF–P–77, RCA Alaska Communications, Inc. (New), C.P. for a new Central Office station to operate on 152.60 152.78 MHz to be located; village located 185 miles SSW. of King Salmon, Chignik Lake, Alaska.

60017–CR–P–77, RCA Alaska Communications, Inc. (New), C.P. for a Central Office station to operate on 152.63 MHz to be located; village on north tip of Prince of Wales Island, 42 miles SSW. of Petersburg, Point Baker, Alaska.

60018–CR–P–77, RCA Alaska Communications, Inc. (New), C.P. for a new Rural Subscriber station to operate on 157.86 158.04 MHz to be located; village located 177 miles SSW. of King Salmon, Chignik Village, Alaska.

60019–CR–P–77, RCA Alaska Communications, Inc. (New), C.P. for a new Rural Subscriber station to operate on 157.89 MHz to be located; village on northern tip of Prince Wales Island, 44 miles SSW. of Petersburg Road, Port Protection, Alaska.

60020–CR–P/L–77, Radio Dispatch Company (New), C.P. for a new Rural Subscriber station to operate on 158.49 158.52 MHz located at any temporary fixed location within the territory of the Grantee.

THE OFFSHORE RADIO TELECOMMUNICATIONS SERVICE

50005–CG–P–77, Business Communications, Inc. (New), C.P. for a new Central Office station to operate on 488.075 MHz to be located 47 miles SSW. of Port Sulfur, Oil & Gas Futures Platform, Gulf of Mexico.

50006–CG–P–77, Business Communications d/b/a New Orleans Mobilfone (New), C.P. for a new station to operate on 491.800 MHz to be located 20 miles South of Port Sulphur, Louisiana.

50007–CG–P–77, Business Communications d/b/a New Orleans Mobilfone (New), C.P. for a new station to operate on 488.800 MHz to be located 47 miles SSW. of Port Sulphur, Louisiana.

POINT TO POINT MICROWAVE RADIO SERVICE

327–CF–P–77, Eastern Microwave, Inc. (KFN 21) N.Y.C.–GWB, 15 Columbus Circle, New York, New York. (Lat. 40°46'09" N., Long. 73°58'55" W.): Construction permit to add 6241.7V, 6301.0V, 6330.7H and 6390.0H MHz toward Bergenfield, New Jersey and same frequencies toward Yonkers, New York, via power split, on azimuths 352.6° and 25.0°, respectively.

331–CF–P–77, Video Service Company (WQQ 98), Morristown, Indiana. (Lat. 39°38'47" N., Long. 85°40'55" W.): Construction permit to add 11,175.0H MHz toward Columbus, Indiana, on azimuth 192.4°.

342–CF–P–77, Mid-Kansas, Inc. (KZA 42), 2 miles east of McPherson, Kansas. (Lat. 38°22'32" N., Long. 97°35'56" W.): Construction permit to add 6004.5V MHz toward Newton, Kansas, via power split, on azimuth 149.0°.

343–CF–P–77, Eastern Microwave, Inc. (WQR 72), U.S. Rte. 30–1.4 mile SE. of Hookstown, Pennsylvania. (Lat. 40°34'37" N., Long. 80°27'24" W.): Construction permit to add 10815.0H MHz toward Salem-2, Ohio, via power split, on azimuth 3.11°.

344–CF–P–77, Eastern Microwave, Inc. (WQR 71), Salem-2, Corner. Salem-Grange and Woodsdale Roads, Salem, Ohio. (Lat. 40°51'22" N., Long. 80°52'06" W.): Construction permit to add 6345.5H MHz toward Sharon, Pennsylvania, on azimuth 40.9°. (Note: Applicant requests Special Temporary Authority and waiver of Section 21.701(i) of the Commission's Rules).

150–CF–P–76, United States Transmission Systems, Inc. (New), Central, Louisiana. Amend construction permit to change polarity from H to V for 6226.9 MHz towards Prairieville, Louisiana; from V to H for 6226.9 towards Thibodaux, Louisiana.

151–CF–P–77, Same (New), Thibodaux, Louisiana. Amend construction permit to change polarity from V to H for 5945.2 toward Central, Louisiana.

152–CF–P–76, Same (New), Des Allemands, Louisiana. Amend construction permit to change 6286.2V to 6226.9H MHz towards New Orleans, Louisiana.

153–CF–P–76, Same (New), New Orleans, Louisiana. Amend construction permit to change 6004.5 to 5945.2H MHz Des Allemands, Louisiana. All other particulars remain the same as reported on Public Notice dated October 26, 1976.

86–CF–P–77, Florida Telephone Corporation (KIL59), St. Rd 445, 445A Intersection Astor Park, Florida Lat. 29°08'53" N., Long. 81°34'28" W. C.P. to change coordinate on frequencies 6226.9V 6345.5V MHz toward Umatilla, Florida on azimuth 200.8°; replace antenna.

322–CF–P–77, Southwestern Bell Telephone Company (KLV31), SW. corner of Brain and 9th Borger, Texas Lat. 35°40'31" N., Long. 101°23'07" W C.P. to change polarization from horizontal to vertical on frequency 6241.7 MHz toward Sanford, Texas.

333–CF–P–77, American Telephone and Telegraph Company (KKP89), 1.4 mile ENE. of Cecelia, Louisiana Lat. 30°20'37'' N., Long. 91°49'40'' W. C.P. to change polarization from horizontal to vertical on frequencies 3750 3830 MHz toward Livonia, Louisiana.

334–CF–P–77, Same (KKP88), 1.1 mile WSW. of Livonia, Louisiana, Lat. 30°33'20'' N., Long. 91°34'18'' W. C.P. to change polarization from horizontal to vertical on frequencies 3790 3870 3950 4110 MHz toward Cecelia, Louisiana.

383–CF–77, Mountain State Telephone and Telegraph Company (KVU54), 800 Main Street Grand Junction, Colorado Lat. 39°04'03'' N., Long. 108°33'30'' W. C.P. to add frequency 2165.2H MHz toward Lands End, Colorado.

384–CF–P–77, Same (WPN76), 7 miles East of Palisade, Colorado Lat. 39°05'27'' N., Long. 108°13'20'' W. C.P. to add frequency 2115.2H MHz toward Grand Jct, and add a new point of communication on frequency 2115.2H MHz toward Mesa on azimuth 41.4°.

395–CF–P–77, Same (New), State Street Mesa, Colorado, Lat. 39°10'00'' N., Long. 108°08'11'' W. for a new station on frequency 2165.2H MHz toward Land End, Colorado on azimuth 221.4°.

388–CF–P–77, General Telephone Company of Florida (KGP52), Plant City Jact 1.73 mile WNW. of Plant City, Florida Lat. 28°01'32'' N., Long. 82°10'01'' W. C.P. to add frequency 3710H MHz toward Lithia, Florida on azimuth 182.5°.

389–CF–P–77, Same (WAH395), S.R. 640 Browning Rd. Lithia, Florida Lat. 27°50'49'' N., Long. 82°10'33'' W. C.P. to add frequencies 3750H MHz toward Plant City Jct., Florida on azimuth 2.5° and 6375.2H MHz toward Wimauma on azimuth 227.6°.

390–CF–P–77, Same (WIU84), 2.4 miles WNW. from Wimauma, Florida Lat. 27°42'57'' N., Long. 82°20'13'' W. C.P. to add frequencies 6123.1H MHz toward Lithia, Florida on azimuth 47.6° and 3730H MHz toward Verna, Florida on azimuth 172.6°.

391–CF–P–77, General Telephone Company of Florida (WIU85), 10.9 miles SE. of Parrish Verna, Florida Lat. 27°27'59'' N., Long. 82°18'02'' W. C.P. to add frequencies 3770H MHz toward Wimauma, Florida on azimuth 352.6° and 3370 MHz toward Sarasota, Florida on azimuth 238.0°.

392–CF–P–77, Same (KIO65), Pine Place and Bamboo Lane Sarasota, Florida Lat. 27°20'06'' N., Long. 82°32'10'' W. C.P. to add frequency 3730H MHz toward Verna, Florida on azimuth 57°.

400–CF–P–77, The Pacific Telephone and Telegraph Company (KMA38), 434 South Grand Ave., Los Angeles, California Lat. 34°03'02'' N., Long. 118°15'08'' W. C.P. to add frequency 10855V MHz toward Arcadia, California.

401–CF–P–77, Pacific Telephone and Telegraph Company (KVH95), 2 miles North of Arcadia, California Lat. 34°10'46'' N., Long. 118°01'31'' W. C.P. to add frequency 11425 V MHz toward Los Angeles and 11285V MHz toward Chantry Flat, Florida passive reflector on azimuth 325.6° and from passive reflector to Ontario, Florida on azimuth 111.0°.

Correction

8201–76, Mountain Telephone and Telegraph Company (KOQ75), San Manuel, Arizona Correct azimuth to read 218.9°. All other particulars to remain as reported on PN 826 dated October 4, 1976.

8202–CF–P–76, Same (WAY33), Hayden, Arizona Correct Latitude 33°00'13'' N. All other particulars to remain as reported on PN 826 dated October 4, 1976.

8205–CF–P–76, Same (KOV63), Correct station location to read 228 West Adams, Phoenix, Arizona and Lat. 33°26'58'' N., Long. 112°04'35'' W. All other particulars to remain as reported on PN 826 dated October 4, 1976.

[FR Doc. 76-35196 Filed 11-29-76;8:45 a.m.]

[Report No. 833]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

NOVEMBER 22, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See Section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application wichh is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATION ACCEPTED FOR FILING
NOVEMBER 22, 1976

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20228–CD–P–77, Phone Depots, Inc. d/b as Mobilfone Radio System (KEA254), C.P. for additional facilities to operate on 454.-350 MHz to be located at a new site described as Loc. #8; 1 Strawberry Hill Court, Stamford, Connecticut.

20229–CD–AL–(3)–77, Answering by Birken, Inc., Consent to assignment of License from Answering by Birken, Inc. ASSIGNOR to Cook's Communications Corp. ASSIGNEE Station: KOP295 KUS370 & WAQ589 Billings, Montana.

20230–CD–AL–77, Columbus Radio Paging Company, Consent of License from Columbus Radio Paging Company, ASSIGNOR to Ohio Mobile Telephone Company, Inc., ASSIGNEE Station: KUC956, Columbus, Ohio.

20231–CD–P–77, Radio Comm., Inc. (New), C.P. for a new station to operate on 152.21 and 158.67 MHz to be located 1621 California Street, Columbus, Indiana.

20232–CD–P–(2)–77, DPRS, Inc. t/a Zipcall (KCB890), C.P. for additional facilities to operate on 43.58 MHz to be located at a new site described as Loc. #15; 64 Edwards Street, Hartford, Connecticut: and Loc. #16 to operate on 43.58 MHz to be located at Mt. Tom, Holyoke, Massachusetts.

20233–CD–P–77, Buckeye Communications Company (KLF572), C.P. to relocate facilities, and change antenna system operating on 454.25 MHz to be located at 368 South Main Street, Akron, Ohio.

20234–CD–P–77, Business Communications Co., H. I., Pierce d/b as (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located at 1101-26th Street, South Great Falls, Montana.

20236–CD–P–77, Northern Illinois Radio Phone & Paging System, Inc. (KSA256), C.P. for additional facilities to operate on 152.21 MHz to be located at a new site described as Loc. #2; 9575 West Higgins, Rosemont, Illinois.

20237–CD–AL–77, Tri-Cities Paging Company, James T. Waggone d/b as, Consent to Assignment of License from James T. Waggoner d/b as Tri-Cities Paging Company ASSIGNOR, to L. & L. Services, Inc., d/b as Tri-Cities Paging Company ASSIGNOR, to L. & L. Services, Inc., d/b as Metro Communication Service, ASSIGNEE: Station: KUS276, Florence, Alabama.

INFORMATIVE

It appears that the following application may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reason of potential electrical interference.

Phone Depots of Connecticut, Inc. d/b as Liberty Communications, File No. 22758–CD–P–76 Station KCC, Danbury, Connecticut.

Hofmann Telephone Answering Service, Inc., File No. 20035–CD–P–(2)–77, Station; KWU 514, Danbury, Connecticut.

Major Amendment

20003–CD–ML–77, Irland Telephone Company, Johnson, Washington (KUC955), Amend to change frequency from 152.75 MHz to 152.78 MHz on Bald Butte, 2 miles East of Johnson, Washington (Lat. 46°37'59'' N. Long. 117°05'17'' W.). All other particulars are as noted in Public Notice dated 10–12–76.

20027 CD–P–77, Portable Communications, Inc., Buffalo, New York (KTS238). Amend Control frequency 459.075 MHz to read 459.125 MHz. All other particulars are to remain the same as reported on PN# 829, dated October 26, 1976.

CORRECTION

20188–CD–P–(4)–77, AAA Mobilfone Service Company, Inc., Correct to show frequency at a new site described as Loc. #3 to read

454.175 MHz. All other particulars to remain as reported on PN# 832, dated 11-15-76.

20139-CD-P-77, Radiotelephone Company of Indiana, Inc. (KSA811), Correct entry to show frequency 151.15 MHz to read 152.15 MHz. All other particulars to remain as reported on PN#831, dated 11-8-76.

THE OFFSHORE RADIO TELECOMMUNICATIONS SERVICE:

50008-CG-P-77, The Offshore Telephone Company (New), C.P. for a new Central station to operate on 488.075 MHz to be located, East Cameron Area, Block 261 A, Gulf of Mexico.

50009-CG-P-77, Same (New), C.P. for a new Central Office to operate on 488.125 MHz to be located at Block 50-B, South March, Island Area, Gulf of Mexico.

50010-CG-P-77, Same, (New), C.P. for a new Central Office to operate on 488.250 MHz to be located at Block 296 A, Eugene Island Area, Gulf of Mexico.

50011-CG-P-77, Same, (New), C.P. for a new Central Office station to operate on 488.100 MHz to be located, Block 90-B, West Delta Area, Gulf of Mexico.

POINT TO POINT MICROWAVE RADIO SERVICES

8238-CF-TC-(3)-76, Fidility Telephone Company Consent to Transfer of Control from Katherine K. Davis, Transferor; to Jane D. Copsey et al (Stockholder), Transferee(s) for stations WAN40 Sullivan, Missouri; WAN39 Owensville, Misouri; WAH433 Gerald, Missouri.

409-CF-TC-(3)-77, Fidility Telephone Company Consent to Transfer of Control from Katherine K. Davis, Transferor; to Jane D. Copsey et al (Stockholder) Transferee(s) for stations WAN40 Sullivan, Missouri; WAN39 Owensville, Missouri; WAH433 Gerald, Missouri.

411-CF-MP-77, General Telephone Company of Pennsylvania, (WBA884), 2 miles East of McKean, Pennsylvania Lat. 41°59'28" N., Long. 80°06'07" W. Mod. of CP to correct coordinate; increase transmit antenna structure height; move antenna on frequencies 10775V MHz toward Erie, Pennsylvania on azimuth 185.0° and 10775V MHz toward Girard, Pennsylvania on azimuth 83.1°.

412-CF-MP-77, The Bell Telephone Company of Pennsylvania, (WBB254), 4.5 miles NW of Brockway, Pennsylvania Lat. 41°17'56" N., Long. 78°51'43" W. Mod. of CP to increase transmit antenna structure height; move antenna frequencies 10855V toward DuBois, Pennsylvania on azimuth 149.5°, 10855V MHz toward Ridgway, Pennsylvania on azimuth 22.81°.

418-CF-P-76, American Telephone and Telegraph Company, (KAC73), 11th and Oak Street, Kansas City, Missouri Lat. 39°06'04" N., Long. 94°34'43' W. C.P. to add frequency 4190.0H MHz toward Lenape, Kansas.

419-CF-P-76, Same, (KAC72), 1.8 miles NW of Lenape, Kansas Lat. 39°01'11" N., Long. 94°58'14" W. C.P. to add frequencies 4198.0H MHz toward Kansas City, Missouri 1498.0H MHz toward Worden, Missouri.

423-CF-P-77, American Telephone and Telegraph Company, (WDD90), 3 miles ESE of Hawley, Pennsylvania Lat. 41°27'51" N., Long. 75°07'48" W. C.P. to add frequency 11665.0H MHz toward Rowland, Pennsylvania.

424-CF-P-77, Same, (WSM39), 1.2 miles WNW of Rowland, Pennsylvania Lat. 41°28'42" N., Long. 75°03'49" W. C.P. to add frequencies 10975.0H MHz toward Hawley 10975.0H MHz toward Glen Spey, New York.

425-CF-P-77, Same, (WSM38), 0.8 mile NW of Glen Spey, New York Lat. 41°29'04" N., Long. 74°49'33" W. C.P. to add frequencies 11665.0H MHz toward Rowland, Pennsylvania 11665.0H MHz toward Colesville, New Jersey.

426-CF-P-77, American Telephone and Telegraph Company, (KEE60), 2.5 miles NW of Colesville, New Jersey Lat. 41°18'15" N., Long. 74°40'27" W. C. P. to add frequencies 10975H MHz toward Glen Spey, New York and 4150 MHz toward netcong, New Jersey; decrease output power on frequencies 3750H 3830H 3910H 3990H 4070H MHz toward Netcong, New Jersey.

427-CF-P-77, Same, (KEM64), 2.6 miles South of Netcong, New Jersey Lat. 40°-51'54" N., Long. 74°40'47" W. C.P. to add frequency 4110H MHz toward Colesville, New Jersey; decrease output power 3710H 3790H 3870H 3950H 4030H MHz toward Colesville, New Jersey.

428-CF-MP-77, The Mountain States Telephone and Telegraph Company, (KTF35), 4 miles North of Correo, New Mexico Lat. 35°00'48" N., Long. 107°09'58" W. Mod. of CP to increase transmit antenna structure height; move antenna on frequencies 10715H MHz toward Albuquerque, New Mexico 6360.3V 10755H MHz toward McCartys, New Mexico.

429—CF-MP-77, Same, (KTF34), 109 West Aztec Ave., Gallup, New Mexico Lat. 35°-31'34" N., Long. 108°44'27" W. Mod. of CP to replace antenna on frequencies 10715H 10955V 10715 MHz toward Gibson, New Mexico.

430-CF-MP-77, The Mountain States Telephone and Telegraph Company, (KTF32), 6 miles West of McCartys, New Mexico Lat. 35°04'04" N., Long. 107°46'55" W. Mod. of CP increase transmit antenna structure height; move antenna on frequencies 11685.0H 6137.9V MHz toward Correo, New Mexico and 6108.3V 11405.0H MHz toward Mt. Powell, New Mexico.

431-CF-MP-77, Same, (KTF33), 5 miles North of Thoreau, New Mexico Lat. 35°28'01" N., Long. 108°14'35" W. Mod. of CP increase transmit antenna structure height; move antenna on frequencies 6360.3H 10755V MHz toward Gibson, New Mexico 6390.0V 10955H McCartys, New Mexico.

443-CF-P-77, South Central Bell Telephone Company, (KLT46), 333 North 6th Street Baton Rouge, Louisiana Lat. 30°26'59" N., Long. 91°11'06" W. C.P. to add frequency 5945.2V MHz toward Livonia, Louisiana and replace antenna 4090.0V 6123.1V MHz toward Livonia, Louisiana.

444-CF-P-77, Same (KLT45), 1.1 miles WSW of Livonia, Louisiana Lat. 30°33'20" N., Long. 91°34'18" W. C.P. to add frequencies 6197.2H MHz Baton Rouge, Louisiana 6197.-2V MHz toward Cecelia, Louisiana; to change polarization from horizontal to vertical on frequency 4030 MHz toward Cecelia, Louisiana; replace antenna on frequencies 3890V 6375.2H MHz toward Baton Rouge Louisiana.

445-CF-P-77, Same, (KLT44), 1.4 miles ENE of Cecelia, Louisiana Lat. 30°20'37" N. Long. 91°49'40" W. C.P. to add frequencies 5945.2H MHz toward Livonia, Louisiana 597.4H MHz toward Lafayette, Louisiana; to change polarization from horizontal to vertical on frequency 3910 MHz toward Livonia, Louisiana.

446-CF-P-77, Same, (KLK84), 530 South Buchanan Street, Lafayette, Louisiana Lat. 30°13'32" N., Long. 92°01'01" W. C.P. to add frequency 6197.2H MHz toward Cecelia, Louisiana.

447-CF-P-77, The Pacific Telephone and Telegraph Company, (KMQ34), 455 Second Street San Bernardino, California Lat. 34°06'07" N., Long. 117°17'03" W. C.P. to add frequency 11055V MHz toward Lytle Creek, California; increase transmit antenna structure height move antenna on frequencies 2114.6 MHz toward Keller Peak, California and 10755H MHz toward Lytle Creek, California.

448-CF-P-77, Same, (KNK39), 3 miles S of Lytle Creek, California Lat. 34°12'49" N., Long. 117°30'00" W. C.P. to add frequencies 11265V MHz toward San Bernardino, California and 11265V MHz toward Ontario, California; add a new point communication.

432-CF-P-77, RCA American Communications, Inc., (New), Atlanta Earth Station, Route 2 Box 600, Smyrna, Georgia, (Lat. 33°51'01" N., Long. 84°28'56" W.): Construction permit for new station—10975.0V MHz toward WTCG-TV, Atlanta, Georgia, on azimuth 130.9°.

433-CF-P-77, RCA American Communications, Inc., (New) WTCG-TV, 1018 W. Peachtree St., N.W., Atlanta, Georgia. (Lat. 33°46'57" N., Long. 84°23'19" W.): Construction permit for new station—11385.0V MHz toward Atlanta Earth Station, Georgia, on azimuth 311.0°.

[FR Doc.76-35197 Filed 11-29-76;8:45 am]

FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TEHNOLOGY

COMMITTEE ON INTELLECTUAL PROPERTY AND INFORMATION

Meeting

In the matter of meeting regarding application of certain postal service regulations to non-profit publishers of scientific, engineering and technical journals and periodicals.

The Committee on Intellectual Property and Information of the Federal Coordinating Council for Science, Engineering, and Technology will hold a meeting on Tuesday, December 14, 1976, with all representatives of non-profit publishers of scientific, engineering, and technical journals and periodicals who may wish to attend. The meeting will convene at 10:00 a.m. in the Main Auditorium, United States Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and is open to all interested persons and organizations.

The purpose of this informal meeting is to interchange information and views regarding the application of certain Postal Service regulations to the publishers of scientific, engineering, and technical journals and periodicals which are supported through the payment of page charges by the authors and contributors of articles, reports, or other reading matter.

The Postal Service recently advised the National Academy of Sciences that since its publication "Proceedings of the National Academy of Sciences" contained articles which were published following payment by contributors of page charges, such articles should be marked as "ad-

vertisement" pursuant to Postal Service regulations. Further, the Postal Service noted that publications having advertising in excess of 75 percent in more than one-half of their issues during a twelve month period may not qualify for second-class mailing privileges. (Section 132.226, Postal Service Manual.)

The Postal Service regulation in question reads as follows:

Editorial or other reading matter contained in publications entered as second-class mail and for the publication of which a valuable consideratoin is paid, accepted, or promised, shall be marked plainly, "advertisement", by the publisher. (Section 132.71, Postal Service Manual.)

This regulation is based on former 39 U.S.C. 4367. The language of the statute was carried forward as the regulation quoted above by section 5 of the Postal Reorganization Act.

Issued: November 23, 1976.

BETSY ANCKER-JOHNSON,
Chairman, Committee on Intellectual Property, and Information, Federal Coordinating Council for Science, Engineering and Technology.

[FR Doc.76-3505 Filed 11-29-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

DETERMINATION OF SPECIAL HARDSHIP, INEQUITY, OR UNFAIR DISTRIBUTION

Guidelines Required by Section 7(i)(1)(D) of the Federal Energy Administration Act

Correction

In FR Doc. 76-34065 appearing at page 50856 of the issue for Thursday, November 18, 1976, in the third column, page 50861, insert the following text below the heading RETROACTIVE EXCEPTION RELIEF: "The FEA frequently receives requests for retroactive exception relief from its regula-".

WANDA PETROLEUM CO.

Action Taken on Consent Order

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of final action taken on a Consent Order.

On October 14, 1976, FEA published notice of a Consent Order which was executed between Wanda Petroleum Company (Wanda) and FEA (41 FR 45046 (October 14, 1976)). With that notice, and in accordance with 10 CFR § 205.197(c), FEA invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. Therefore, FEA has concluded that the Consent Order as executed between FEA and Wanda is an appropriate resolution of the compliance proceedings described in the Notice published on October 14, 1976 and hereby gives notice that the Consent Order shall become effective as proposed, without modification, upon publication of this Notice in the FEDERAL REGISTER.

Issued in Washington, D.C., November 24, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-35114 Filed 11-24-76;1:06 pm]

COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Compilation of Environmental Review Documents Available for Public Review

Pursuant to CFR 208.15(b), the Federal Energy Administration (FEA) hereby publishes its listing of environmental review documents, prepared under the authority of the National Environmental Policy Act, 42 U.S.C. 4321 et seq., which are available for public inspection and review. Listed below are environmental review documents made available to the public since January 1, 1976.

Single copies of the review documents are available upon request from the FEA Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the review documents are also available for public inspection in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on November 29, 1976.

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

FEA list of published environmental impact statements and negative determinations—Jan. 1, 1976–Nov. 30, 1976

Name of program	Type of document and number where applicable	Date made available to the public
Decontrol of residual oil from mandatory price and allocation regulations.	Negative determination and environmental assessment.	Feb. 18, 1976
Mandatory Canadian crude oil allocation regulations	Draft environmental impact statement (DES-76-1).	Mar. 15, 1976
	Final environmental impact statement (FES 76-1).	May 3, 1976
Exemption of middle distillates from mandatory petroleum allocation and price regulations and revocation of low sulfur petroleum products regulations.	Negative determination and environmental assessment.	May 28, 1976
Exemption of naphthas, gas oils and "other products" from the mandatory petroleum allocation and price regulations.	do	June 10, 1976
Notice of effectiveness for certain construction orders: Determination of environmental impact.	do	June 25, 1976

Orders to	*Location*
Alabama Power Co	West Jefferson, Ala.
Do	Do.
Do	Do.
City of Painesville, Ohio	Painesville, Ohio
Southwestern Electric Power Co.	Cason, Tex.
Do	Do.
The Cincinnati Gas & Electric Co.	Boone County, Ky.
Central Illinois Public Service Co.	Jasper County, Ill.
Central Power and Light Co.	Goliad County, Tex.
Dairyland Power Cooperative.	Alma, Wis.
Iowa Southern Utilities Co.	Chillicothe, Iowa
Kansas City Power & Light Co.	Iatan, Mo.
Montana-Dakota Utilities Co.	Beulah, N. Dak.
Oklahoma Gas & Electric Co.	Noble County, Okla.
Do	Do.
Portland General Electric Co.	Boardman, Oreg.
Public Service Co. of Colorado	Brush, Colo.
Public Service Co. of Oklahoma.	Oologah, Okla.
Do	Do.
Public Service Co. of New Mexico and Tucson Gas & Electric Co.	Waterflow, N. Mex.
Do	Do.
Sierra Pacific Power Co.	Humboldt County, Nev.
Southern Illinois Power Coop.	Marion, Ill.
Southern Indiana Gas & Electric Co.	West Franklin, Ind.
Southwestern Electric Power Co.	Gentry, Ark.
The Dayton Power & Light Co. and The Cincinnati Gas & Electric Co.	Adams County, Ohio
Do	Do.
The Kansas Power & Light Co.	St. Marys, Kans.
Do	Do.
Do	Do.

Name of program	Type of document and number where applicable	Date made available to the public
Strategic petroleum reserve	Draft programmatic environmental impact statement (DES-76-2).	June 25, 1976
Schiller generating station—coal conversion program—energy Supply and Environmental Coordination Act.	Draft environmental impact statement (DES-76-3).	July 1, 1976
Exemption of naphtha based jet fuel from the mandatory petroleum allocation and price regulations.	Negative determination and environmental assessment.	Aug. 17, 1976
Contingency gasoline and diesel fuel rationing plan	do	Sept. 1, 1976
Strategic petroleum reserve: Proposed storage sites	Draft environmental impact statements (DES-76-4 through 76-8).	Sept. 13, 1976

Site and location
West Hackberry Salt Dome, Cameron Parish, Louisiana, (DES–76–4).
Bayou Choctaw Salt Dome, Iberville Parish, Louisiana, (DES–76–5.)
Bryan Mound Salt Dome, Brazoria County, Texas, (DES–76–6).
Cote Blanche Salt Mine, St. Mary Parish, Louisiana, (DES–76–7).
Weeks Island Salt Mine, Iberia Parish, Louisiana, (DES–76–8).

Name of program	Type of document and number where applicable	Date made available to the public
Energy conservation contingency plans:		
Emergency boiler combustion efficiency requirements plan.	Negative determination and environmental assessment.	Oct. 6, 1976
Emergency commuter parking management and carpooling incentives plan.	do	Do.
Emergency heating, cooling, and hot water restrictions plan.	do	Do.
Emergency restrictions on illuminated advertising and certain gas lighting plan.	do	Do.
Exemption of motor gasoline from the mandatory petroleum allocation and price regulations.	do	Nov. 24, 1976

[FR Doc.76–35173 Filed 11–24–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CI61–425, etc.]

EXXON CORPORATION, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 18, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, peitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI61–425 B 10–8–76	Exxon Corp., P.O. Box 2180, Houston Tex. 77001.	Southern Natural Gas Co., State lease No. 2372, South Little Lake Field, LaFourche and Jefferson Parishes, La.	(2)	(2)
CI73–142 (CI73–142) E 10–8–76	Texas Pacific Oil Co. (United Kingdom), Inc. (succ. to Texas Pacific Oil Co., Inc.), 1700 One Main Place, Dallas, Tex. 75250.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Waveland Field, Hancock County, Miss.	[3] 53.55¢	15.025
CI77–28 (CI63–1009) B 10–12–76	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., North Carter, Beckham, Okla.	(4)	(4)
CI77–29 (CI68–8) B 10–12–76	do	Arkansas Louisiana Gas Co., Okeene, Blaine, Okla.	(4)	(4)
CI77–32 (CI69–912) (CS69–25) B 10–15–76	Dixilyn Corp., 10th Floor, First City National Bank Bldg., Houston, Tex. 77002.	Sea Robin Pipeline Co., block 15, South Marsh Island, offshore Louisiana.	(4)	(4)

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-33 (CS67-82) B 10-18-76	Mesa Petroleum Co. et al., P.O. Box 2009, Amarillo, Tex. 79105.	Northern Natural Gas Co., Gooch Field, Texas County, Okla.	(3)	(3)
CI77-35 A 10-14-76	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Northwest Cheyenne Field, Roger Mills County, Okla.	2 5 142.0¢	14.73
CI77-37 A 10-5-76	do	El Paso Natural Gas Co., Wheeler Panhandle (Hunton) Field, Wheeler County, Tex.	2 5 142.0¢	14.73
CI77-38 A 10-18-76	Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Texas Eastern Transmission Corp., west ½ Eugene Island block 333, Eugnee Island area, south addition, offshore Louisiana.	2 5 148.41¢	15.025
CI77-39 A 10-18-76	do	Texas Eastern Transmission Corp., a rectangular tract of approximately 960 acres in the southeast portion of Eugene Island Block 312, Eugene Island area, south addition, offshore Louisiana.	10 148.41¢	15.025
CI77-40 A 10-18-76	do	Texas Eastern Transmission Corp., east ½ Eugene Island Block 333, Eugene Island area, south addition, offshore Louisiana.	2 52.5314¢	15.025
CI77-41 A 10-18-76	do	Sea Robin Pipeline Co., Eugene Island area, block 330, Federal offshore Louisiana.	2 5 146.37¢	15.025
CI77-42 A 10-18-76	do	Sea Robin Pipeline Co., South Marsh Island (south addition), blocks 125, 127, 128, and 141, Federal offshore Louisiana.	2 5 147.39¢	15.025
CI77-43 A 10-18-76	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Arkansas Louisiana Gas Co., Pocola Field; Lear-Vliet No. 1-5, Lear-Vliet No. 1-29, Lear Valley No. 1-31; at or above the base of Morrow Formation; Le Flore County, Okla.	2 7 $1.43	14.73
CI77-49 A 10-18-76	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32790.	Transcontinental Gas Pipe Line Corp., Bassfield Field, Jefferson Davis County, Miss.	2 5 6 147.1389¢	15.025
CI77-50 (CI76-284) B 10-19-76	Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202.	Kansas-Nebraska Natural Gas Co., Inc., Fender B lease, NE/4 NW/4, and S/2 NW/4, sec. 22-2N-52W, Washington County, Colo.	(3)	(3)
CI77-61 A 10-21-76	Florida Gas Exploration Co	Transcontinental Gas Pipe Line Corp., Bassfield Field, Jefferson Davis County, Miss.	2 5 6 147.1389¢	15.025
CI77-64 A 10-22-76	Getty Oil Co	El Paso Natural Gas Co., Silver Creek, Wheeler, Tex.	2 5 6 $1.42	14.73
CI77-68 A 10-26-76	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Transcontinental Gas Pipe Line Corp., block 21, block 45 field, West Cameron area, Gulf of Mexico.	2 6 $1.8275	15.025
CI77-79 (G-8096) B 10-26-76	Guy R. Campbell, 15804 Gulf Blvd., Redington Beach, Fla. 33708.	Kansas-Nebraska Natural Gas Co., Inc., Deuel County, Nebr.	(3)	(3)
CI77-83 A 10-27-76	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.[10]	Panhandle Eastern Pipe Line Co., Morris B No. 1 Well, Hugoton Field, Finney County, Kans.	2 5 $1.412287	14.65
CI77-84 A 10-28-76	ISCO, Inc., 3000 One Shell Plaza, Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Galveston Area Block 189, Field, Gulf of Mexico.	2 142.7108¢	14.65

[1] Lease released.
[2] Subject to upward and downward Btu adjustment.
[3] Well plugged and abandoned.
[4] Lease terminated.
[5] Plus 1c escalation per quarter.
[6] Applicant is willing to accept a certificate conditioned upon an initial rate equal to the national rate prescribed in opinion No. 770, as such rate from time to time is modified by the Commission.
[7] Plus tax reimbursement and subject to Btu adjustment in accordance with opinion 770.
[8] Contract provides for 100-pct reimbursement of taxes and Btu adjustment.
[9] Nonproductive.
[10] Applicant and purchaser are affiliated.

[FR Doc.76-34878 Filed 11-29-76;8:45 am]

[Docket Nos. CS77-52, etc.]

RAY A. PIERCE, ET AL.

Applications for "Small Producer" Certificates [1]

NOVEMBER 18, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 12, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No.	Date filed	Applicant
CS77-52	Nov. 3, 1976	Ray A. Pierce, P.O. Box 303 Eunice, N. Mex. 88231.
CS77-53	Nov. 1, 1976	KMI 1976, 750 West Hampden Ave., Englewood, Colo. 80110.
CS77-54	do	Calpetco II-KMI-1975 C, 405 California St., San Francisco, Calif. 94104.
CS77-56	Nov. 2, 1976	Alfred J. Smith, 1206 Christine, Pampa, Tex. 79065.
CS77-57	Nov. 5, 1976	The Stone Oil Corp. 1975 Participating program, 3100 Fountain Square Plaza, Cincinnati, Ohio 45202.
CS77-58	do	The Stone Oil Corp. 1976 Program, 3100 Fountain Square Plaza, Cincinnati, Ohio 45202.
CS77-59	do	H. & S. Petroleum, Inc., 2000 Classen Bldg., Suite 202 A, Oklahoma City, Okla. 73106.
CS77-60	Nov. 8, 1976	Paul T. Macina, Route 1, Shamrock, Tex. 79079.
CS77-61	do	Warrior, Inc., 126 Midland Tower Bldg., P.O. Box 82, Midland, Tex. 79701.
CS77-62	do	Marshall R. Young Oil Co., 750 West 5th St., Fort Worth, Tex. 86102.
CS77-63	do	Ouzel Corp., 1600 Broadway, Suite 1680, Denver, Colo. 80202.
CS77-64	do	The Stone Oil Corp. 1975 Participating program, 3100 Fountain Square Plaza, Cincinnati, Ohio 45202.
CS77-65	do	M. L. Mayfield Co., 1717 C. & I. Bldg., Houston, Tex. 77002.
CS77-66	do	Rollyson Corp., 625 Garrison Ave., Fort Smith, Ark. 72916.
CS77-67	do	Lonnie Holotik, 618 Fair Foundation Bldg., Tyler, Tex. 75702.
CS77-68	do	FCD, Ltd., 104 Knox Bldg., Enid, Okla. 73701.

[FR Doc.76-34877 Filed 11-29-76;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket No. RP72-100 (PGA77-1a)]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

NOVEMBER 19, 1976.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas"), on November 10, 1976, tendered for filing Substitute Twenty-Second Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1976.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. The rate change is being filed to reflect a reduction in Texas Eastern Transmission Corporation's rates due to the exclusion of the Opinion No. 770 producer increases that were suspended until December 1, 1976, by Commission order dated October 21, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35086 Filed 11-29-76;8:45 am]

[Docket No. ER77-55]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing of Connection Points

NOVEMBER 22, 1976.

Take notice that on November 11, 1976, the Central Illinois Public Service Company tendered for filing pursuant to the Interconnection Agreement dated February 18, 1972, among CIPS, Illinois Power Company and Union Electric Company, revised Connection Points No. 11 and 30, a new Connection Point No. 32, and a new Connection Point No. 33 covering one of the connection points previously covered in Connection Point No. 11, all to be effective September 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35077 Filed 11-29-76;8:45 am]

[Docket No. ER77-52]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Filing of Initial Rate Schedule

NOVEMBER 22, 1976.

Take notice that on November 11, 1976, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing, as an initial rate schedule, copies of a service agreement (the "Agreement") between Con Edison and the Power Authority of the State of New York ("PASNY").

The Agreement, dated December 30, 1975 and September 22, 1976, provides for the transmission and local distribution of energy by Con Edison from PASNY's Astoria 6 and Indian Point 3 plants to PASNY customers in Con Edison's Service territory.

A copy of the filing has been served upon PASNY.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35083 Filed 11-29-76;8:45 am]

[Docket No. CP76-319]

EASTERN SHORE NATURAL GAS CO.

Withdrawal

NOVEMBER 19, 1976.

On October 29, 1976, Eastern Shore Natural Gas Company filed a motion to withdraw its application for a certificate of public convenience and necessity and a temporary certificate, filed on April 1, 1976, in the above-designated proceeding.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules and regulatioins, the withdrawal of the above application shall become effective on November 28, 1976.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-35087 Filed 11-29-76;8:45 am]

[Docket No. CP75-362]

EL PASO NATURAL GAS CO.

Availability of Draft Environmental Impact Statement

NOVEMBER 22, 1976.

Notice is hereby given in the above docket that on November 22, 1976, a Draft Environmental Impact Statement (DEIS), "Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas As Proposed By SOHIO Transportation Company)", prepared by the Department of the Interior, Bureau of Land Management (Interior), was made available for comments. The pipeline abandonment proposal by El Paso Natural Gas Company (El Paso) filed with the Federal Power Commission in Docket No. CP75-362 pursuant to Section 7(b) of the Natural Gas Act is one of several integral parts of SOHIO's proposed crude oil transportation system. El Paso's proposal would involve the abandonment of 667.3 miles of 30-inch O.D. gas transmission pipeline, 57,050 horsepower of compressor facilities at six existing compressor stations, and five right-of-way grantor taps. The El Paso abandonment proposal is described and the environmental impacts of the El Paso abandonment are identified and evaluated in the Interior DEIS.

Upon completion of Interior's Final Environmental Impact Statement (FEIS), it is the intention of the FPC staff to adopt all or part of Interior's FEIS after a review of its adequacy. The FEIS will than be incorporated into the record developed in the FPC proceeding, along with any modifications or revisions which the FPC staff may feel are required.

This DEIS has been circulated for comments by Interior to Federal, state, and local agencies. In addition, it has been circulated to all parties to the FPC proceeding, has been placed in the public files of the FPC, and is available for public inspection both in the FPC's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. and at its regional offices located at 555 Battery Street, San Francisco, CA 94111 and 819 Taylor Street, Fort Worth TX 75102. Copies of the Interior DEIS are available in limited quantities from the FPC's Office of Public Information, Washington, D.C. 20426 or from the Office of Public Affairs, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825.

A copy of comments which Interior receives on the DEIS will be forwarded by Interior to the FPC. Any comments received directly by the FPC which relate to the proposed crude oil transportation system or which specifically concern the El Paso abandonment proposal

will be forwarded to Interior for consideration in its FEIS. Therefore, both the Interior and FPC staffs will have an opportunity to consider all comments prior to distribution of Interior's FEIS.

Any person who wishes to do so may file comments on the DEIS. All comments must be filed on or before January 10, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35089 Filed 11-29-76;8:45 am]

[Docket No. ES77-3]

GULF STATES UTILITIES CO.

Application

NOVEMBER 19, 1976.

Take notice that on November 16, 1976, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 100,000 Additional Shares of Common Stock.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

The Applicant proposes to sell the Additional Common Stock from time to time pursuant to the provisions of a Dividend Reinvestment and Stock Purchase Plan in accordance with the Commission's Regulations under the Federal Power Act.

The proceeds from the sale of the new securities will be added to the general funds of the Company to be used, among other things to provide part of the funds to carry forward the Company's construction program and pay short-term notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 16, 1976, file with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35084 Filed 11-29-76;8:45 am]

[Docket Nos. ER77-23, ER77-24, ER77-25, ER77-26, ER77-28, and ER77-29]

ILLINOIS POWER CO.

Electric Rates: Increase; Order Accepting Proposals

NOVEMBER 19, 1976.

In the matter of order accepting proposals for filing, suspending, consolidating, denying motion to reject, granting intervention, and establishing procedures.

On October 20, 1976, the Illinois Power Company (Illinois Power) tendered for filing proposed Modification No. 2 to its Interconnection Agreements with the City of Mascoutah (ER77-23), the Cities of Breese and Carlyle (ER77-24), the Village of Freeburg (ER77-25), the City of Highland (ER77-26). Illinois Power filed identical proposed amendments to the interconnection agreements with the City of Peru (ER77-28) and the City of Princeton (ER77-29) on October 22, 1976. The proposed Modification No. 2 provides for an increase in the demand charges for short-term firm and maintenance power transactions. Illinois Power requested an effective date of November 20, 1976 for all five dockets.

Public notice of each of Illinois Power's filing was issued on November 1, 1976, with all protests and petitions to intervene due on or before November 15, 1976. On November 11, 1976, the municipalities of Mascoutah, Breese, Carlyle, Freeburg, Highland, Waterloo, Peru, and Princeton (Municipalities) filed, in one pleading, a petition to intervene, motion for consolidation, and motion to reject. In support of the motion to reject, municipalities allege that Illinois' filing does not comply with the Federal Power Commission's regulations under § 35.13(b)(4)(i) and (b)(5)(1).

The Commission's review of the filing indicates that there is no good cause for rejection. Although the proposed rates result in the aggregate in an increase in revenue in excess of $50,000 annually, the Commission waives the case-in-chief filing requirement in that the proposed rates have been previously accepted for filing for other Illinois Power customers receiving similar service[1] and the cost support filed by Illinois Power was sufficient to meet the requirements of the regulations.

Commission review of the proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly, the proposals should be accepted for filing and suspended for one day, to become effective subject to refund, on November 21, 1976, for filings in Docket Nos. ER77-23, ER77-24, ER77-25 and ER77-26 and on November 23, 1976, for filings in Docket Nos. ER77-28 and ER77-29. Inasmuch as the proceedings involve common issues of law and fact, we shall consolidate them for purposes of hearing and decision.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the modifications proposed in the above-referenced dockets be accepted for filing and suspended for one day, to become effective November 21, 1976, for filings in Docket Nos. ER 77-23, ER77-24, ER77-25 and ER77-26 and on November 23, 1976, for filings in Docket Nos. ER77-28 and ER77-29, pending hearing and decision as to their lawfulness.

(2) Good cause has not been shown to grant municipalities' motion to reject Illinois Power's filing.

(3) Intervention in these proceedings by the petitioners named herein may be in the public interest.

(4) Good cause exists to consolidate Docket Nos. ER77-23, ER77-24, ER77-25, ER77-26, ER77-28, and ER77-29.

The Commission orders: (A) Pursuant to the authority contained in the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates contained in Illinois Power's proposed agreement modifications filed in Docket Nos. ER77-23, ER77-24, ER77-25, ER77-26, ER77-28, and ER77-29.

(B) Pending a hearing and decision thereon, Illinois Power's proposed agreement modifications tendered in the above-referenced dockets are hereby accepted for filing and suspended for one day, to become effective subject to refund, on November 21, 1976 for filings in Docket Nos. ER 77-23, ER77-24, ER77-25 and ER77-26 and on November 23, 1976, for filings in Docket Nos. ER77-28 and ER77-29.

(C) The petitioners named herein are hereby permitted to intervene in this consolidated proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of these intervenors shall be limited to matters effecting the rights and interests specifically set forth in their petitions to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) Nothing contained herein shall be construed as limiting the rights of parties regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure, 18 CFR 1.18.

(E) Municipalities' motion to reject is hereby denied.

(F) The proceedings in Docket Nos. ER77-23, ER77-24, ER77-25, ER77-26,

[1] Illinois Power Company FPC Rate Schedule Nos. 9, 11, 48, 50, 63 and 64.

ER77-28, and ER77-29 are hereby consolidated for hearing and for all other purposes.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on December 17, 1976, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions(with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(H) Illinois Power shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission Regulations, 18 CFR Section 35.19a.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof on the wholesale customers of Illinois Power.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35081 Filed 11-29-76;8:45 am]

[Docket No. RM75-14]

JURISDICTIONAL SALES OF NATURAL GAS

Acceptance of Filings

NOVEMBER 22, 1976.

In the matter of National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on or after January 1, 1973, for the Period January 1, 1975 to December 31, 1976.

On November 15, 1976, producers Dorchester Exploration, Inc., Bethlehem Steel Corporation, The Rodman Corporation, Kirby Exploration Company, and Permian Corporation made revised rate filings as required by Opinion No. 770-A, issued November 5, 1976, in the above-designated docket. Pursuant to Opinion No. 770-A, producers were required to make a new rate filing by November 12, 1976.

Transcontinental Gas Pipe Line Corporation, as purchaser from Dorchester Exploration and Bethlehem Steel, and Cities Service Gas Company, as purchaser from Rodman, were said to have reviewed their producers' filings and to have no objection to the one-working-day filing delay.

For good cause shown by the above-mentioned producers, their revised rate filings made pursuant to Opinion No. 770-A shall be accepted as timely filed.

On November 10, 11, and 12, Skelly Oil Company, Murphy Oil Corporation, and Energy Reserves Group, Inc., respectively, filed motions to extend the time for making revised producer rate filings pursuant to Opinion No. 770-A. As stated in our Notice of Denial of Motions for Extension of Time, issued November 9, 1976, all filing dates required by the orders in this docket shall remain unchanged, including the dates for filings to be made by pipelines. The motions of Skelly Oil, Murphy Oil, and Energy Reserves Group, Inc., are hereby denied.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35088 Filed 11-29-76;8:45 am]

[Docket No. ER77-54]

KENTUCKY UTILITIES CO.

New Delivery Point

NOVEMBER 22, 1976.

Take notice that on November 11, 1976, the Kentucky Utilities Company (KU Co.) tendered for filing a change in its Rate Schedule FPC No. 82 to include an additional delivery point, to be known as the Reed Crushed Stone delivery point, as requested by the Jackson Purchase RECC (Jackson). According to KU Co., the new delivery point is in keeping with the contract between KU Co. and Jackson, specifically section 4: and KU Co. expects service to begin on or about December 15, 1976, which it requests as the effective date.

KU Co. states that no reasonable billing estimates can be made since the load served will be that transferred from other delivery points from time to time. KU Co. further states that copies of the tendered filing have been sent to Jackson and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35078 Filed 11-29-76;8:45 am]

[Docket No. ER77-50]

MONTAUP ELECTRIC CO.

Filing

NOVEMBER 22, 1976.

Take notice that Montaup Electric Company on November 10, 1976 tendered for filing a service agreement made as of September 31, 1976, with the Taunton Municipal Lighting Plant for transmission service on Montaup's Pool Transmission Facilities of five megawatts of unit power purchased by Taunton from Vermont Yankee Nuclear Power Company under contract dated December 30, 1975. The service agreement is for the period November 1, 1976 through October 31, 1978. Montaup requests waivers necessary to permit the service agreement to become effective as of November 1, 1976, and consents, as a condition of such waivers, to refund any portion of the rate found after hearing to be unjust and unreasonable or otherwise unlawful.

Copies of the filing were served Taunton and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35082 Filed 11-29-76;8:45 am]

[Docket No. RP77-14]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed Changes In FPC Gas Tariff

NOVEMBER 18, 1976.

Take notice that National Fuel Gas Supply Corporation ("National") on November 17, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by approximately $2,779,744, based on the twelve month period ended December 31, 1975, as adjusted.

National states that the increased rates are required to recoup increased operating costs over and above those claimed in Docket No. RP76-96 as the result of Tennessee Gas Pipeline Company filing for an increase in its T-1 and T-28 rate schedules in Docket No. RP76-137 on July 30, 1976. National states that the proposed rates do not include the appropriate gas purchase adjustment as provided by its purchased gas adjustment clause. At such time as the increased rates are to become effective, National will make the appropriate filing to reflect the applicable purchase gas adjustment in effect at that time.

National requests that this filing be consolidated with Docket No. RP76-96 for final determination. Also, National requests a shortened suspension period to allow its rates to become effective

February 1, 1977, concurrently with the increased rates of Tennessee Gas Pipeline Company in Docket No. RP76–137.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35076 Filed 11-29-76;8:45 am]

[Docket Nos. RP76-53 and RP76-60 (PGA77-1a)]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Purchased Gas Cost Adjustment Rate Change

NOVEMBER 19, 1976.

Take notice that South Texas Natural Gas Gathering Company ("South Texas"), on November 15, 1976, tendered for filing with the Federal Power Commission its Substitute First Revised Exhibit A (Substitute First Revised PGA–2). The proposed change reflects an increase in South Texas' rate to Transcontinental Gas Pipe Line Corporation of 27.24 cents per Mcf.

Copies of the filing were served by South Texas upon its only affected customer, Transcontinental Gas Pipe Line Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35085 Filed 11-29-76;8:45 am]

[Docket No. ER77-56]

SOUTHERN CALIFORNIA EDISON CO.

Filing of Initial Rate Schedule and Request for Waiver

NOVEMBER 22, 1976.

Take notice, that Southern California Edison Company (Edison), on November 11, 1976, tendered for filing a letter agreement for temporary service dated September 17, 1976, between the State of California Department of Water Resources and certain parties to the Contract Between California Suppliers and the State of California for the Sale, Exchange, and Transmission of Electric Capacity and Energy for the Operations of State Water Project Pumping Plants (Suppliers' Contract). The present agreement is to allow for requisite energy flows in order to accommodate a temporary water exchange program brought about by drought conditions affecting, in particular, the Dudley Ridge Water District in western Kings County, California. Energy requirements overall will be reduced by virtue of this arrangement.

Edison states that it is necessary that service be initiated under this temporary agreement on or about November 17, 1976. For that reason, Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective as of November 17, 1976.

Copies of this filing were served upon Parties to the Suppliers' Contract and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35080 Filed 11-29-76;8:45 am]

[Docket No. ER77-41]

WISCONSIN POWER & LIGHT CO.

Filing of New Service Schedule A Agreement

NOVEMBER 22, 1976.

Take Notice that on November 4, 1976, Wisconsin Power and Light Company (WPL) tendered for filing a Service Schedule A (Revision dated September 1, 1976) to the Interconnection Agreement dated April 1, 1976, between Madison Gas and Electric Company and Wisconsin Power and Light Company. The provisions of this Revised Service Schedule A are to be effective January 1, 1977.

The Service Schedule sets the Contract Energy Rate at 110 percent of the out-of-pocket cost of delivering energy to the points of interconnections on accordance with the procedures set forth in the Basic Agreement on file with the Federal Power Commission.

WPL states that signed copies of Service Schedule A have been provided to MGE.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35079 Filed 11-29-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 45]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending November 6, 1976

ACTIONS OF THE BOARD

Equal Credit Opportunity Act, the Board issued revised proposals for changes in its Regulation B to carry out the 1976 Amendments to the Equal Credit Opportunity Act; the Board requested comment through December 3, 1976 (Docket No. R–0031).

Consumer Advisory Council. Rules of Organization and Procedure (Docket No. R–0061).

Issuance of subordinated capital notes by Merchants and Farmers State Bank of Weatherford, Weatherford, Tex.

Bank of the Commonwealth, Detroit, Mich., to make an investment in bank premises.

Chemical New York Corp., New York, N.Y., relief from certain restrictions contained in the Board's Order of June 27, 1975.

Illinois National Bancorp, Ind., Springfield, Ill., extension of time to January 9, 1977, within which to become a bank holding company through the acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The Illinois National Bank of Springfield, Springfield, Ill.[1]

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[1] Application processed on behalf of the Board of Governors under delegated authority.

Republic of Texas Corp., Dallas, Tex., extension of time to January 21, 1977, within which to consummate the acquisition of First National Bank in Brownwood, Brownwood, Tex.[1]

SYB Corp., Oklahoma City, Okla., extension of time to December 8, 1976, within which to consummate the acquisition of The Stock Yards Bank, Oklahoma City, Okla.[1]

Termination as a registered lender under Regulation G for 66 Federal Credit Union, Bartlesville, Okla.[1]

Central State Bank, Connersville, Ind., to make an investment in bank premises.[1]

Citizens Bank of New Haven, Mo., to make an investment in bank premises.[1]

First Bank and Trust Co. of South Bend, South Bend, Ind., to make an investment in bank premises.[1]

Monroe City Bank, Monroe City, Mo., to make an additional investment in bank premises.[1]

BN Bank of Northfield, Northfield, Ill., proposed merger with Bank of Northfield, Northfield, Ill.; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Metropolitan Bank and Trust Co., Bridgeport, Conn., proposed merger with Union Trust Co. of Bridgeport, Bridgeport, Conn.; report to the Federal Deposit Insurance Corp. on competitive factors.[1]

Subsidiaries of Flagship Banks, Inc., Miami Beach, Fla., proposed merger with Flagship National Bank of Miami, Miami, Fla.; 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.

To establish a domestic branch pursuant to section 9 of the Federal Reserve Act.

APPROVED

Barclays Bank of New York, New York, N.Y. Branch to be established at 19 Nassau Street, New York County.[2]

First Bank and Trust Co. of South Bend, South Bend, Ind. Branch to be established at the Southwest corner of U.S. 20 (McKinley Highway) and Bitter Rd., Osceola.[2]

To establish an overseas branch of a member bank pursuant to section 25 of the Federal Reserve Act.

APPROVED

UBAF ARAB AMERICAN Bank, New York, Branch—George Town, Grand Cayman, Cayman Islands.

Pacific National Bank of Washington, Branch—George Town, Grand Cayman, Cayman Islands.

To organize or invest in, a corporation doing foreign banking and other foreign financing pursuant to section 25 or 25(a) of the Federal Reserve Act.

APPROVED

Morgan Guaranty Trust Co. of New York. To establish an Edge Corp. to be known as, "Morgan Guaranty International Bank of Miami".

International investments and other actions 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.

APPROVED

Boston Overseas Financial Corp. Investment—Additional in Arrendadora Industrial Venezolana C.A., to maintain its 24 per cent interest.

Bank of America, N.T. and S.A. Investment—to acquire 49 per cent of a De Novo Commercial Bank, Cairo, Egypt.

To form a bank holding company pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

RETURNED

Columbia Bancorp., Kennewick, Washington, for approval to acquire 80 per cent or more of the voting shares of Columbia Bank, National Association, Kennewick, Washington.

APPROVED

First Freeport Corp., Freeport, Ill., for approval to acquire 100 per cent (less directors' qualifying shares) of the successor by merger to First National Bank of Freeport, Freeport, Ill.

Millikin Bancshares, Inc., Decatur, Ill., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The Millikin National Bank of Decatur, Ill.

Dorchester State Co., Dorchester, Nebr., for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Citizens State Bank, Dorchester, Nebraska.[2]

To expand a bank holding company pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

RETURNED

The Citizens and Southern National Bank, Savannah, Ga., for permission to retain 31.5 percent of the voting shares of Commercial Bank, Waycross, Ga.

APPROVED

Northeast Bancorp, Inc., New Haven, Conn., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Metropolitan Bank & Trust Co., Bridgeport, Conn.[2]

Estate of James Millikin, Deceased, Decatur, Ill., for approval to acquire 55 percent of the voting shares of Millikin Bancshares, Inc., Decatur, Ill. and indirectly acquire the successor by merger to The Millikin National Bank of Decatur, Decatur, Ill.

Bank Land Co., Denver, Colo., for approval to acquire an additional 16.9 percent of the voting shares and to retain 8 percent of the voting shares of Southwest State Bank, Denver, Colo.

To expand a bank holding company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

RETURNED

Columbia Bancorp., Kennewick, Wash., for approval to acquire the shares of Columbia Pacific Mortgage, Inc. and Columbia Pacific Leasing, Inc., both of Richland, Wash.

DELAYED

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding, convenience insurance, fire, casualty and theft insurance to protect household goods held as collateral during the periods of credit extensions) at Lebanon Valley Mall, Route 422, West Lebanon, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (11/5/76).[2]

Mid America Bancorporation, Inc., Minneapolis, Minnesota, notification of intent to engage in de novo activities (the placement and servicing of real estate mortgages of all kinds including but not limited to mortgages on industrial, commercial, apartments, and homes) at 815 Foshay Tower, Minneapolis, Minnesota, through a division of the corporation known as Mid America Mortgage Company (11/3/76).[2]

PERMITTED

Chemical New York Corporation, New York, New York, notification of intent to relocate de novo activities (leasing real and personal property and equipment on a non-operating full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by a commercial finance company; and servicing such extensions of credit) from 1760 Century Circle, N.E., Suite 4, Atlanta, Georgia to 5775–C Peachtree Dunwoody Road, N.E., Suite 530, Atlanta, Georgia, through its subsidiary, Chemlease, Inc. (10/31/76).[2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (consumer home equity lending secured by real estate, making loans for the account of others such as one-to-four family unit mortgage loans; the offering to sell of level (in the case of single payment loans) term life insurance to cover the outstanding balances of consumer credit transactions, singly or jointly, with their spouses or co-signers in the event of death; in regard to all credit related insurance sales, the establishment will not act as a general insurance agency and will otherwise comply with all applicable State insurance laws and regulations) from 2507 South State Street, Salt Lake City, Utah to Cottonwood Mall, 4835 Highland Drive, Salt Lake City, Utah and from 1015 South State Street, Orem, Utah to University Mall, Orem, Utah and also at 2085 West 3500 South, Granger, Utah and 432 West Main Street, Vernal, Utah, through Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Utah (11/4/76).[2]

Bancshares of North Carolina, Inc., Raleigh, North Carolina, notification of intent to engage in "de novo" activities (assisting corporations in the selection of the type of retirement plan or plans (profit sharing, money-purchase pension, pension thrift, ESOP, etc.) that will best accomplish their goals and be within their economic means, assisting the corporation's legal counsel in designing the plan(s), periodically evaluating existing retirement plans to determine if they are meeting corporate investment goals and payout requirements, and assistance to plan administrators in maintaining plan participant records and in meeting the various regulatory reporting requirements under ERISA (Pension Reform Act) at 3509 Haworth Drive, Raleigh, North Carolina, through a subsidiary, Qualified Plan Services, Inc. (11/4/76).[2]

[1] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in "de novo" activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit and acting as agent in the sale of insurance protecting collateral held against its extensions of credit) at 1316 26th Avenue, Gulfport, Mississippi and 3234 Pascagoula Street, Pascagoula, Mississippi, through a subsidiary, Landmark Financial Services, Inc. (11/1/76).[3]

Southeast Banking Corporation, Miami, Florida, notification of intent to engage in "de novo" activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency, or custodian nature) at 1007 South Federal Highway, Deerfield Beach, One Independent Drive, Jacksonville, and 200 Canal Street, New Smyrna Beach, all located in Florida, through a subsidiary, Southeast Banks Trust Company, N.A. (11/3/76).[3]

First Wisconsin Corporation, Milwaukee, Wisconsin, notification of intent to engage in "de novo" activities (acting as agent in the sale of credit life insurance and credit accident and sickness insurance in connection with extensions of charge card credit and check credit made by banking subsidiaries of First Wisconsin Corporation for the purpose of assuring repayment of such credit to the lending bank in the event of death or disability of the borrower) at 777 East Wisconsin Avenue, Milwaukee, Wisconsin, through its subsidiary, First Wisconsin Insurance Services, Inc. (11/4/76).[3]

Citizens Fidelity Corporation, Louisville, Kentucky, notification of intent to engage in "de novo" activities (leasing of personal property and equipment, and acting as agent, broker, or adviser in the leasing of such property) at Fidelity Federal Building, 401 Union Street, Nashville, Tennessee, through a subsidiary, Citizens Fidelity Leasing Corporation (11/6/76).[3]

Mercantile Bancorporation Inc., St. Louis, Missouri, notification of intent to relocate "de novo" activities (making, acquiring, or servicing loans or other extensions of credit for personal, family, or household purposes such as are made by a finance company; an insurance agency or brokerage in connection with selling to consumer finance borrowers credit life insurance, credit accident and health insurance, and property damage insurance for collateral securing loans made to borrowers) from 1670A Highway 171–Northbridge Ter., Charleston, South Carolina to 1414 Savannah Highway, Charleston, South Carolina, through its subsidiary, Franklin Finance Company (11/1/76).[3]

APPROVED

Southern Bancorporation, Inc., Greenville, South Carolina, for approval to acquire all of the stock and warrants of Pioneer Management Company, Inc., Jacksonville, Texas.

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to section 9 of the Federal Reserve Act.

The First-Mason Bank, Mason, Ohio. Branch to be established at the corner of State Route 22–3 and Columbia Road, Loveland, Clermont and Warren Counties.

To Establish an Overseas Branch of a Member Bank Pursuant to section 25 of the Federal Reserve Act.

Detroit Bank and Trust Company, Branch—George Town, Grand Cayman, Cayman Islands.

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

The Daiwa Bank, Limited, Osaka, Japan, for approval to acquire 100 percent of the voting shares of Daiwa Bank Trust Company, New York, New York, a proposed new bank.

European-American Bancorp, New York, New York, for approval to acquire directly 91.28 percent and indirectly 8.72 percent (less directors' qualifying shares) of the voting shares of European-American Bank & Trust Company, New York, New York.

First Security Corporation, Harrison, Arkansas, for approval to acquire 98.4 percent of the voting shares of The Security Bank, Harrison, Arkansas.

First Company, Powell, Wyoming, for approval to acquire 80 percent or more of the voting shares of The First National Bank of Powell, Powell, Wyoming.

First National Bancshares of Dodge City, Inc., Dodge City, Kansas, for approval to acquire 87.1 percent of the voting shares of First National Bank in Dodge City, Dodge City, Kansas.

Osborn Bancshares, Inc., Osborn, Missouri, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Bank of Osborn, Osborn, Missouri.

To Expand a Bank Holding Company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

Hawkeye Bancorporation, Des Moines, Iowa, for approval to acquire 60 percent or more of the voting shares of Commercial State Bank, Marshalltown, Iowa.

Central Bancompany, Jefferson City, Missouri, for approval to acquire not less than 57 percent of the voting shares of The First National Bank of Mexico, Mexico, Missouri.

To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to section 3 of the Bank Holding Company Act of 1956.

The Indiana National Corporation, Indianapolis, Indiana, for permission to retain 3.16 percent of the shares of Gary National Bank, Gary, Indiana.

To Expand a Bank Holding Company Pursuant to section 4(a)(8) of the Bank Holding Company Act of 1956.

European-American Bancorp, New York, New York, for approval to acquire all of the shares (less directors' qualifying shares and 130 additional shares) of European-American Banking Corporation, New York, New York.

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in "de novo" activities (making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding, convenience insurance, fire, casualty and theft insurance to protect household goods held as collateral during the periods of credit extensions) at Lebanon Valley Mall, Route 422, West Lebanon, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (11/1/76).[3]

First Pennsylvania Corporation, Philadelphia, Pennsylvania, notification of intent to engage in "de novo" activities (making, acquiring, or servicing for its own account or for the account of others, loans or other extensions of credit in particular commercial lending related to lease transactions and conditional sales financing) at Centre Square West, 16th and Market Streets, Philadelphia, Pennsylvania, through its subsidiary, First Pennsylvania Leasing, Inc. (10/25/76).[3]

CB&T Bancshares, Inc., Columbus, Georgia, notification of intent to relocate "de novo" activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a first mortgage company; and writing and issuing mortgage cancellation insurance and credit accident and health insurance in connection with the extension of credit such as would be made by a first mortgage company) from 1501 Thirteenth Street, Columbus, Georgia to 5670 Whitesville Road, Columbus, Georgia, through its subsidiary, The Georgia Company of America (11/5/76).[3]

D.H. Baldwin Company, Cincinnati, Ohio, for approval to acquire Louisville Mortgage Service Company, General Realty Corporation of Kentucky, Inc., and Heart of Louisville, Inc., all located in Louisville, Kentucky (the origination, selling, and servicing of mortgage loans and acting as insurance agent for the sale of credit related insurance; engaging indirectly through its subsidiary General Realty Corporation of Kentucky, Inc. in the holding of title to real estate which is pledged to secure various of company's and General's indebtedness engaging indirectly through Heart of Louisville, by virtue of company's 9.52 per cent voting stock interest in Heart in the leasing of real property).

Texas American Bancshares Inc., Fort Worth, Texas, notification of intent to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at Livestock Exchange Building, 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (10/26/76).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; 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 effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease from rentals; estimated tax benefits (investment tax credit), net economic gain from tax deferral from accelerated depreciation and other tax benefits with a substantially similar effect); the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor and in the

case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 10080 North Wolfe Road, Cupertino, California, through its subsidiary, Rainier Credit Company (11/1/76).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in "de novo" activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; 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 effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease from: rentals; estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect); the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor and in the case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 1241 East Shaw Avenue, Fresno, California, through its subsidiary, Rainier Credit Company (11/1/76).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; 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 effect of the transaction (and, with respect to governmental entities only, reasonably, anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease from rentals; estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect); the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor and in the case of a lease of not more than 7 years in duration, such additional amount, which shall not exceed 60 per cent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors and with regard to consumer credit related property and casualty insurance on personal property subject to security agreements with Rainier Credit Company) at 8888 S.W. Canyon Road, Portland, Oregon, through its subsidiary, Rainier Credit Company (11/1/76).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: Credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgage disability insurance) at 1047 W. Foothill Blvd., Upland, California, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (10/27/76).[3]

REPORTS RECEIVED

Ownership Statement Filed Pursuant to section 13(d) of the Securities Exchange Act.

Bank of the Commonwealth, Detroit, Michigan. (Filed by James T. Barnes, Sr.—Amendment No. 6)

Bank of the Commonwealth, Detroit, Michigan. (Filed by James T. Barnes, Jr.—Amendment No. 7).

PETITIONS FOR RULEMAKING

None.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34952 Filed 11-29-76;8:45 am]

BOATMEN'S BANCSHARES, INC.

Order Approving Acquisition of Boatmen's Life Insurance Company

Boatmen's Bancshares, Inc., St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act ("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 all of the voting shares of Boatmen's Life Insurance Company, Phoenix, Arizona ("BLIC"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance which is directly related to extensions of credit by certain subsidiary banks of Applicant. 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 FEDERAL REGISTER 42987). 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 fifth largest banking organization in Missouri, controls fourteen subsidiary banks with aggregate deposits of $886 million, representing approximately 5.1 per cent of the total deposits in commercial banks in the State.[1] Applicant also engages in mortgage banking activities through a nonbank subsidiary.

BLIC is presently a nonoperating company. Upon consummation of the instant proposal, BLIC's activities will be limited to acting as reinsurer of credit life and credit accident and health insurance directly related to extensions of credit by thirteen of Applicant's existing subsidiary banks. BLIC, which will be formed as an Arizona insurance corporation, will be qualified to underwrite insurance directly only in Arizona. Accordingly, the insurance sold by Applicant's subsidiaries will be directly underwritten by an unaffiliated insurance company qualified to do business in Missouri and will thereafter be assigned or ceded to BLIC under a reinsurance agreement. Since this proposal involves a "de novo" acquisition, 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 are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding com-

[1] Unless otherwise indicated, all banking data are as of December 31, 1975.

pany performance of this service. (12 CFR 225.4(a)(10) n. 7).

Applicant proposes, upon approval of the application, to reduce premiums on the credit life insurance that it underwrites by 15 per cent from the prima facie rates that are currently being charged customers of Applicant's subsidiary banks. Applicant also proposes to offer the credit life and credit accident and health insurance that it underwrites at premium rates ranging from 1.7 to 34.4 per cent below those charged currently, depending upon the type of coverage. In addition, Applicant would make available through thirteen of its subsidiary banks additional types of coverage not presently available at the banks. The Board is of the view that Applicant's proposed reductions in insurance premiums 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 section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis.

By order of the Board of Governors,[2] effective November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34941 Filed 11-29-76;8:45 am]

DELTA BANCORPORATION, INC.

Order Approving Formation of Bank Holding Company

Delta Bancorporation, Inc., Denver, Colorado, 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)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Colorado Bank and Trust Company, of Delta, Colorado, Delta, Colorado ("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 in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, with deposits of $21.8 million,[1] is the largest of six banking organizations in the relevant banking market[2] and controls approximately 41 percent of total market deposits. Upon acquisition of Bank, Applicant would control the 72nd largest banking organization in Colorado, holding 0.3 percent of the total commercial bank deposits in the State. Inasmuch as the proposed transaction is merely a restructuring of present ownership into corporate form, and since Applicant presently has no subsidiaries and does not engage in any activities, consummation of the proposal would not eliminate existing or potential competition nor increase the concentration of banking resources in the relevant market. Applicant's principals are principals in a number of other Colorado one-bank holding companies, the nearest of which is located approximately 70 miles north of Bank and in a separate banking market. These principals also have interests in banks located in the States of Nebraska and Wyoming which do not compete in Bank's market. Accordingly, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant, which are dependent upon those of Bank, are considered to be satisfactory, and future prospects appear favorable. While Applicant will incur a sizable debt as a result of this proposal, Applicant plans to meet its debt servicing requirements through dividends declared by Bank, as well as cash payments made by Bank to Applicant and retained by Applicant to the extent that they represent savings from filing consolidated tax returns. Thus, it appears that Applicant will be able to meet its debt service requirements without adversely affecting the financial position of Bank. Furthermore, financial and managerial resources of the banking organizations with which Applicant's principals are affiliated are regarded as satisfactory. Accordingly, considerations relating to banking factors are consistent with approval of the application. While no major changes are contemplated in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that the proposed transaction would be consistent with the public interest and that the application 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 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 delegated authority.

By order of the Board of Governors,[3] effective November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34942 Filed 11-29-76;8:45 am]

FIRST COMMERCIAL BANKS, INC.

Order Approving Acquisition of Bank

First Commercial Banks, Inc., Albany, New York, 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 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The Chester National Bank, Chester, New York ("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 views and comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the twelfth largest banking organization in New York State, controls five banks with aggregate deposits of approximately $1.4 billion, representing 1.07 per cent of the total deposits in commercial banks in the State.[1] Applicant's acquisition of bank would not increase significantly Applicant's share of commercial bank deposits in New York State and would not affect its rank among the State's banking organizations.

Bank (deposits of $47 million) operates ten banking offices in two contiguous banking markets, the Middletown banking market[2] and the Mid-Hudson banking market,[3] which are the relevant geographic markets for purposes of

[2] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

[1] All banking data are as of December 31, 1975.

[2] The relevant banking market is approximated by Delta County, Colorado.

[3] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

[1] Unless otherwise indicated, banking data are as of December 31, 1975.

analyzing the competitive effects of the proposed acquisition. Bank has eight offices with 6.9 per cent of the total deposits in commercial banks in the Middletown market and is the fourth largest of 17 banks operating in that market. Applicant currently is not represented in the Middletown market. In the Mid-Hudson market, Bank operates two offices and is the nineteenth largest of twenty-six banking organizations in that market. Applicant's subsidiary, Kingston Trust Company ("Kingston"), Kingston, New York, operates 10 offices in the Mid-Hudson market and holds market deposits of $68 million, representing 7.0 per cent of the total deposits in commercial banks in the market.[4] Applicant is thereby the seventh largest banking organization in the Mid-Hudson market. However, Applicant's acquisition of Bank would not result in a significant increase in Applicant's share of the total market deposits and, in view of the facts of record which indicate that neither Bank nor Kingston derives a significant amount of business from the other's service area, would not result in the elimination of a significant amount of existing competition.

In assessing the effects of the proposal on potential competition, the Board is of the opinion that there are only slightly adverse competitive effects. While Applicant could enter the Middletown market "de novo" and could expand "de novo" within the Mid-Hudson market, neither the Mid-Hudson nor the Middletown banking market is highly concentrated, with the former having twenty-four other banking organizations and the latter sixteen other banking organizations. In addition, 13 independent banks in the Mid-Hudson market and 8 such banks in the Middletown market would remain as possible entry vehicles for other banking organizations. While it is the Board's view that consummation of the proposed acquisition would result in some adverse effects on competition in the relevant banking markets, the Board does not regard them as significant and believes that they must be examined in light of the financial, managerial, and convenience and needs considerations discussed below.

The financial condition and managerial resources of Applicant and its subsidiaries are considered satisfactory and their future prospects appear favorable. The financial and managerial resources and future prospects of Bank are not entirely satisfactory at the present time but are expected to show marked improvement as a result of Bank's affiliation with Applicant. Applicant has committed that, upon consummation of the acquisition, it would make a contribution of funds to increase Bank's capital position and would provide additional experienced personnel to augment Bank's management. The Board regards these commitments as significant and believes that the financial and managerial factors lend weight toward approval of the application.

Affiliation with Applicant would enable Bank to draw upon Applicant's resources and expertise and thereby offer expanded services to Bank's customers. Applicant states that, following consummation of the acquisition, Bank would make available to its customers new services, including trust services, international services, and point-of-sale electronic terminals. It is expected that enabling Bank's customers to obtain these services through Bank would result in Bank becoming a more attractive banking alternative and a stronger competitor in the relevant banking market. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and, considered together with the financial and managerial factors discussed above, outweigh any adverse competitive effects that might result from consummation of the proposal.

On the basis of the record, the application is approved for the reasons summarized above. The transaction should not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[5] effective November 19, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34943 Filed 11-29-76;8:45 am]

[4] The Middletown banking market is approximated by Sullivan County and all of Orange County except the Newburgh area. The Mid-Hudson market is approximated by Dutchess and Ulster Counties and the Newburgh area of Orange County.

[4] As of June 30, 1975.

[5] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

FIRST COMPANY

Formation of Bank Holding Company

First Company, Powell, Wyoming, 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 The First National Bank of Powell, Powell, Wyoming. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1976.

Board of Governors of the Federal Reserve System, November 16, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34944 Filed 11-29-76;8:45 am]

FREDERICKSBURG FINANCIAL CORP.

Formation of Bank Holding Company

Fredericksburg Financial Corporation, Fredericksburg, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 81 per cent or more of the voting shares of Fredericksburg National Bank, Fredericksburg, 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 at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 13, 1976.

The Board of Governors of the Federal Reserve System, November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34945 Filed 11-29-76;8:45 am]

GREAT SOUTHWEST BAN CORP.

Formation of Bank Holding Company

Great Southwest Ban Corp., Dodge City, 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 per cent or more of the voting shares of Bank of The Southwest, Dodge City, 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)).

Great Southwest Ban Corp., Dodge City, Kansas has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain the shares of a wholly-owned insurance agency subsidiary of Great Southwest Ban Corp., Dodge City, Kansas. Notice of the application was published on November 4, 1976, in The Dodge City Daily Globe, a newspaper circulated in Dodge City, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of selling decreasing credit life, accident and health insurance, which is directly related to extensions of credit. 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 request 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 December 20, 1976.

Board of Governors of the Federal Reserve System, November 19, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34946 Filed 11-29-76;8:45 am]

OLD STONE CORP.

Order Approving Acquisition of The New Bedford Morris Plan Co. and Morris Plan Bank and Banking Co. of Chelsea

Old Stone Corporation, Providence, Rhode Island ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("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 certain assets and assume certain liabilities[1] of The New Bedford Morris Plan Company, New Bedford, Massachusetts ("New Bedford Company"), and Morris Plan Bank and Banking Company of Chelsea, Chelsea, Massachusetts ("Chelsea Company"), companies that engage in activities of Morris Plan banks, including selling investment certificates (equivalent to receiving time and savings deposits), making consumer loans, and acting as insurance agent with respect to insurance directly related to extensions of credit, and, in addition, to engage in the activity of originating first mortgage loans. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (2), and 9(ii)(a)).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 48611 and 49890 (1976)). 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 second largest banking organization in Rhode Island, controls one subsidiary bank with total deposits of $885.1 million,[2] representing 26.1 per cent of total deposits in commercial banks in Rhode Island as of March 31, 1976. In addition, Applicant controls two nonbanking subsidiaries, which respectively engage in holding equity investments in real estate and serving as investment adviser and administrator of a real estate investment trust. These activities are engaged in pursuant to the limited "grandfather" exemption of section 4(a)(2) of the Act.

New Bedford Company holds deposits[2] of $2.0 million and Chelsea Company holds deposits of $2.6 million. Neither company receives demand deposits or makes commercial loans. The two firms are currently affiliated with each other through common ownership and are the only two Morris Plan banks currently operating in the State of Massachusetts. In that state, the operations of Morris Plan banks are specifically authorized by statute and subjected by statute to examination and regulation. New Bedford Company operates two offices, one in New Bedford and the other in Taunton. Chelsea Company also operates two offices, one in Chelsea and the other in the Roslindale section of Boston.

At present, there is no competition between Applicant's subsidiaries and the two Morris Plan banks, although Applicant's subsidiary bank does derive an insignificant amount of loans and deposits from the Morris Plan banks' markets in Massachusetts. Applicant's subsidiaries have no offices in the market areas served by New Bedford Company and Chelsea Company. In addition, consummation of the acquisitions would have no significant adverse effect on potential competition in either the Chelsea or New Bedford market given the large number of banking and consumer finance alternatives already existing in the relevant markets, low barriers to entry into the consumer finance field, and the competitive weakness of both Morris Plan banks. Hence, consummation of the proposal would not have any significant adverse effects on existing or potential competition in any relevant market. There is no evidence in the record to indicate that consummation of the proposed acquisitions would lead to an undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects.

Both New Bedford Company and Chelsea Company are in need of financial assistance. Both are subsidiaries of a Delaware corporation that is currently undergoing reorganization under Chapter XI of the Bankruptcy Act and thus is incapable of rendering such assistance in a timely fashion. Applicant proposes to inject, without incurring debt, $300,000 in capital to the successor to New Bedford Company and $700,000 in capital to Chelsea Company's successor. Consummation of the proposal would increase competition by enhancing the competitive viability of the two Morris Plan banks. Furthermore, Applicant plans to obtain either public or private insurance on all deposits at the successor institutions to New Bedford Company and Chelsea Company, deposits in which are not currently insured. In addition, Applicant plans to expand services provided by New Bedford Company and Chelsea Company to include first mortgage loans, second mortgage loans, home improvement loans, and mobile home loans.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits that outweigh possible adverse effects. 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 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 Federal Reserve Bank of Boston.

By order of the Board of Governors,[4] effective November 19, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34947 Filed 11-29-76;8:45 am]

OSBORN BANCSHARES, INC.

Formation of Bank Holding Company

Osborn Bancshares, Inc., Osborn, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Bank of Osborn, Osborn, Missouri. The factors that are considered in acting on the application

[1] Applicant's proposal also encompasses the formation of two Morris Plan banks that would receive the assets and liabilities of New Bedford Co. and Chelsea Co., respectively.

[2] Unless otherwise indicated, banking data are as of September 30, 1976.

[3] As used in this Order in reference to New Bedford Co. and Chelsea Co., the term "deposits" refers to liabilities of those companies represented by interest bearing passbook investment certificates, term investment certificates, as well as those liabilities known as "club accounts".

[4] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governor Wallich.

are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 13, 1976.

Board of Governors of the Federal Reserve System, November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34948 Filed 11-29-76;8:45 am]

THE ROYAL TRUST CO. AND ROYAL TRUST BANK CORP.

Acquisition of Bank

The Royal Trust Company, Montreal, Quebec, Canada, and Royal Trust Bank Corp., Miami, Florida, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First Bank of Pembroke Pines, Pembroke Pines, Florida. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications 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 December 17, 1976.

Board of Governors of the Federal Reserve System, November 18, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34949 Filed 11-29-76;8:45 am]

ROYAL TRUST BANK CORP.

Acquisition of Banks

Royal Trust Bank Corp., Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 per cent or more of the voting shares of both Royal Trust Bank of Tampa, Tampa, Florida (formerly, Dale Mabry State Bank), and Royal Trust of St. Petersburg, Gulfport, Florida (formerly, First Bank of Gulfport). The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications 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 December 17, 1976.

Board of Governors of the Federal Reserve System, November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34950 Filed 11-29-76;8:45 am]

STARK BANKSHARES, INC.

Order Approving Formation of Bank Holding Company and Performance of Insurance Agency Activities

Stark Bankshares, Inc., Stark, 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)) of formation of a bank holding company through the acquisition of 92.7 per cent of the voting shares of The Stark State Bank, Stark, Kansas, ("Bank"). At the same time, Applicant has applied pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) of the Board's Regulation Y, for permission to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)(ii)(a)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (41 FR 39844 (1976)). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act.

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank ($3.7 million in deposits) and engaging in the sale, as agent, of credit life and credit accident and health insurance directly related to extensions of credit by Bank. The proposed transaction involves the transfer of control of Bank from an individual (who acquired Bank in 1970) to a corporation owned by the same individual. Upon acquisition of Bank, Applicant would control the 482nd largest bank in Kansas, holding .04 per cent of total commercial bank deposits in the State.[1]

Bank is the only banking institution in Stark, an agricultural community (population of 124 at the 1970 Census) located in southeastern Kansas. Bank is the smallest of six banks in the Neosho County banking market[2] and controls 4.4 per cent of total deposits in the market. The principal shareholder of Applicant and Bank is also the principal shareholder (since 1972) of another bank that competes in the relevant banking market: Home State Bank, Erie, Kansas ("Erie Bank").[3] Erie Bank ($8.8 million in deposits) is the third largest of the six banks in the relevant market and controls 10.4 per cent of total deposits therein. In view of the size of Bank and Erie Bank, respectively, and inasmuch as the instant proposal represents a restructuring of Bank's ownership from individual to corporate form, it appears that consummation of the proposal would not have any significant adverse effects on existing or potential competition in any relevant area. Accordingly, it is concluded that competitive considerations are consistent with approval of the application to become a bank holding company.

The financial and managerial resources and future prospects of Applicant, which are dependent upon Bank, are considered satisfactory and consistent with approval of the subject application. Although Applicant will incur debt in connection with the subject proposal, its projected income from Bank and the credit-related insurance activities should provide sufficient revenue to service its acquisition debt without placing an undue strain on the financial condition of either Applicant or Bank. A portion of the debt Applicant will incur will be utilized to purchase additional shares of Bank to be issued, thus increasing the capitalization of Bank. Therefore, considerations relating to banking factors are consistent with approval of the application. Although consummation of the proposal would have no immediate effect on the banking services offered by Bank, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to become a bank holding company through the acquisition of Bank should be approved.

In connection with the application to become a bank holding company, Applicant has also applied, pursuant to § 225.4(a)(9)(ii)(a) of Regulation Y, to engage "de novo" in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. Approval of the application to engage in such activities would insure the residents of Stark and nearby areas a convenient source of credit-related insurance services. It does not appear that Applicant's engaging in the above-described activities would have any significant adverse effect on existing or potential competition. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, con-

[1] All banking data are as of December 31, 1975.

[2] The Neosho County banking market is approximated by Neosho County, Kans.

[3] Applicant's principal has filed separate applications with the Board for Erie Bankshares, Inc., Erie, Kans., to become a bank holding company with respect to Erie Bank and to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Erie Bank.

flicts of interests, unsound banking practices or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and the commencement of credit-related insurance agency activities 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 delegated authority. The deterimnation as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank 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,[4] effective November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34951 Filed 11-29-76;8:45 am]

ERIE BANKSHARES, INC.

Order Approving Formation of Bank Holding Company and Performance of Insurance Agency Activities

Erie Bankshares, Inc., Erie, 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)) of formation of a bank holding company through the acquisition of 98.5 per cent of the voting shares of Home State Bank, Erie, Kansas ("Bank"). At the same time, Applicant has applied pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8) and § 225.4(b) of the Board's Regulation Y, for permission to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board of § 225.4(a)(9)(ii)(a) of Regulation Y to be permissible for bank holding companies subject to Board approval of individual proposals in accordance with the procedure of § 225.4(b) of Regulation Y.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with §§ 3 and 4 of the Act (41 FR 39387 (1976)). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act.

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank ($8.8 million in deposits) and engaging in the sale, as agent, of credit life and credit accident and health insurance directly related to extensions of credit by Bank.[1] The proposed transaction involves the transfer of control of Bank from an individual (who acquired Bank in 1972) to a corporation owned by the same individual. Upon acquisition of Bank, Applicant would control the 275th largest bank in Kansas, holding .10 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1975.)

Bank is the only banking institution in Erie, an agricultural community (population of 1,414 at the 1970 Census) located in southeastern Kansas. Bank is the third largest of six banks in the Neosho County banking market[2] and controls 10.6 percent of total deposits in the market. The principal shareholder of Applicant and Bank is also the principal shareholder (since 1970) of another bank that competes in the relevant banking market: The Stark State Bank, Stark, Kansas ("Stark Bank").[3] Stark Bank (3.7 million in deposits) is the smallest of the six banks in the relevant market and holds 4.4 percent of total deposits therein. In view of the size of Bank and Stark Bank, respectively, and inasmuch as the instant proposal represents a restructuring of Bank's ownership from individual to corporate form, it appears that consummation of the proposal would not have any significant adverse effects on existing or potential competition in any relevant area. Accordingly, it is concluded that competitive considerations are consistent with approval of the application to become a bank holding company.

As indicated above, the Board denied Applicant's previous application to become a bank holding company through the acquisition of Bank. The basis of the Board's denial related to financial and managerial considerations; in that case, the Board determined that Applicant's debt retirement program would not provide Applicant with the necessary financial flexibility to service the acquisition debt while maintaining Bank's capital at a desirable level. However, in view of the facts as now presented, the financial condition, managerial resources, and future prospects of both Applicant and Bank are regarded as generally satisfactory and consistent with approval of the application to become a bank holding company. Applicant's present proposal evidences an improvement in Bank's capital position, quality of assets, and management. It now appears that Applicant will have the financial flexibility to service its acquisition debt without placing an undue strain on the financial condition of Bank, as well as to assist Bank if any unexpected problems should arise. Therefore, considerations relating to banking factors are consistent with approval of the application. Consummation of the transaction would have no immediate effect on the area's convenience and needs; however, some expansion of services may result in the future under the more flexible corporate structure of the holding company. Considerations relating to the convenience and needs of the community to be served, therefore, are regarded as being consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

In connection with the application to become a bank holding company, Applicant has also applied, pursuant to § 225.4(a)(9)(ii)(a) of Regulation Y, to engage de novo in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. Approval of the application to engage in such activities would insure the residents of Erie and nearby areas a convenient source of credit-related insurance services. It does not appear that Applicant's engaging in the above-described activities would have any significant adverse effect on existing or potential competition. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to pro-

[4] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

[1] By Order dated March 21, 1975, the Board denied the application by Applicant to become a bank holding company through the acquisition of Bank. (61 Fed. Res. Bull. 248) In view of that action, the Board considered Applicant's concurrent application to engage in certain insurance agency activities to be moot.

[2] The Neosho County banking market is approximated by Neosho County, Kansas.

[3] Applicant's principal has filed separate applications with the Board for Stark Bankshares, Inc., Stark, Kansas, to become a bank holding company with respect to Stark Bank and to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Stark Bank.

duce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and the commencement of credit-related insurance agency activities 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 delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank 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,[4] effective November 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-35166 Filed 11-29-76;8:45 am]

PEOPLES CREDIT CO.

Order Approving Acquisition of Additional Shares of Banks

Peoples Credit Co., Kansas City, Missouri, 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 an additional 25.4 per cent of the voting shares of The Metropolitan Bank, Kansas City, Missouri ("Metropolitan Bank"), and an additional 5.4 per cent of the voting shares of The Pleasant Hill Bank, Pleasant Hill, Missouri ("Pleasant Hill Bank"). Applicant presently owns 24.9 per cent of Metropolitan Bank and 44.6 per cent of Pleasant Hill Bank, and would, upon consummation, own 50.41 per cent of the former and 50.03 per cent of the latter.

Notice of the applications, 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 applications and all comments received including those of the Deptuy Commissioner of the Department of Consumer Affairs, Regulation and Licensing, Division of Finances of the State of Missouri, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant controls two banks[1] with total deposits of $20.7 million representing approximately .1 per cent of the total deposits in commercial banks in Missouri.[2] In addition, Applicant has interests in two Missouri banks, Metropolitan Bank and Citizens Bank of Norborne, Norborne, Missouri. Acquisition of the additional shares of Metropolitan Bank ($15.7 million in deposits) will give Applicant control of that bank, increasing Applicant's share of Statewide deposits to approximately .2 percent. Acquisition of additional shares of Applicant's subsidiary, Pleasant Hill Bank (deposits of $14.8 million), will have no effect upon Applicant's total Statewide deposits.

Applicant currently owns 44.6 per cent of the outstanding shares of Pleasant Hill Bank. Acquisition of addition shares in Pleasant Hill Bank, presently controlled by Applicant, would eliminate neither existing nor potential competition, nor increase the concentration of banking resources in the Kansas City banking market.[3] Applicant's proposal to acquire an additional 25.4 per cent of Metropolitan Bank's shares would result in control by Applicant of Metropolitan Bank.[4] Acquisition of control of Metropolitan Bank, also located in the Kansas City banking market, would increase Applicant's present share of that market from .3 to .6 per cent, raising its rank from the 66th to the 30th largest banking organization in the relevant market.

Although Metropolitan Bank and Pleasant Hill Bank both operate within the relevant market, the degree of competition existing between the two banks is minimal. The two banks have been affiliated through common ownership since 1967. Moreover, the banks are located 25 miles apart, and the service areas of the two do not appear to overlap. Due to the restrictive branching laws in Missouri, the possibility of competition developing in the future between the banks would be remote. Accordingly, based upon the above and other facts of record, the Board has determined that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Metropolitan Bank are generally satisfactory. Therefore, considerations relating to banking factors are consistent with approval of the applications. Although no immediate changes in bank services or facilities are expected to derive from consummation of the acquisitions, it does not appear that the needs of the community are not currently being met. Accordingly, considerations relating to the convenience and needs of the community to be served are consistent with approval of the applications. It is the Board's judgment that the proposed acquisition is in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[5] effective November 23, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-35167 Filed 11-29-76;8:45 am]

[1] The Pleasant Hill Bank, Pleasant Hill, Missouri, and the Lathrop Bank, Lathrop, Missouri.

[2] All banking data are as of December 31, 1975, and have been adjusted to reflect approvals of holding company applications by the Board to date.

[3] The relevant market is the Kansas City banking market, approximated by Johnson and Wyandotte Counties in Kansas, and Clay, Jackson, and Platte Counties and the northern part of Cass County in Missouri.

[4] Applicant registered as a bank hbiding company in 1971 at the request of the Federal Reserve Bank of Kansas City, apparently on the premise that the Company controlled Metropolitan Bank by virtue of the fact that it owned 24.9 per cent of Metropolitan Bank's shares and officers and employees of Company owned additional shares. Although a rebuttable presumption that Company controlled Metropolitan Bank existed under § 225.2(b) of the Board's Regulation Y (12 CFR Part 225), the Board had made no formal determination that Applicant controlled that bank.

[4] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partoe and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

[5] Voting for this action: Vice Chairman Gardner, and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 22, 1976 (CAB) and November 23, 1976 (FTC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be recevied on or before December 20,

1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of the reporting requirements contained in section 19–3 of Part 241 of the Board's Economic Regulations. This section provides for the transmittal of traffic and capacity data on a service-segment basis by route air carriers on magnetic tape or punched cards for direct automatic processing. At the present time, 31 carriers file service-segment data with the Board. Submission of these data is mandatory under Section 407 of the Federal Aviation Act of 1958, as amended. CAB estimates burden to average 56 hours per monthly response.

FEDERAL TRADE COMMISSION

FTC requests clearance of a new voluntary questionnaire which its Boston Regional Office has submitted. The questionnaire elicits information on all individuals and organizations offering test preparation or coaching courses both commercially and on a non-profit basis and will be forwarded in connection with the Commission's investigation of Unnamed Test Preparation Services, File No. 772 3000. FTC estimates respondents to be approximately 200 undergraduate and undergraduate colleges and universities, and burden is estimated to average one-half hour per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–35211 Filed 11–29–76;8:45 am]

GENERAL SERVICES ADMINISTRATION

FINAL ENVIRONMENTAL IMPACT STATEMENT

Reduction In Commenting Period

Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), on October 20, 1976, the General Services Administration made the Final Environmental Impact Statement for a proposed U.S. Courthouse project in Madison, Wisconsin available for review by the Council on Environmental Quality, agencies which commented on the Draft EIS, and the public. CEQ was requested on October 26, 1976, to reduce the 30-day review period to 15 days.

Notice is hereby given that GSA in accordance with section 1500.11(e) of the Council on Environmental Quality Guidelines for the Preparation of Environmental Impact Statements (38 FR 20550) has received approval from CEQ to shorten the review period to 15 days, beginning October 20, 1976.

GSA has individually notified all who commented on the draft EIS that the review period was shortened to 15 days. In addition, GSA will accept and respond appropriately to comments received during the usual 30-day review period.

Dated: November 19, 1976.

WILLIAM R. CAMPBELL, Jr.,
Acting Commissioner,
Public Buildings Service.

[FR Doc.76–35068 Filed 11–29–76;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F–403]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires November 30, 1976.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–148	July 28, 1972	Delegation of authority to the Secretary of Defense—regulatory proceeding.
F–151	Aug. 15, 1972	Do.
F–180	June 12, 1973	Do.
F–215	Mar. 28, 1974	Do.
F–220	May 10, 1974	Do.
F–314	Dec. 12, 1974	Do.
F–327	Jan. 27, 1975	Do.
F–332	Mar. 4, 1975	Do.
F–333	Mar. 31, 1975	Do.
F–349	July 17, 1975	Do.
F–364	Nov. 26, 1975	Do.
F–370	Jan. 20, 1976	Do.

NOVEMBER 18, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–35069 Filed 11–29–76;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F–404]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires November 30, 1976.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–28	Oct. 9, 1968	Delegation of authority to the Secretary of Defense—regulatory proceeding.
F–117	Aug. 19, 1971	Do.
F–119	Sept. 10, 1971	Do.
F–142	Mar. 29, 1972	Do.
F–147	July 24, 1973	Do.
F–210	Feb. 14, 1974	Do.
F–216	Mar. 28, 1974	Do.
F–318	Dec. 26, 1974	Do.
F–320	Jan. 2, 1975	Do.
F–375	Feb. 12, 1976	Do.

NOVEMBER 18, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–35070 Filed 11–29–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL TRAINING REVIEW COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act of October 5, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Alcohol Training Review Committee.

Authority for this committee will expire November 30, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: November 22, 1976.

JAMES D. ISBISTER,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76–35073 Filed 11–29–76;8:45 am]

Center for Disease Control

DRINKING WATER DISINFECTION AD HOC ADVISORY COMMITTEE

Establishment

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, the Center for Disease Control announces the establishment by the Secretary, Department of Health, Education, and Welfare, on November 24, 1976, of the following advisory committee for a period of three months beginning December 1, 1976:

Designation: Drinking Water Disinfection Ad Hoc Advisory Committee.

Purpose: The Drinking Water Disinfection Ad Hoc Advisory Committee will advise and make recommendations to the Secretary, DHEW, the Assistant Secretary for Health, and the Director, Center for Disease Control, and his staff on the merits of chlorine and the Director, Center for Disease Confecting drinking water in program areas over which the Center for Disease Control has jurisdiction or technical responsibility.

Authority for this Committee will expire March 1, 1977, unless the Secretary formally determines that continuance is in the public interest.

Dated: November 24, 1976.

WILLIAM C. WATSON, Jr.,
Acting Director,
Center for Disease Control.

[FR Doc.76-35313 Filed 11-29-76;8:45 am]

DRINKING WATER DISINFECTION AD HOC ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Drinking Water Disinfection ad hoc Advisory Committee.
Dates: December 15-16, 1976.
Place: Room 207, Building 1, Center for Disease Control 1600 Clifton Road, N.E., Atlanta, Georgia 30333.
Time: 8:30 a.m.
Type of Meeting: Open.
Contact Person: H. Bruce Dull, M.D., Executive Secretary of Committee Building 1, Room 2118, Center for Disease Control 1600 Clifton Road, N.E., Atlanta, Georgia 30333 Phone: AC/404 633-3311, Extension 3701 FTS 283-3701.
Purpose: This Committee will meet to advise on the application of ultraviolet and chlorination systems for purifying drinking water in program areas over which the Center for Disease Control has jurisdictional or technical responsibility.
Agenda: The Committee will review available evidence on the technical characteristics and capabilities of ultraviolet and chlorination systems for purifying drinking water, and will develop a summary report of this review, including recommendations on the application of these systems to the program areas in which the Center for Disease Control has relevant responsibilities.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: November 24, 1976.

WILLIAM C. WATSON, Jr.,
Acting Director,
Center for Disease Control.

[FR Doc.76-35314 Filed 11-29-76;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF TOPICAL ANALGESICS

Meeting Cancellation

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of November 12, 1976 (41 FR 50066), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Topical Analgesics, scheduled for December 15 and 16, 1976, has been cancelled.

Dated: November 19, 1976.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc.76-34962 Filed 11-29-76;8:45 am]

[Docket No. 76N-0052]

OVER-THE-COUNTER DRUGS

Decision on Diphenhydramine as an Antitussive

The Food and Drug Administration (FDA) announces that as a result of disagreement between the Commissioner of Food and Drugs and the Advisory Review Panel on Over-the-Counter (OTC) Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Products concerning the OTC use of diphenhydramine as an antitussive any product containing diphenhydramine for OTC antitussive use is subject to immediate regulatory action.

In a notice published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312), FDA proposed to establish conditions under which OTC cold, cough, allergy, bronchodilator and antiasthmatic drugs are generally recognized as safe and effective and not misbranded, based on the recommendation of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Products (hereafter referred to as "the Panel"). The preamble to the proposed monograph also included the unaltered conclusions and recommendations of the Panel.

The Panel's recommendations, and the proposed monograph, included their conclusion that several ingredients were safe and effective for OTC use which previously had been limited to prescription use or classified for OTC use at a dosage level lower than that recommended by the Panel. After reviewing those specific ingredients, the Commissioner made an initial determination to accept the Panel's recommendations on OTC use of a number of ingredients and disagreed with the Panel concerning several other ingredients. With respect to the ingredient diphenhydramine, which the Panel recommended be classified in Category I for OTC use as an antitussive, the Commissioner stated that he was deferring his decision until the agency had an opportunity to rule on a supplemental new drug application (NDA) that was then pending for the OTC use of an antitussive product containing diphenhydramine.

Diphenhydramine hydrochloride is the active ingredient in a cough sirup product now being marketed OTC. The currently approved NDA for this product limits it to prescription use as an expectorant only. The holder of the NDA submitted a supplemental NDA containing data in support of a claim that the product is safe and effective for use as an antitussive. This supplemental NDA also requests that the product be approved for OTC use. The agency has now completed its review of this supplemental NDA, and the NDA holder has been advised that the supplemental NDA is not approvable.

Without question, diphenhydramine hydrochloride is capable of causing drowsiness as a side effect when an antihistaminic dose of 50 milligrams is given. The Panel recognized this side effect and stated that clinical experience indicated that the level of drowsiness at the antihistamine dose is around 50 percent. When 25 milligrams (the recommended adult antitussive dose) is given, drowsiness still occurs in some patients. In the total information submitted in support of the supplemental NDA, approximately one-third of the study population in the studies reported the occurrence of drowsiness. The Commissioner concludes that a drug causing this level of drowsiness is unacceptable, for reasons of safety, in a product for OTC use even with the warning statement contained in the labeling as recommended by the Panel.

The Commissioner does not disagree with the Panel that there are pharmacologic data indicating that diphenhydramine hydrochloride has some antitussive effect. However, for an NDA to be approved, there must be substantial evidence consisting of adequate and well-controlled investigations demonstrating that the product is safe and effective. Such evidence must include studies on the target population using the form of the drug product covered by the NDA. None of the clinical studies submitted represent what could be considered Phase III clinical trials, complying with the principles of an adequate and well-controlled study as required by § 314.111(a)(5)(ii) (21 CFR 314.111(a)(5)(ii)), productive of substantial evidence upon which to base a determination concerning the effectiveness of this product for the temporary control of cough.

For the above reasons, the Commissioner does not, at this time, accept the Panel's recommendation that diphenhydramine hydrochloride be classified in Category I for OTC antitussive use. Therefore, in accordance with § 330.13(b)(2) (21 CFR 330.13(b)(2)) setting forth the status of ingredients recommended for OTC use under the OTC drug review, published in the FEDERAL REGISTER of August 4, 1976 (41 FR 32580), any product marketed containing diphenhydramine hydrochloride for OTC antitussive use is subject to immediate regulatory action.

Dated: November 22, 1976.

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

[FR Doc.76-35074 Filed 11-24-76;10:43 am]

[Docket No. 76-0483]

PARKE, DAVIS & CO.

Benylin Expectorant; Opportunity for Hearing On Proposal To Deny Approval of Supplemental New Drug Application

The Food and Drug Administration (FDA) is proposing to deny approval of a supplemental new drug application (NDA 6-514; S-007) for the over-the-counter (OTC) marketing of Benylin Expectorant as an antitussive on the grounds that it has not been shown to be safe for OTC distribution and has not been shown to be effective for use as an antitussive. Parke, Davis & Co., the holder of the new drug application (NDA) for Benylin Expectorant, has until January 3, 1976, to submit a request for hearing in accordance with § 314.200 (21 CFR 314.200). Such request should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice.

Benylin Expectorant is a liquid preparation containing, among other ingredients, diphenhydramine hydrochloride, ammonium chloride, sodium citrate, and menthol. The NDA for Benylin Expectorant was approved in 1948, with indications for use in the treatment of cough due to colds and other congestive symptoms associated with colds.

Although the labeling submitted in the NDA was intended to permit OTC distribution by Benylin Expectorant, the NDA was not approved until revised labeling was submitted restricting the product to prescription use.

In 1957, at the instance of Parke, Davis & Co., in a notice of proposed rulemaking published in the FEDERAL REGISTER of November 27, 1957 (22 FR 9483), FDA proposed revised labeling that would have permitted OTC distribution of diphenhydramine hydrochloride preparations in oral, liquid dosage form. In response to the proposal, Parke, Davis & Co. reconsidered its position and opposed the revised labeling, with the observation that "this product cannot be considered as safe for over-the-counter dispensing, either with or without the suggested changes in labeling." Several other comments on the proposal also opposed OTC status for diphenhydramine hydrochloride preparations. Accordingly, in a notice published in the FEDERAL REGISTER of March 22, 1958 (23 FR 1936), the prescription limitation was retained. Later, in 1969, the firm submitted a supplemental NDA providing for OTC use of Benylin, but withdrew that supplemental NDA in 1970.

In 1964, Parke, Davis & Co. submitted a supplemental NDA, one purpose of which was to obtain approval for inclusion of an antitussive indication in the labeling of Benylin Expectorant. In 1965, FDA advised the firm that the indication was approvable, and, in 1966, approved new labeling that included the antitussive indication.

In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426) in connection with the Drug Efficacy Study of the National Academy of Sciences-National Research Council (NAS-NRC), FDA issued a call for data on the effectiveness of all drugs that had been approved pursuant to the new drug procedures from 1938 to October 10, 1962. In 1968, FDA advised Parke, Davis & Co. that a supplemental NDA for Benylin Expectorant providing for revised labeling would not be approved, pending receipt and study of the NAS-NRC report; FDA stated that the supplemental NDA "is approvable when a determination is made that there is substantial evidence of effectiveness of the drug for all of the purposes claimed in the labeling."

On the basis of the NAS-NRC report on antihistamine preparations, FDA, in a notice published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11758), classified diphenhydramine—the principal active ingredient in Benylin Expectorant—as "effective" or "probably effective" for various allergy and sleep-inducing claims, as "possibly effective" for spasmodic bronchial cough, and as "lacking substantial evidence of effectiveness" for other indications, including "antitussive action." In a notice published in the FEDERAL REGISTER of February 9, 1972 (38 FR 4006), FDA announced its conclusion that there was a lack of substantial evidence of the effectiveness of Benylin Expectorant and certain other products as fixed combinations for the indications in their labeling, and offered an opportunity for hearing on its proposal to withdraw approval of the NDA's for those products. By letter of March 9, 1973, Parke, Davis & Co. requested a hearing on the proposed withdrawal of approval of the NDA for Benylin Expectorant.

Among other factors cited by the firm in support of its request for hearing was the submission it had filed for review by the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drugs (CCABA Panel). The CCABA Panel had been established as part of the FAD program for review of all OTC drugs in relation to the 1962 effectiveness amendments to the Federal Food, Drug, and Cosmetic Act. The procedures for the OTC Drug Review were published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464); the call for data to be submitted to the CCABA Panel was published in the FEDERAL REGISTER of August 9, 1972 (37 FR 16029). Parke, Davis & Co. stated in its request for hearing that it considered its submission to the OTC Panel to be a supplement to the NDA for Benylin Expectorant.

Parke, Davis & Co. also responded to the notice of opportunity for hearing by filing revised labeling as part of a supplemental NDA for Benylin Expectorant. The supplemental NDA, submitted by letter of March 22, 1973, provided for changing the name of the product to "Benylin Cough Syrup," for deletion of all ingredients but diphenyldramine hydrochloride from the list of active ingredients (but not from the product formulation), for a change in the description of the product's mechanism of action, and for a modification of the indications for which the product was recommended. The firm observed that the revised labeling provided for prescription use of Benylin "as an alternative to the preferred OTC labeling if FDA finds that Benylin should be continued to be limited to prescription sale."

In a notice published in the FEDERAL REGISTER of May 15, 1973 (38 FR 12769), FDA announced interim guidelines for the formulation and labeling of prescription drugs indicated for cough and allergy. It was stated by FDA that the result of the review of issues concerning the safety and effectiveness of OTC drugs being conducted by the CCABA Panel would have a substantial bearing on the issues surrounding the continued approvability of prescription drugs for relief of cough and allergy. The interim guidelines would therefore govern the status of those prescription drugs until a final monograph was published based on the report of the CCABA Panel.

By letter of November 28, 1973, FDA advised Parke, Davis & Co. that its supplemental NDA providing for revised labeling of Benylin Expectorant as a prescription product did not conform with the interim guidelines and could not be approved. The letter noted that the indication for relief of cough of nonallergic origin could not be approved in the absence of substantial evidence that diphenhydramine hydrochloride is safe and effective for that indication.

In the FEDERAL REGISTER of December 14, 1973 (38 FR 34481), FDA announced that, to assure a consistent policy on both OTC and prescription cough-cold products, the agency would hold in abeyance the interim guidelines announced earlier, and that prescription drugs in the same category as those under review by the CCABA Panel would be permitted to remain on the market with current labeling until a policy for prescription drugs was developed consistent with the OTC monograph for cough-cold products.

By letter of February 5, 1974, Parke, Davis & Co. submitted a supplemental NDA with two clinical studies relating to the effectiveness of Benylin as an antitussive. By letter of November 25, 1974, Parke, Davis & Co. submitted a supplemental NDA with revised labeling providing for OTC use of Benylin as an antitussive, the supplemental NDA that is the subject of this notice. By letter of March 11, 1975, FDA acknowledged receipt of both supplemental NDA's and indicated that no action would be taken pending completion of the review by the CCABA Panel of the data before it. In a letter of March 18, 1975, Parke, Davis & Co. was informed, in response to its inquiry made to the FDA Division of OTC Drug Evaluation, that OTC marketing of Benylin would be unlikely to be subject to regulatory action under the enforcement policy in effect at that time concerning new OTC products. Thereafter, Parke, Davis & Co. commenced OTC marketing of Benylin as Benylin

Cough Syrup with indications for use as an antitussive.

In a proposal published in the FEDERAL REGISTER of December 4, 1975 (40 FR 56675), FDA proposed to clarify its enforcement policy to subject to regulatory action drug ingredients intended for OTC marketing that had previously been limited to prescription use and for which OTC use had not been sanctioned by FDA through appropriate procedures. The proposal would have permitted the OTC marketing of products containing such ingredients, however, upon publication of the report of an OTC advisory review panel recommending that the relevant ingredients and indications be classified as generally recognized as safe and effective for OTC use (Category I), so long as the Commissioner of Food and Drugs did not disagree with that recommendation. By letter of March 20, 1976, Parke, Davis & Co. predicted that the CCABA Panel would recommend that diphenhydramine hydrochloride be classified in Category I as an antitussive, and urged that the Commissioner express his tentative agreement with that recommendation when the panel's report was published. Parke, Davis & Co. stated that if the Commissioner disagreed with the recommendation, the firm would consider renewing its earlier request for hearing in connection with any attendant refusal by FDA to approve its supplemental NDA for OTC labeling for Benylin Expectorant.

A final regulation, published in the FEDERAL REGISTER of August 4, 1976 (41 FR 32580) (based on the December 4, 1975 proposal), announced the effectiveness of the modified enforcement policy. The Commissioner's proposal setting forth the report and recommendations of the CCABA Panel was signed on July 30 and published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312). The CCABA Panel recommended that diphenhydramine hydrochloride be classified in Category I for OTC use both as an antihistamine and as an antitussive. The Commissioner disagreed with the recommendation relating to antihistaminic use of diphenhydramine hydrochloride (and with the panel's recommendations that several other ingredients be similarly classified), but stated that his decision on the recommendation relating to its antitussive use would be made in the context of his ruling on the supplemental NDA filed by Parke, Davis & Co. for OTC marketing of Benylin Expectorant.

By letters dated September 8, 1976, the Bureau of Drugs of FDA notified Parke, Davis & Co., that its supplemental NDA's submitting evidence for the effectiveness of Benylin as an antitussive and labeling for the OTC use of the product were not approvable. Final action on the supplemental NDA relating to the effectiveness of Benylin as an antitussive was deferred pending review of the data generated by the work of the CCABA Panel, as provided in the FEDERAL REGISTER notice of December 14, 1973. The letter noted, however, that the studies submitted to demonstrate the effectiveness of Benylin as an antitussive were inadequate in a number of respects. The supplemental NDA relating to the safety of Benylin for OTC use was denied because of the sedating properties of diphenhydramine hydrochloride and the absence in the proposed labeling of drug interaction and other warnings and contraindications.

By letter of September 17, 1976, Parke, Davis & Co. requested that the supplemental NDA for OTC use of Benylin be filed over protest pursuant to § 314.110 (d) (21 CFR 314.110(d)). Subsequently, representatives of Parke, Davis & Co. met on several occasions with FDA officials to discuss the status of Benylin. On October 21, 1976, Parke, Davis & Co. made a presentation to the Commissioner in support of its contention that Benylin is safe and effective for OTC use as an antitussive, and the Commissioner took the matter under advisement.

The Commissioner has concluded that Benylin cannot at this time be considered generally recognized as safe and effective for OTC use as an antitussive. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing an announcement that he does not, at this time, accept the CCABA Panel's recommendation that diphenhydramine hydrochloride be classified in Category I for OTC antitussive use. The purpose of this notice is to offer Parke, Davis & Co. an opportunity for hearing on the denial of its supplemental NDA providing for OTC use of Benylin as a new drug.

DISCUSSION

The Commissioner proposes to deny the supplemental NDA for OTC use of Benylin as an antitussive on two grounds:

1. Diphenhydramine hydrochloride causes a level of drowsiness in those who take it that is sufficient to render it unsafe for use except under the supervision of a physician or other practitioner licensed to dispense prescription drugs.

2. The studies submitted to establish the effectiveness of Benylin as an antitussive do not provide substantial evidence of its effectiveness for that use within the meaning of section 505(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(d)) and § 314.111(a) (5) (21 CFR 314.111(a)(5)).

In its letter requesting filing of its supplemental NDA over protest, Parke, Davis & Co. also requested that the Commissioner issue, under § 314.200 (21 CFR 314.200), a "specific" rather than a "general" notice of the grounds on which he proposed to deny the supplemental NDA.

The Commissioner does not believe that further specification of the basis for his conclusion that diphenhydramine hydrochloride is unsafe for OTC use is appropriate. The Commissioner has reviewed the data and information on the side-effects of this drug. While he is of the view that the soporific effects of diphenhydramine are sufficient to render it unsafe if available OTC, he also believes that the available information is inconclusive and should be developed in a hearing. The Commissioner advises, however, that any request for hearing must comply in all relevant respects with the requirements of § 314.200.

The Commissioner advises that the specific requirements concerning substantial evidence of effectiveness are set forth in § 314.111(a)(5), reference to which renders this a "specific" notice, as that term is used in § 314.200, with respect to the issue of effectiveness. The Commissioner notes that the issue of the effectiveness of Benylin as an antitussive is relevant to his decision to deny the supplemental NDA for OTC use of Benylin: If Benylin is not shown to be effective as an antitussive, the Commissioner cannot conclude that it is safe for widespread OTC distribution when the product has an accompanying potential for inducing drowsiness, which will be magnified by excessive self-administration to achieve the desired effect. The Commissioner also notes that the issue of the effectiveness of Benylin as an OTC product is indistinguishable from the issue of its effectiveness as a prescription product. If the Commissioner finds at the conclusion of this proceeding that there is a lack of substantial evidence of the effectiveness of Benylin as an antitussive for OTC use, he will consider proposing to withdraw the approval of the NDA for Benylin Expectorant for the antitussive indication before completion of the review of data generated by the CCABA Panel proceeding.

If Parke, Davis & Co. elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and § 314.200, it must file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, (1) A written notice of appearance and request for hearing by January 3, 1976, and (2) The studies on which it relies together with a statement giving data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by February 1, 1977. A request for 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. Responses to this notice may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the response to the notice of opportunity for a 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.

Any hearing will be open to the public. If, however, the Commissioner finds that portions of the application that serve as a basis for such a hearing contain information concerning a method or process that is entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring

preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the 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 (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)), and under authority delegated to the Commissioner (21 CFR 5.1(a)(1)) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 22, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-35075 Filed 11-24-76;10:43 am]

Health Resources Administration

COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE AND NURSE TRAINING NATIONAL ADVISORY COUNCIL

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of January 1977:

Name: Cooperative Health Statistics Advisory Committee.
Date and Time: January 13–14, 1977, 9 a.m.
Place: Sheraton-Park Hotel, Wardman Tower, 2660 Woodley Road NW., Washington, D.C. 20008. Open for entire meeting.
Purpose: The Committee represents the interests of the people of the United States in providing advice and guidance to the Secretary and the National Center for Health Statistics on policies and plans in developing a major new national network of integrated or coordinated subsystems of data collections, processing, and analysis over a wide range of questions relating to general health problems of the population, health care resources, and the utilization of health care services.
Agenda: The Committee will discuss health care cost data, quality control for data collection, and structure for the collection of health care utilization data. Reports will be received and reviewed from the Task Forces on: (1) Applied Statistics Training Institute, (2) Meeting Multiple Health Data Needs Through Modification of National and State Statistical Programs, (3) Component Integration and Organizational Structure, (4) Cost-Sharing, and (5) Definitions. In addition, there will be a report from the Data Applications and Research Branch of the Cooperative Health Statistics System. Suggestions for future meeting dates and agenda items will be discussed.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, Room 8–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1470.

Name: National Advisory Council on Nurse Training.
Date and Time: January 24–26, 1977, 10:30 a.m.
Place: Conference Room 9, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.
Open January 24, 10:30 a.m.–12:15 p.m.
Closed remainder of meeting.
Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1971. The Council also performs final review of grant applications for Federal Assistance for nurse training grants, national research service awards, nurse practitioner grants, research project grants, and special projects for the improvement of nurse training, and makes recommendations to the Administrator, HRA.
Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meetings; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be closed to the public for the review of grant applications for Federal assistance in accordance with the provisions set forth in section 552(b) (5) and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Room 6C08, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496–6985.

Agenda items are subject to change as priorities dictate.

Dated: November 22, 1976.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.76-34957 Filed 11-29-76;8:45 am]

Office of Education

LIBRARY RESEARCH AND DEMONSTRATION PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in sections 201, 221, and 223 of Title II, Part B of the Higher Education Act of 1965, as amended 20 U.S.C. 1021, 1031, and 1033), applications are being accepted from institutions of higher education and other public or private agencies, institutions and organizations that are nonprofit for grants for research and demonstration projects relating to the improvement of libraries or the improvement of the training in librarianship. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education Application Control Center on or before January 28, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Applicant Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.475. An application sent by mail will be considered to be reecived on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 24, 1977, 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 mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application 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. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* (1) It is anticipated that grants will be awarded in each of the categories specified in 45 CFR 133, that the total amount of funds available for the Library Research and Demonstration Program will be from $1,000,000 to $2,000,000 and that 20 to 30 awards will be made. The average amount of each grant will be from $50,000 to $80,000.

This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Higher Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given due to the uncertainties of the appropriation process.

(2) Further information and application forms may be obtained from the Office of Libraries and Learning Resources, Division of Library Programs, Bureau of Elementary and Secondary Education, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202, Attention: 13.475.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations governing library research and demonstration in the FEDERAL REGISTER of May 17, 1974 at 39 FR 17546 (45 CFR Part 133) and revised in the FEDERAL REGISTER of February 6, 1976, 41 FR 5393.

(20 U.S.C. 1021, 1031, and 1033)

(Catalog of Federal Domestic Assistance Number 13.475, Library Research and Demonstration Program)

Dated: November 22, 1976.

EDWARD AGUIRRE,
Commissioner of Education.

[FR Doc.76-35048 Filed 11-29-76;8:45 am]

NATIONAL CENTER FOR EDUCATION STATISTICS

Statement of Organization, Functions, and Delegations of Authority

The Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to revise a part of the functional statement for the "Assistant Secretary for Education" formerly designated Chapter 1K and published in the FEDERAL REGISTER (39 FR 32342, September 6, 1974. The revised portion concerns Paragraph 5, the National Center for Education Statistics. Chapter 1K is redesignated Chapter EA and Paragraph 5 as last published is deleted and replaced by the statements which follow:

5. NATIONAL CENTER FOR EDUCATION STATISTICS (EAS)

Collects and disseminates statistics and other data related to education in the United States and in other nations. Collects, reviews, and annually reports to Congress statistics on the condition of education in the United States. Conducts and publishes reports on in-depth analyses of the meaning and significance of such statistics. Assists State and local educational agencies in improving and automating their statistical and data collection activities. Reviews statistics and reports on education activities in other nations. Conducts intensive research and development activities in the areas of survey methods and statistical applications. Provides statistical consultation to officials of the Education Division and others.

The National Center for Education Statistics includes the Office of the Administrator and the following divisions. The functions of each are as follows:

A. OFFICE OF THE ADMINISTRATOR

Establishes and maintains consultative and working relations with the Education Division, the Department, Congressional committees, other governmental agencies, and other users and producers of education statistics. Deliberates with and provides senior staff technical support to the Advisory Council on Education Statistics. Coordinates NCES activities with the Federal Interagency Committee on Education. Directs the Federal Interagency Consortium of Users of Education Statistics. Co-chairs the Education Data Acquisition Council (EDAC) and provides staff assistance to EDAC, including the Executive Director. Prepares the annual Data Acquisition Plan for the Education Division. Provides NCES with administrative, logistical, and management services. Promotes formulation of statistical standards appropriate to the work of NCES. Develops improved statistical methods and techniques for application in NCES operations. Develops and enforces standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data.

B. DIVISION OF ELEMENTARY AND SECONDARY EDUCATION STATISTICS

Coordinates, designs, develops, and implements an integrated data system of elementary and secondary education statistics to meet Federal, State, local, and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of elementary and secondary institutions and populations and educational manpower. Provides statistics and analyses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the elementary and secondary education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistical analyses of elementary and secondary education data bases, derived from both NCES data and data available from other sources and prepares analytical reports applying the data to education policy issues and problems.

C. DIVISION OF POSTSECONDARY AND VOCATIONAL EDUCATION STATISTICS

Coordinates, designs, develops, and implements an integrated data system of postsecondary and vocational education statistics to meet Federal, State, local and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions in these fields to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of colleges and universities; adult, continuing, and vocational education institutions; and postsecondary and vocational populations. Provides statistics and analyses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the postsecondary and vocational education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistiscal analyses of postsecondary and vocational education data bases, derived from both NCES data and data available from other sources and prepares analytical reports applying the data to education policy issues and problems.

D. DIVISION OF MULTILEVEL EDUCATION STATISTICS

Plans, designs, conducts, analyzes, and reports on statistical surveys and studies of libraries and learning resources, including educational broadcasting and technology. Develops, conducts, and analyzes all longitudinal surveys and studies in NCES. Is responsible for the development and application of education indicators and assessment tools, including the National Assessment of Educational Progress. Develops indicators and conducts such surveys to compare education in the United States to that in other nations, and maintains data on education statistics in foreign countries. Operate the Fast Response Survey System to provide rapid data on topics of immediate concern to education.

E. DIVISION OF STATISTICAL SERVICES

Develops and creates computerized data bases which are readily available to the education community. Operates the EDSTAT computerized information retrieval system for education statistics. Provides computer programming services for NCES. Ensures that contracts involving automated data processing comply with NCES standards and requirements. Plans, develops, coordinates and oversees the State assistance activities of NCES. Drafts regulations, guidelines, and procedures for Federal-State cooperative projects. Provides statistical information and ad hoc analyses for other Federal components, the education community, and the general public. Develops and publishes an annual report on the condition of education, pursuant to section 406(d) of Pub. L. 93-380. Develops and applies statistical time-series techniques and models to project education statistics. Provides editorial and publication services for NCES. Provides forms control for all public use forms for NCES, and provides forms design service for all parts of the Education Division.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

NOVEMBER 15, 1976.

[FR Doc.76-35212 Filed 11-29-76;8:45 am]

RESEARCH PROJECTS IN VOCATIONAL EDUCATION

Additional Criteria for Selection of Applicants for Fiscal Year 1977

Pursuant to the authority contained in section 131(a) of Part C of the Vocational Education Act of 1963, as amended (20 U.S.C. 1281(a)), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 103 of Title 45 of the Code of Federal Regulations, revising Appendix B to read as set forth below. The proposed revision of Appendix B contains additional criteria for the selection of applications under the program of support for Research Projects in Vocational Education during fiscal year 1977.

(a) *Program purpose.* Section 131(a) of Part C of the Vocational Act of 1963, as amended (20 U.S.C. 1281(a)), provides for federally administered grants or contracts for Research Projects in Vocational Education. The purpose of these research projects is to produce information and products that are designed to improve vocational education. These proj-

ects are conducted under grants or contracts awarded by the Commissioner of Education, in accordance with the provisions of Part C of the Act. Eligible applicants include local educational agencies, State boards for vocational education, public and private agencies, institutions, and organizations.

(b) *Regulations and criteria.* Regulations relating to the administration of the Research Program under Part C of the Vocational Education Act of 1963 are found in 45 CFR Part 103. (See particularly 45 CFR 103.11–15.) Regulations were published in the FEDERAL REGISTER on November 6, 1973, relating to general fiscal and administrative provisions for all Office of Education programs and are found in 45 CFR Parts 100 and 100a. Those general regulations are applicable to the program under section 131(a) of Part C of the Act.

(c) *Additional criteria.* In addition to the criteria for review of applications already published in the FEDERAL REGISTER, as described above, it is proposed that the additional criteria set forth in the proposed revision to Appendix B of the regulations in 45 CFR Part 103 will be applicable in connection with the review of applications for new projects to be awarded in fiscal year 1977.

(d) *Public participation in the decision making process.* Over 400 persons including representatives from national organizations have been involved in the priority setting process and in the development of the substance of the eight priority area statements. Data from these individuals constituted the basis for the eight priorities which were published in the FEDERAL REGISTER on June 24, 1976, as a "Notice of Intent to Set Priorities." This notice contained a brief statement about each of the eight priorities, and contained an invitation to comment on the priorities. In addition, over one hundred copies of the "Notice of Intent to Set Priorities for Vocational Education" were sent to individuals requesting their comments. The comments that were received regarding the eight priority areas were of a positive nature. The comments primarily suggested the adding of words or phrases for clarity purposes.

(e) *Written comments.* Interested persons are again invited to submit written comments, suggestions, or objections regarding these proposed additional criteria to the Division of Research and Demonstration, U.S. Office of Education, 7th and D Streets, SW., Room 5042, ROB No. 3, Washington, D.C. 20202, on or before January 14, 1977.

(f) *Inflation impact.* It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821, and does not require an Inflation Impact Evaluation.

(Catalog of Federal Domestic Assistance Program Number 13.498; Vocational Education—Research.)

Dated: October 14, 1976.

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

Approved: November 23, 1976.

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

APPENDIX B—RESEARCH PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA FOR THE FISCAL YEAR 1977

In awarding grants in fiscal year 1977 from funds available under section 131(a) of Part C of the Vocational Education Act, the Commissioner of Education will give consideration to applications concerned with the substance of vocational education as defined in the Act which rank high on the basis of the criteria in 45 CFR 100a.26(a), with priority consideration to those applications which propose research, development, and dissemination projects in the priorities described below.

Each priority area is considered of equal importance irrespective of its place in the following list. The Commissioner of Education may give consideration to projects of national, regional, or interstate significance in the following priorty areas.

The Commissioner of Education is interested in disseminating the results of projects that show effectiveness after being rigorously conducted and tested in controlled settings. Applications should include a plan for wide dissemination of proposed project results, products or outcomes. Provisions should be made for effective dissemination of the results, products, and outcomes during the proposed project duration.

In those instances where the results, products, or outcomes cannot be disseminated during the life of the proposed project, the project results, products, and outcomes should be prepared in a format that is conducive to wide dissemination. This format should include data regarding the validity and reliability of the results, products or outcomes.

Applications in each of the following eight priority areas must effectively demonstrate plants to eliminate sex bias in all aspects of the proposed work.

(a) *Equal access and opportunities.* Equal access and opportunity in vocational education should be provided for all youth and adults who have a need or desire for such education. Strategies and programs that facilitate equal access and opportunity need to be developed or improved and barriers which retard equal access and opportunity.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products, or outcomes of the projects. Equal access and opportunities for vocational education is especially important for persons of limited English speaking ability, the disadvantaged, the handicapped, and minority populations in rural and urban areas. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing stategies, or design, develop, and test new strategies for increasing equal access and opportunities for students seeking vocational education programs, and

(2) Identify, describe, and evaluate existing strategies, or design, develop, and test new strategies both within and outside of educational institutions that will attract groups that have not previously sought vocational education opportunities.

(b) *Sex role stereotyping and sex bias.* Continuing inequities, public concern, and national legislation have emphasized the need to eliminate sex role stereotyping and sex bias in vocational education at the secondary, postsecondary and adult education levels. Strategies and programs that facilitate the elimination of sex role stereotyping and sex bias in vocational education need to be developed or improved, and a better understanding of the barriers and constraints which retard the elimination of sex role stereotyping and sex bias in vocational education is needed.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products, or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing elements of vocational education programs and their related services that facilitate the elimination of sex role stereotyping and sex bias in these programs,

(2) Identify, describe, and evaluate existing instruments or design, develop, and test new instruments that can be used by teachers in identifying sex bias and sex role stereotyping in curriculum and instructional materials, and

(3) Identify, describe, and evaluate existing strategies, or design, develop, and test new strategies that facilitate the reentry of persons, especially women, into vocational education programs.

(c) *Education and work programs.* Education and work programs are being more widely utilized across the nation to facilitate the transition of learners to the world of work. Those who are designing, developing and installing education and work programs need more information, options, and tested strategies in order to better utilize and coordinate the resources of business, labor, industry, education, and government.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products, or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing education and work programs, or design, develop, and test new education and work programs,

(2) Identify, describe, and analyze the barriers to student observation of occupations that are included as hazardous occupations under the Child Labor provisions of the Fair Labor Standards Act in existing education and work programs, or design, develop, and test new strategies for students 14–18 years of age to observe these hazardous occupations in education and work programs.

(3) Identify and describe the skill and knowledge requirements for coordinators of non-paid education and work programs, and design, develop, and test preservice and inservice training materials for use in training the coordinators for these programs, and

(4) Identify, describe, and evaluate the assumptions and benefits of education and work programs to the sectors that are involved in these programs.

(d) *Adult and postsecondary vocational education.* Adult and postsecondary vocational education programs have been increasing in size and scope. There is need to improve these programs and to better serve the vocational needs of adults.

The Commissioner of Education is interested in supporting applied projects that document the effectiveness of the results, products or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing competency based vocational training materials for adults in occupational areas where there is significant labor demand, or develop and test new training materials that are competency based, intensive, and of short duration,

(2) Identify, describe, and evaluate existing vocational education programs that are coordinated with the adult performance level competency based approach, or develop and test new vocational education programs that utilize the adult performance level competency based approach,

(3) Identify, describe, and evaluate existing vocational education programs that are designed to help under educated adults who desire mid-career occupational changes, or develop and test new programs that are designed to help under educated adults with mid-career occupational changes,

(4) Identify, describe, and evaluate existing methods of linking vocational education at the post-secondary level with CETA programs, business, industry, labor, and adult education, or develop and test new vocational education programs that link vocational education at the post-secondary level with CETA programs, business, industry, labor, and adult education programs, and

(5) Identify, describe, and evaluate existing curriculums concerned with environmental quality and energy conservation, or develop new competency based curriculum and instructional materials for use in postsecondary vocational and education programs that are concerned with environmental quality and energy conservation.

(e) *Curriculum management and instructional materials.* Curriculum management and instructional materials are an especially important component of vocational education. A better understanding of curriculum management, the use of instructional materials, and methods of developing instructional materials is needed.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing methods of utilizing teacher and other professional input into the planning, development, and testing of curriculum and instructional materials, or develop and test new strategies for utilizing teacher and other professional inputs into planning, developing, and testing curriculum and instructional materials,

(2) Identify, describe, and evaluate existing methods of teacher selection of instructional materials or develop and test new methods of teacher selection of instructional materials,

(3) Identify, describe, and evaluate existing standards for developing curriculum and instructional materials or design, develop, and test new standards for developing quality curriculum and instructional materials,

(4) Identify, describe, and evaluate existing strategies for developing and testing curriculum and instructional materials on a cost effective basis, or design, develop and test new strategies for developing and testing curriculum and instructional materials on a cost effective basis, and

(5) Identify, describe, and evaluate existing curriculum management practices at the State and local levels, or design, develop, and test new curriculum management practices at the State and local levels.

(f) *Personnel development for vocational education.* While there is a surplus of educational personnel in the nation, vocational education continues to have shortages of trained personnel in many occupational areas. Strategies are needed to improve the competencies and increase the numbers of available vocational education teachers.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products, or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing strategies for recruiting, selecting, and training non-vocational teachers in occupational areas where teacher shortages exist, or design, develop and test new strategies for recruiting, selecting and training non-vocational teachers for occupational areas where teacher shortages exist,

(2) Identify, describe, and evaluate existing strategies for recruiting, selecting, and training vocational education teachers from occupational areas where a surplus of teachers exists for occupational areas where teachers shortages exist, or design, develop, and test new strategies for recruiting, selecting and training such teachers,

(3) Identify, describe, and evaluate existing instruments that measure the effectiveness of preservice field experiences for vocational teachers at the secondary or postsecondary levels, or design, develop and test new instruments for measuring the effectiveness of preservice education field experience for vocational teachers at the secondary or postsecondary levels, and

(4) Identify, describe, and evaluate existing preservice vocational teacher education and training programs in terms of teacher needs in contrast to the training being received, or design, develop, and test new preservice teacher training programs that meet current teacher needs.

(g) *Comprehensive systems of guidance, counseling, placement, and follow-through.* Comprehensive systems of guidance, counseling, placement, and follow-through are needed to meet career development, vocational education and employment needs of students, out-of-school youth, and adults. Further refinements, development, and evaluation are needed to improve comprehensive systems of guidance, counseling, placement, and follow-through services for vocational education.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products, or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing community based, guidance, counseling, placement, and follow-through centers that augment existing guidance, counseling, placement, and follow-through services in vocational programs at the secondary and postsecondary levels, or design, develop, and test the educational specifications for community based guidance, counseling, placement, and follow-through centers that provide services to out-of-school youth and adults as a means of augmenting existing school based services. The design and specification should include staff qualifications, center operations, numbers to be served, assumptions for such centers, coordination and utilization of community resources, and projected cost for both developing and operating such centers,

(2) Identify, describe, and evaluate existing methods and models for upgrading on a continuous basis the required knowledge and competencies of those who participate in the conceptualization, planning, implementation, conduct, and evaluation of comprehensive systems of guidance, counseling, placement, and follow-through activities, or develop and test new methods and models for upgrading on a continuous basis the required knowledge and competencies of those who participate in the conceptualization, planning, implementation, conduct, and evaluation of comprehensive systems of guidance, counseling, placement and follow-through activities. The models should include relationships to differentiated staff utilization and certification standards,

(3) Identify, describe, and evaluate existing standards, criteria, procedures, and instruments for evaluating the effectiveness of comprehensive systems of guidance, counseling, placement and follow-through, or develop and test new standards, criteria, procedures, and instruments for evaluating the effectiveness of comprehensive systems of guidance, counseling, placement and follow-through, and

(4) Identify, describe, and evaluate existing State and local planning models for comprehensive systems of guidance, counseling, placement, and follow-through which foster their inclusion and implementation in broad plans for elementary, secondary, post-secondary, and adult levels, or develop and test new State and local planning models for comprehensive systems of guidance, counseling, placement and follow-through services.

(h) *Administration of vocational education at the State and local levels.* Administrators of vocational education at the State and local levels are confronted with increasingly complex issues. There is a need to improve preservice and inservice training for these administrators and to develop better administrative tools for their use.

The Commissioner of Education is interested in supporting applied studies and development projects that document the effectiveness of the results, products or outcomes of the projects. The items listed below are examples of activities that may be addressed by applicants.

(1) Identify, describe, and evaluate existing inservice or preservice training programs that are designed to improve the administrative competencies for those persons who use management information systems for decision making, policy analyses, and planning purposes,

(2) Identify, describe, and evaluate existing inservice or preservice training programs that are designed to improve the competencies of administrators to work more effectively with the vocational needs of members of minority groups, females, persons in correctional systems, and persons of limited English speaking ability, or develop and test new inservice and preservice training programs that are competency oriented and are

designed to improve the administrators' skills in working more effectively with the vocational needs of members of minority groups, females, persons in correctional institutions, and persons with limited English speaking ability, and

(3) Identify, describe, and evaluate existing needs assessment instruments and procedures for use by State or local vocational education administrators, or design, develop, and test new needs assessment instruments and procedures for use by State or local vocational education administrators.

APPLICATION REVIEW CRITERIA

The following criteria will be utilized in reviewing formally transmitted applications. These criteria are consistent with § 100a.26, Review of Applications, in the Office of Education, General Provisions for Programs, published in the FEDERAL REGISTER on November 6, 1973. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria total 100 points and the maximum weight for each criterion is listed below.

Applications that receive less than 40 points will not be funded. Applications that do not address the previously described priority areas are eligible for consideration in this competition, if the substance of the application is within the definition of the Vocational Education Act of 1963, as amended.

1. *Priority area.* (Maximum 10 points)

The application is adequately focused on the need of the priority area as announced in the FEDERAL REGISTER and the application further delineates the priority area or component of a priority area.

2. *Literature review.* (Maximum 6 points)

The literature review is sufficiently comprehensive to:

(a) Establish the basis for the problem;

(b) Describe the problem in contrast to the symptoms of the problem;

(c) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures (when appropriate), and

(d) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

3. *Need and problem.* (Maximum 10 points)

The need and problem section follows the literature review and clearly:

(a) Describes the need in vocational education for the proposed project;

(b) Provides specific evidence of the need;

(c) Indicates specifically who or what will be helped;

(d) Describes the problem rather than symptoms of the problem; and

(e) Describes, where appropriate, ongoing and planned activities in the community relative to the need and problem.

4. *Objectives.* (Maximum 5 points)

The objectives flow from the description of the problem and are:

(a) Significant for vocational education;

(b) Clearly describe proposed project outcomes;

(c) Capable of being attained; and

(d) Measurable.

5. *Plan.* (Maximum 20 points)

The plan clearly describes how the objectives will be accomplished by:

(a) The overall design for the proposed project;

(b) The specific procedures of each segment of the design in terms of how each objective will be undertaken and accomplished. Normally, the plan will include:

(1) Precise definition of terms;

(2) Description of the characteristics and number of subjects;

(3) Sampling procedures and control groups;

(4) Instrumentation; and

(5) Statistical and analytical procedures.

6. *Management plan.* (Maximum 8 points)

The management plan adequately describes how and when personnel and resources will be utilized to accomplish each objective, the overall design, and each major procedure.

7. *Evaluation plan.* (Maximum 10 points)

The plan includes valid instruments and rigorous procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.

8. *Results, end products, outcomes and dissemination.* (Maximum 10 points)

The application clearly describes:

(a) What will be delivered to the government;

(b) The format in which the results, products, or outcomes will be delivered to the government;

(c) The format in which results, products, or outcomes will be developed or provided for transportability purposes to specified user populations, and

(d) The procedures for the dissemination of the results, end products or outcomes at the local, State, and/or National levels.

9. *Applicant's staff competencies and experience.* (Maximum 8 points)

The application clearly describes:

(a) The name and qualification (including project management qualifications) of the project director, key professional staff, advisory groups, and any consultants;

(b) Time commitments planned for the project by the project director, key staff, advisory groups, and any consultants.

(c) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects;

(d) The competencies that are required for the proposed project;

(e) Evidence that the proposed project director was instrumental in preparing the application; and

(f) Evidence of commitment to employment opportunities under Title IX of the Education Amendments of 1972.

10. *Budget and cost-effectiveness.* (Maximum 4 points)

The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost-effective with respect to proposed results, products, or outcomes.

11. *Institutional capability and commitment.* (Maximum 4 points)

The application provides adequate evidence of:

(a) Institutional experience and commitment to the proposed work;

(b) Provides appropriate facilities and equipment; and

(c) Provides documented assurance of support from cooperating agencies, local educational agencies or postsecondary institutions, business, industry and labor, if these are necessary for successful implementation of the project.

12. *Sex bias and sex role stereotyping.* (Maximum 5 points)

The application provides appropriate plans to eliminate sex bias and sex role stereotyping in the:

(a) Proposed plan;

(b) Proposed management plan; and

(c) Proposed results, end products, outcomes, and dissemination.

The criteria listed in this section shall be the only criteria that the Commissioner, the Commissioner's staff, or any other Federal or non-Federal reviewer may utilize in reviewing applications with the exceptions noted below. In addition to the criteria listed above, the U.S. Commissioner of Education and his staff may utilize the followig criteria in making decisions regarding whether or not to fund officially transmitted applications. These criteria are not weighted since they are part of administrative decisions that may have to be utilized in exceptional instances in the administration of discretionary grant programs. These criteria are listed below:

1. Duplication of effort.

2. Duplication of funding.

3. Evidence that an applicant has not performed satisfactorily in previous years.

4. Cost sharing is required by all applicants.

5. State board approval is required for applications from local educational agencies.

6. Application has been sent to the State director of vocational education.

7. Signed assurance of compliance with the Department of Health, Education, and Welfare regulation under Title VI, and

8. Signed protection of Human Subject Certification Form Number HEW 596.

[FR Doc.76-35216 Filed 11-29-76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on December 10 and 11, 1976, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9:00 a.m. each day and will be open to the public, subject to the limitations of available space.

Time permitting, topics identified in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, and the Health Research and Health Services Amendments of 1976 (Pub. L. 94-278), including psychosurgery, the participation of children and the institutionalized mentally infirm in research, the performance of Institutional Review Boards, the application of research guidelines to the delivery of health services by DHEW, the Special Study (section 203 of Pub. L. 93-348), and disclosure of research information, will be the agenda for this meeting.

In accordance with the provisions of 5 U.S.C. 552(b)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4 p.m. to 5 p.m. on December 10, 1976, if it is determined to be necessary for the discussion of internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Requests for information should be directed to Ms. Anne Ballard, (301-496-7776), Room 125, Westwood Building,

5333 Westbard Avenue, Bethesda, Maryland 20016.

CHARLES U. LOWE,
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

NOVEMBER 19, 1976.

[FR Doc.76-35215 Filed 11-29-76;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet on Wednesday, Thursday, and Friday, January 26-28, 1977, from 8:30 a.m. to 6:00 p.m. each day in Room 525-A, HEW-South Portal Building, 200 Independence Avenue, SW., Washington, D.C. The agenda will include work projects and plans for 1977 activities.

Interested persons wishing to address the Committee, should contact the Secretary's Advisory Committee on the Rights and Responsibilities of Women by COB Wednesday, January 19. Phone: 202-245-8454. Written statements received by January 19 will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Dated: November 22, 1976.

SUSAN HONEYCUTT,
Special Assistant to the Under Secretary.

[FR Doc.76-35214 Filed 11-29-76;8:45 am]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Determinations

Notice is hereby given that there was not previously published in the FEDERAL REGISTER a notice that certain entities which were initially determined to be pre-operational qualified health maintenance organizations under section 1310 (d) of the Public Health Service Act (42 U.S.C. 300e-9(d)) were subsequently determined to be operational qualified health maintenance organizations. The following entities were determined to be operational qualified health maintenance organizations:

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Name, address, service area, and operational date

(OCCUPATIONAL QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS: 42 CFR § 110.603(d))

1. Health Care Plan of New Jersey, Inc., 123 North Church Street, Moorestown, New Jersey 08057. Service area: Burlington County and adjacent municipalities within Camden County.

The zip codes included in the area are as follows:

BURLINGTON COUNTY

08010, 08011, 08015, 08016, 08019, 08022, 08036, 08041, 08042, 08046, 08048, 08052, 08053, 08054, 08055, 08057, 08060, 08064, 08068, 08073, 08075, 08077, 08088, 08505, 08511, 08518, 08534, 08562.

CAMDEN COUNTY

08004, 08007, 08009, 08026, 08033, 08034, 08035, 08045, 08049, 08083, 08084, 08091, 08106.

Operational date: June 1, 1976. (Achieved pre-operational status on May 27, 1976—see 41 F.R. 24622, June 17, 1976.)

2. Prudential Health Care Plan, Inc., P.O. Box 2884, Houston, Texas 77001. Service area: Radius of 25 air miles of the medical group's facilities within greater Houston metropolitan area.

Operational date: June 2, 1976. (Achieved pre-operational status on June 2, 1976—see 41 F.R. 30701, July 26, 1976.)

3. Rutgers Community Health Plan, 88 College Avenue, New Brunswick, New Jersey 08903. Service area: Communities within a 15 mile radius of New Brunswick, which includes all of Middlesex County and parts of Somerset, Union, Mercer, Monmouth and Morris Counties.

Operational date: July 1, 1976. (Achieved pre-operational status on July 1, 1976—see 41 F.R. 33930, August 11, 1976.)

Files containing detailed information regarding these qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: November 18, 1976.

JOHN A. O'ROURKE,
Acting Director, Office of Quality Standards.

[FR Doc.76-34926 Filed 11-29-76;8:45 am]

Social and Rehabilitation Service

FEDERAL ALLOTMENT TO STATES FOR SOCIAL SERVICES EXPENDITURES PURSUANT TO TITLE XX OF THE SOCIAL SECURITY ACT

Promulgation for Fiscal Year 1978

Promulgation is made of the Federal allotment for Fiscal Year 1978 for purposes of grants to States under Title XX of the Social Security Act pursuant to section 2002(a)(2) of the Act which provides that the Federal allotment shall be determined and promulgated in accordance with said section.

For Fiscal Year 1978, the allotment limits are based on the Bureau of the Census population statistics contained in its publication, "Current Population Reports" (Series P-25, No. 619, January 1976) which is the most recent satisfactory data, available from the Department of Commerce at this time as to the population of each State and of all States.

It is hereby promulgated, for purposes of grants to States for social services under title XX, that the Federal allotment to each of the 50 States and the District of Columbia for the Fiscal Year ending September 30, 1978, as determined pursuant to the Act and on the basis of said population data, shall be as set forth below. These allotments assume that there will be no extension of the increased title XX amounts authorized by Pub. L. 94-401. Should there be such an extension, the amounts shown below will be revised.

State	*Federal allotment*
Total	$2,500,000,000
Alabama	42,500,000
Alaska	4,250,000
Arizona	26,000,000
Arkansas	24,750,000
California	248,500,000
Colorado	29,500,000
Connecticut	36,250,000
Delaware	6,750,000
District of Columbia	8,500,000
Florida	98,000,000
Georgia	57,750,000
Hawaii	10,250,000
Idaho	9,750,000
Illinois	130,750,000
Indiana	62,250,000
Iowa	33,750,000
Kansas	26,500,000
Kentucky	39,750,000
Louisiana	44,750,000
Maine	12,500,000
Maryland	48,000,000
Massachusetts	68,250,000
Michigan	107,500,000
Minnesota	46,000,000
Mississippi	27,500,000
Missouri	55,750,000
Montana	8,750,000
Nebraska	18,250,000
Nevada	7,000,000
New Hampshire	9,500,000
New Jersey	85,750,000
New Mexico	13,500,000
New York	212,500,000
North Carolina	64,000,000
North Dakota	7,500,000
Ohio	126,250,000
Oklahoma	31,750,000
Oregon	26,750,000
Pennsylvania	138,750,000
Rhode Island	10,750,000
South Carolina	33,000,000
South Dakota	8,000,000
Tennessee	49,250,000
Texas	143,500,000
Utah	14,250,000
Vermont	5,500,000
Virginia	58,250,000
Washington	41,500,000
West Virginia	21,250,000
Wisconsin	54,000,000
Wyoming	4,500,000

Dated: November 22, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

[FR Doc.76-35148 Filed 11-29-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-76-469]

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority With Respect to Housing

Section L of the redelegation of authority to Regional Administrators et al. with respect to Housing published at 41 FR 22857, June 7, 1976, is revised to read:

SEC. L. *Additional authority redelegated to Insuring Office Officials.* 1. Each Insuring Office Director and Deputy Insuring Office Director in the offices listed below is authorized to exercise the power and authority of the Secretary of Housing and Urban Development for housing assisted under the U.S. Housing Act of 1937 as amended (42 U.S.C. 1401, et seq.).

Phoenix, AZ	Albuquerque, NM
Sacramento, CA	Albany, NY
Santa Ana, CA	Cincinnati, OH
Denver, CO	Cleveland, OH
Springfield, IL	Providence, RI
Des Moines, IA	Memphis, TN
Topeka, KS	Houston, TX
Shreveport, LA	Salt Lake City, UT
Grand Rapids, MI	Spokane, WA
Helena, MT	Charleston, WV

The authority redelegated above includes the power and authority under sections 1(1) and 1(2) of Executive Order 11196, except the authority to:

a. Determine that there is a substantial breach or default and invoke any remedy on behalf of the Federal Government upon default or breach by a local housing authority in respect to the terms, covenants, or conditions of an annual contributions contract.

b. Terminate annual contributions contracts when the decision to terminate is made by the Federal Government.

c. Waive the provisions of annual contributions contracts: Provided, That each Insuring Office Director and Deputy Insuring Office Director is authorized to waive provisions with respect to the following:

i. Employment of a former local housing authority Commissioner.

ii. Frequency of reexamination of tenants to permit a local housing authority to change its established reexamination schedule.

iii. Approval of the use of force account for modernization programs.

iv. Approval of construction and equipment contracts for modernization exceeding $5,000, but not exceeding $50,000.

2. Each Director of Housing in the above listed Insuring Offices is authorized to exercise the powers and authorities redelegated to Directors of Housing in Area Offices in section D.

(Secretary's delegation of authortiy to redelegate published at 41 FR 24755, June 18, 1976.)

Effective date. This amendment to redelegation of authority is effective on November 1, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-35091 Filed 11-29-76;8:45 am]

[Docket No. D-76-468]

PROPERTY DISPOSITION COMMITTEE

Redelegation of Authority

Section A of the redelegation of authority and assignment of functions with respect to Property Disposition Committee published at 41 FR 26946 June 30, 1976, is amended to read as follows:

SECTION A. *Central Office Property Disposition Committee Members.* The Central Office Property Disposition Committee (herein called the Central Office Committee) is comprised of the following members: Assistant Secretary for Housing-Federal Housing Commissioner, Chairman; Director, Office of Property Disposition, Office of Housing; Director, Office of Loan Management, Office of Housing; Director, Office of Mortgagee Activities and Participant Compliance, Office of Housing; Director, Office of Technical Support, Office of Housing; Director, Office of Loan Origination, Office of Housing; General Counsel or his designee; and such other members as the Assistant Secretary for Housing (herein called the Assistant Secretary) shall designate.

(Secretary's delegation of authority to redelegate published at 41 FR 24755, June 18, 1976.)

Effective date. This redelegation of authority is effective as of September 13, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-35092 Filed 11-29-76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-76-670]

LAS LOMAS SUBDIVISION ET AL.

Hearing

In the matter of: Las Lomas Subdivision and Las Lomas Subdivision Unit 2, Bruce Griffith, 76-311-IS, OILSR No. 0-4100-36-183.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Las Lomas Subdivision and Las Lomas Subdivision Unit 2, Bruce Griffith, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 20, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Las Lomas Subdivision and Las Lomas Subdivision Unit 2, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 4, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on December 8, 1976 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before December 2, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: November 16, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge, 451 Seventh Street, S.W., Room 7150, Washington, D.C. 20410.

[FR Doc.76-35090 Filed 11-29-76;8:45 am]

Office of the Secretary

[Docket No. N-76-506]

PRIVACY ACT OF 1974

Proposed New Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a(e)(11), the Department of Housing and Urban Development hereby publishes for comment a new system of records that will be maintained by the Department.

A new system report was filed with the Speaker of the House, the President of the Senate, the Privacy Protection Study Commission, and the Office of Management and Budget on October 4, 1976.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth in the following paragraph.

Any person interested in commenting on the routine use portion of the system of records contained in this notice may do so by submitting comments in writing to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, on or before December 30, 1976.

HUD/PD&R–1

System name.

Urban Homesteading Evaluation Data

System location.

Cambridge, Massachusetts

Categories of individuals covered by the system.

Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

Categories of records in the system.

Demographic, socio-economic, housing characteristics, and housing costs.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses.

See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage.

Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

Retrievability.

Code number; address.

Safeguards.

File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

Retention and disposal.

Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

System manager and address.

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Notification procedure.

For inquiry about existence of records, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the same address.

Record access procedures.

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Contesting record procedures.

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, in relation to contesting contents of records or in relation to appeals of initial denials, it may be obtained by contacting the Departmental Privacy Act Appeals Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Record source categories.

Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

Issued at Washington, D.C., November 22, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-34971 Filed 11-29-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

CONFIDENTIALITY OF INFORMATION

Policy Statement

The Bureau of Mines has traditionally protected the confidentiality of information it has received in confidence, and that policy continues today. Under the Freedom of Information Act (FOIA), however, the Bureau can give no unqualified guarantee of confidentiality at the time information is received.

The disclosure provisions of the Freedom of Information Act do not apply to matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Nevertheless, a determination as to whether specific material falls within that exempted category must be made anew each time that information is requested by a third party under the FOIA. That is because the "privileged or confidential" status of a piece of information may change with time and changing circumstances—as when a company itself is found to have made public information once given the Bureau in confidence, for example.

Determination on what is privileged or confidential will be made by the Chief of the Bureau's Office of Mineral Information (OMI) after consulting with the person or organization that supplied the information. The two major considerations of the Chief, OMI in such cases are (1) whether the information falls within the criteria set by the language of the FOIA exemption, and (2) if it does, whether the public interest would be best served by withholding the information or disclosing it. It is the policy of the Bureau to withhold information that falls within those criteria on the grounds that to give it out would endanger the Bureau's access to information volunteered by private industry, although it is conceivable that other considerations might be judged more important in a given case.

Dated: November 11, 1976.

THOMAS V. FALKIE,
Director,
Bureau of Mines.

[FR Doc.76-35163 Filed 11-29-76;8:45 am]

Geological Survey

YAMPA RIVER BASIN, COLORADO

Power Site Cancellation 338

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 87 of February 14, 1925, is hereby canceled to the extent that it affects the following described land:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 6 N., R. 98 W.,
- Sec. 5, lots 6, 18, and 19;
- Sec. 7, lot 9 and SE¼NE¼;
- Sec. 8, lots 7 and 17;
- Sec. 17, lot 27;
- Sec. 18, lots 13, 14, 16, 17, and 18, SE¼NW¼, and E½SW¼;
- Sec. 19, lots 5, 6, 11, 12, 15, and 18;
- Sec. 20, lots 1 and 2, and lots 7 to 10, inclusive;
- Sec. 21, lots 1, 3, 8, 10, 14, 16, and 19;
- Sec. 22, lots 3, 4, and 6;
- Sec. 30, lots 6 and 7, lots 9 to 13, inclusive, and SW¼NE¼.

T. 7 N., R. 98 W.,
- Sec. 29, SE¼SW¼;
- Sec. 32, lots 3, 5, 14, and 16, and SW¼NW¼.

T. 6 N., R. 99 W.,
- Sec. 22, SE¼SE¼;
- Sec. 24, lot 1;
- Sec. 25, lots 9, 10, 11, 16, 18, and 20, and SE¼SE¼;
- Sec. 26, lots 16 and 18;
- Sec. 27, lots 7, 10, 11, 15, and 16, and SW¼SW¼;
- Sec. 28, E½SE¼;
- Sec. 35, NW¼NW¼;
- Sec. 36, NW¼NE¼.

The area described aggregates 1,523.36 acres.

The effective date of this cancellation is March 15, 1977.

Dated: November 15, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-35063 Filed 11-29-76;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 November 22, 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 December 10, 1976.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

ALABAMA

Jefferson County

Birmingham, *Oak Hill Cemetery*, 1120 N. 19th St.

CALIFORNIA

Lassen County

Litchfield vicinity, *Willow Creek Rim Archeological District*, N of Litchfield

Los Angeles County

Granada Hills, *Van Norman Reservoir Archeological District*, 15751 Rinaldi St.

Santa Barbara County

Santa Barbara, *El Paseo and Casa de la Guerra*, 808–818 State St., 813–819 Anacapa St., 9–25 E. De la Guerra St.

Santa Clara County

Gilroy vicinity, *Uvas Creek Village Site and Bedrock Mortar Area*, NW of Gilroy.

COLORADO

El Paso County

Colorado Springs, *Alamo Hotel*, 128 S. Tejon St.

IDAHO

Power County

American Falls vicinity, *Register Rock*, 12 mi. W of American Falls.

MARYLAND

Allegany County

Cumberland vicinity, *Phoenix Mill Farm*, NE of Cumberland off MD 220.

Worcester County

Showell vicinity, *St. Martins Church*, S of Showell at jct. of U.S. 113 and MD 589.

MICHIGAN

Huron County

Bay Port, *Bay Port Commercial Fishing Historic District*, off MI 25.

Kent County

Grand Rapids, *Heritage Hill Historic District*, roughly bounded by Michigan, Thomas, Union, Lafayette, Jefferson, and Claremont (boundary revision).

Marquette County

Marquette, *State House of Correction and Branch Prison*, off U.S. 41/MI 28.

St. Clair County

Port Huron, *Grand Trunk Western Railroad Depot*, 520 State St.

Tuscola County

Vassar, *North Townsend House*, 325 N. Main.

NEVADA

Clark County

Las Vegas vicinity, *Sloan Petroglyph Site*, S of Las Vegas off I–15.

Lincoln County

Hiko vicinity, *White River Narrows*, N of Hiko.

White Pine County

Ely vicinity, *Sunshire Locality*.

NEW JERSEY

Bergen County

Norwood vicinity, *Rockleigh Historic District*, E of Norwood on Piermont Rd.
Ramsey, *Westervelt-Ackerson House*, 538 Island Rd.

Middlesex County

New Brunswick, *Buccleuch Mansion*, 200 College Ave., Buccleuch Park (HABS).

Monmouth County

Tinton Falls, *Tinton Falls Historic District*, irregular pattern along Tinton and Sycamore Aves.

Morris County

Boonton vicinity, *Dixon, James, Farm*, NW of Boonton on Rockaway Valley Rd.
Dover vicinity, *Bryant, D. L., Distillery Site*, SW of Dover, 1547 Sussex Turnpike.
Lincoln Park, *Dod, John, House and Tavern*, 11 Highland St. and 8 Chapel Hill Rd.
Whippany, *Tuttle House*, 341 NJ 10.

Somerset County

Raritan vicinity, *South Branch Historic District*, SW of Raritan.

Union County

Springfield vicinity, *Hutchings Homestead*, 126 Morris Ave.

NEW MEXICO

Catron County

Red Hill vicinity, *Mogollon Pueblo*, N of Red Hill.

McKinley County

Prewitt vicinity, *Casamero Ruin*, N of Prewitt.

NEW YORK

Queens County

College Point, *Poppenhusen Institute*, 114–04 14th Rd.

PENNSYLVANIA

Dauphin County

Harrisburg, *Main Capitol Building*, 3rd and State Sts.

TENNESSEE

Obion County

Union City, *Brackin Octagonal House*, E. College and Railroad Sts.

WISCONSIN

Rock County

Beloit, *Hanchett-Bartlett Farmstead*, 2149 St. Lawrence Ave.

St. Croix County

Somerset vicinity, *Soo Line High Bridge*, W of Somerset.

WYOMING

Big Horn County

Byron vicinity, *Signature Rock*, N of Byron.

Carbon County

Rawlins vicinity, *Midway Station Site*, SE of Rawlins off WY130.
Rawlins vicinity, *Pine Grove Station Site*, S of Rawlins.
Rawlins vicinity, *Sage Creek Station Site*, SE of Rawlins.
Rawlins vicinity, *Washakie Station Site*, E of Rawlins.
Wamsutter vicinity, *Duck Lake Station Site*, SE of Wamsutter.

Natrona County

Casper vicinity, *Martin's Cove*, W of Casper.
Casper vicinity, *Willow Springs–Ryan Hill Historic District*, SW of Casper.

Sweetwater County

Rawlins vicinity, *Red Rock*, SW of Rawlins.
Rock Springs vicinity, *Drug Springs Station Site*, E of Rock Springs.
Rock Springs vicinity, *Laclede Station Site*, E of Rock Springs.

[FR Doc.76–35009 Filed 11–29–76;8:45 am]

Bureau of Land Management

[NM 29118 and 29119]

NEW MEXICO

Applications

NOVEMBER 19, 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 one 4½-inch and one 10¾-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 1, lots 9, 10, 11 and 12;
Sec. 2, lots 9, 10, 11 and 12;
Sec. 3, lots 9, 10, 11, 13 and 14;
Sec. 4 lots 14, 15 and 16.
T. 18 S., R. 32 E.,
Sec. 25, SE¼NE¼ and N½SE¼.
T. 18 S., R. 33 E.,
Sec. 30, lots 1, 2 and NE¼NW¼.

These pipelines will convey natural gas across 4.650 miles of national resource lands in Eddy and Lea 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 1397, Roswell, New Mexico 88201.

FRED E. PALILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.76–35149 Filed 11–29–76;8:45 am]

National Park Service

[Order No. 1]

ADMINISTRATIVE OFFICER, BOSTON NATIONAL HISTORICAL PARK, BOSTON

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

1. *Administrative Officer.* The Administrative Officer, Boston National Historical Park may execute, approve and administer contracts not in excess of $25,000 for supplies, equipment or services including construction, in conformance with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer, in behalf of any area administered by the Superintendent, Boston National Historical Park.

(National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 1, (39 FR 3695).)

Dated: August 4, 1976.

HUGH D. GURNEY,
Superintendent,
Boston National Historical Park.

[FR Doc.76-35160 Filed 11-29-76;8:45 am]

[Order No. 1]

ADMINISTRATIVE OFFICER, STATUE OF LIBERTY NATIONAL MONUMENT

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

1. *Administrative Officer.* The Administrative Officer, Statue of Liberty National Monument may execute, approve and administer contracts not in excess of $10,000 for supplies, equipment or services including construction, in conformance with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer, in behalf of any area administered by the Superintendent, Statue of Liberty National Monument.

2. *Revocation.* This order supersedes all previous delegations of authority.

(National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 1, (39 FR 3695).

Dated: August 16, 1976.

LUIS GARCIA,
Acting Superintendent,
Statue of Liberty National Monument.

[FR Doc.76-35162 Filed 11-29-76;8:45 am]

[Order No. 1]

ADMINISTRATIVE TECHNICIAN, MANHATTAN SITES, NEW YORK

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

1. *Administrative Technician.* The Administrative Technician, Manhattan Sites, may execute, approve and administer contracts not in excess of $2,000 for supplies and equipment in conformance with applicable regulations and statutory authority and subject to the availability of appropriated funds.

This authority may be exercised by the Administrative Technician, in behalf of any area administered by the Park Manager, Manhattan Sites.

(National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 1 (39 FR 3695).)

Dated: August 16, 1976.

ROBERT NASH,
Park Manager,
Manhattan Sites.

[FR Doc.76-35161 Filed 11-29-76;8:45 am]

[Order No. 1]

ADMINISTRATIVE TECHNICIAN, SAGAMORE HILL NATIONAL HISTORIC SITE

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

1. *Administrative Technician.* The Administrative Technician, Sagamore Hill National Historic Site, may execute, approve and administer contracts not in excess of $2,000 for supplies and equipment in conformance with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Technician in behalf of any area administered by the Park Manager, Sagamore Hill National Historic Site.

(National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 1 (39 FR 3695.)

Dated: August 16, 1976.

JAMES BROWN,
Park Manager, Sagamore Hill,
National Historic Site.

[FR Doc. 76-35159 Filed 11-29-76;8:45 am]

Office of the Secretary

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), I have determined that renewal of the advisory committees listed below is necessary and in the public interest.

Advisory Board on National Parks, Historic Sites, Buildings and Monuments
Advisory Committee on Coal Mine Safety Research
Appalachian National Scenic Trial Advisory Council
Archeological Advisory Board
Bonneville Regional Advisory Council
Consulting Committee for the National Survey of Historic Sites and Buildings
Historic American Buildings Survey Advisory Board
Historic American Engineering Record Advisory Committee
National Capital Memorial Advisory Committee
National Park Service Midwest Regional Advisory Committee
National Park Service Pacific Northwest Regional Advisory Committee
National Park Service Southeast Regional Advisory Committee
National Park Service Southwest Regional Advisory Committee
National Park Service Western Regional Advisory Committee
National Petroleum Council
Office of Water Research and Technology Advisory Panel
Water Research and Education Advisory Committee

The Office of Management and Budget has concurred in the renewal of these committees.

Further information regarding these renewals may be obtained from the Department Committee Management Officer, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: November 19, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76-34993 Filed 11-29-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. E. I. DU PONT DE NEMOURS AND COMPANY, ET AL.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of New Jersey in *United States of America v. E. I. du Pont de Nemours and Company, et al.*, Civil Action No. 74-1086. The complaint in this case alleges that the nine corporate defendants conspired among themselves and other co-conspirators to raise and fix the prices of dyes, which are used for the coloring of various consumer, institutional and commercial products, in violation of § 1 of the Sherman Act. The proposed judgment perpetually enjoins each of the defendants from the illegal conduct alleged in the complaint. Also perpetually enjoined are communications with other dye manufacturers concerning future prices, or consideration by a defendant of a change in price, except in the course of bona fide purchase and sale transactions. In addition, the proposed judgment enjoins each of the defendants for a period of ten years, from communicating with other dye manufacturers concerning present prices or offers and those in effect within a year preceding the communication except for the transmittal upon request of a public price list then in effect or changes therein and for information relative to bona fide purchase and sale transactions between dye manufacturers.

The proposed judgment also perpetually enjoins each defendant from requesting from any dye manufacturer any information which said defendant is enjoined from communicating by the proposed judgment. The proposed judgment requires each defendant for a period of ten years to take affirmative action to apprise management personnel of the requirements of the proposed judgment and the possible consequence of its violation.

Public comment is invited on or before January 24, 1977. Such comments and response thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Bernard Wehrmann, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, New York 10007.

Dated: November 16, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, DISTRICT OF NEW JERSEY

United States of America, Plaintiff, v. E. I. du Pont de Nemours and Company; Verona Corporation; Allied Chemical Corporation; American Color & Chemical Corporation; American Cyanamid Company; Basf-Wyandotte Corporation; Ciba-Geigy Corporation; Crompton & Knowles Corporation; and GAF Corporation, Defendants.

Civil Action No. 74–1086.

Filed: November 16, 1976.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall not in any manner prejudice any consenting party in this or any other proceeding. Dated: November 16, 1976.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General*; William E. Swope, Charles F. B. McAleer, Elliott H. Moyer, Bernard Wehrmann, Donald Ferguson, Philip F. Cody, Melvin Lublinski, *Attorneys, Department of Justice.*

For the Defendants: Covington & Burling, Washington, D.C., by Herbert Dym, *Attorney for E. I. duPont de Nemours & Company;* Morgan, Lewis & Bockius, Washington, D.C., by Miles W. Kirkpatrick, *Attorney for Verona Corporation;* Donovan Leisure Newton & Irvine, New York, New York, by George S. Leisure, *Attorney for American Cyanamid Company;* Shearman & Sterling, New York, New York, by Thomas A. Dieterich, *Attorney for BASF-Wyandotte Corporation;* Cravath, Swaine & Moore, New York, New York, by Ralph L. McAfee, *Attorney for Ciba-Geigy Corporation;* Milbank, Tweed, Hadley & McCloy, New York, New York, by Briscoe R. Smith, *Attorney for Allied Chemical Corporation;* Crummy, Del Deo, Dolan & Purcell, Newark, New Jersey, by Michael R. Griffinger, *Attorney for American Color & Chemical Corporation;* Warner & Stackpole, Boston, Massachusetts, by Arnold Manthorne, *Attorney for Crompton & Knowles Corporation;* Skadden, Arps, Slate, Meagher & Flom, New York, New York, by Stephen M. Axin, *Attorney for GAF Corporation.*

So ordered:

Newark, New Jersey
November 16, 1976

H. CURTIS MEANOR,
United States District Judge.

UNITED STATES DISTRICT COURT, DISTRICT OF NEW JERSEY

United States of America, Plaintiff, v. E. I. du Pont de Nemours and Company; Verona Corporation; Allied Chemical Corporation; American Color & Chemical Corporation; American Cyanamid Company; Basf-Wyandotte Corporation; Ciba-Geigy Corporation; Crompton & Knowles Corporation; and GAF Corporation, Defendants.

Civil Action No. 74–1086.
Filed: November 16, 1976.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 18, 1974, and plaintiff and defendants, by their respective attorneys, having each consented to the making and entering of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of the action and of each of the parties hereto. The complaint states claims upon which relief may be granted against each of the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, association, firm, or other business or legal entity.

(B) "Dye" means a soluble colored compound used for coloring textiles, leather, paper or other products, except for color additives refined, made and handled for certification pursuant to 21 U.S.C. 371 and 376; and 21 C.F.R. 8.1 et seq. and 9.1 et seq., for use in or on foods, drugs and cosmetics.

(C) "Manufacturer" means a person who produces and regularly solicits customers for the sale of a dye or dyes and includes each defendant.

(D) "United States" means the United States of America, its territories, possessions, and other places under the jurisdiction of the United States.

III

The provisions of this Final Judgment applicable to any defendant shall also apply to its subsidiaries, affiliates, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, each defendant, together with its parent company, its controlled subsidiaries, and commonly controlled affiliates along with each of its officers, directors and employees when acting solely in such capacity shall be deemed to be one person. Except for sales to the plaintiff or any agency or instrumentality thereof, this Final Judgment shall not apply to activities outside the United States which do not directly affect the foreign or domestic commerce of the United States.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, enforcing, or claiming any rights under any contract, agreement, arrangement, understanding, plan or program with any other Manufacturer or Manufacturers, directly or indirectly to:

(A) Fix, maintain, determine or stabilize the price or other terms or conditions for the sale of any dye or dyes to any third person; or

(B) Allocate, limit, apportion, or divide territories, markets or customers for the production, sale or distribution of any dye or dyes.

V

Each defendant is enjoined and restrained from:

(A) For the period of ten (10) years from the date of entry of this Final Judgment, communicating to any other Manufacturer information concerning:

(1) Prices at which, or terms or conditions upon which, dyes would then be or are then being sold or offered for sale by said defendant;

(2) Prices at which, or terms and conditions upon which, other than prices or terms or conditions described in subsection (1) of this paragraph (A), dyes have been sold or offered for sale by said defendant within the one (1) year period ending on the date of the communication;

(B) Communicating to any other Manufacturer information concerning:

(1) Future prices at which, or terms or conditions upon which, dyes will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell dyes;

(C) Requesting from any other Manufacturer any information of a type which said defendant could not communicate to such other Manufacturer without violating paragraph (A) or (B) of this Section V.

VI

Without limiting the provisions of Section IV hereof, nothing in Section V hereof shall prohibit (1) the communication of information by a defendant to another Manufacturer in the course of, and related to, negotiating for, entering into, or carrying out a bona fide purchase or sale transaction between such defendant and such other Manufacturer; or (2) the transmission, without additional

comment or explanation, to another Manufacturer, upon request of said Manufacturer, of such defendant's dyes price list or dyes price book (or any change therein) regularly issued in the course of business, which price book or price list (or said change) had been previously released and circulated to the trade generally, if such transmission is made on or after the effective date of the prices included in such price list or price book (or said change).

VII

(A) Within sixty (60) days after the date of entry of this Final Judgment, each defendant herein shall furnish a conformed copy hereof to: (1) each of its own officers and directors; (2) each of its own employees who has managerial or supervisory authority in the pricing of dyes or for the establishment or modification of general terms and conditions of sale of dyes; (3) each officer, director and aforementioned employee of a domestic subsidiary of said defendant engaged in the manufacture or sale of dyes; and (4) its parent corporation, if any; and shall advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

(B) Within ninety (90) days after the date of entry of this Final Judgment, each defendant shall file with the plaintiff an affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section.

(C) For a period of ten (10) years after the date of entry of this Final Judgment, each defendant shall furnish a copy thereof to each person who becomes an officer, director, or employee described in Paragraph (A) of this Section, together with the advice specified by said subsection, within thirty (30) days after each such person becomes an officer, director, or employee described in said Paragraph (A) of this Section.

(D) For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is ordered to file with the plaintiff, within thirty (30) days of each anniversary date of such entry, an affidavit concerning the fact and manner of compliance with Paragraph (C) of this Section.

VIII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, 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, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents 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. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

IX

Jurisdiction is retained 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 carrying out of this Final Judgment or for the modification of any of the provisions thereof and for the enforcement of compliance therewith and for the punishment of any violation thereof.

X

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

United States District Court, District of New Jersey

United States of America, Plaintiff, v. E. I. du Pont de Nemours and Company; Verona Corporation; Allied Chemical Corporation; American Color & Chemical Corporation; American Cyanimid Company; Basf Wyandotte Corporation; CIBA-Geigy Corporation; Crompton & Knowles Corporation; and GAF Corporation, Defendants.

Civil Action No. 74-1086.

Filed: November 16, 1976.

PROPOSED CONSENT DECREE: COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)), the United States of America hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

On July 18, 1974, the United States filed a civil antitrust action under Section 4 of the Sherman Act (15 U.S.C. § 4) alleging that the above-named defendants and unnamed co-conspirators had combined and conspired to fix, raise and maintain the prices of dyes in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges that as a result of the conspiracy, the prices of dyes were fixed and maintained at artificial and noncompetitive levels depriving buyers of free and open competition and restraining competition.

Entry by the Court of the proposed consent judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify or enforce the judgment, or to punish alleged violations of any of the provisions of the judgment.

II. DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATION

Dyes, manufactured in a great variety, are applied and used in many industries for coloring products including natural and synthetic fibers and fabrics, paper, leather, and plastics. The defendants accounted for approximately $300 million or some 60 percent of total dye sales in the United States in 1971.

The complaint in this case alleges that beginning in 1970, officials of defendant duPont undertook discussions of a proposed across-the-board increase in the price of dyes with each of the other defendants, at various times and places, and sought the reaction of each with respect to the proposed increase. According to the allegations of the complaint, by the end of 1970, defendant duPont had received reactions from the other defendants indicating that a price increase would be followed and accordingly on January 7, 1971, defendant duPont announced a ten percent across-the-board increase in the price of dyes to become effective on March 1, 1971. The complaint also alleges that between January 12, and February 1, 1971, each of the other defendants announced price increases, effective March 1, 1971, which were substantially the same as those of the defendant duPont.

The complaint alleges that the charged conspiracy had the following effects: (a) that prices of dyes were raised, fixed and maintained at artificial and noncompetitive levels; (b) that buyers of dyes were deprived of free and open competition in the purchase of dyes; and (c) that competition in the sale of dyes among defendants and co-conspirators was restrained.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have stipulated that the proposed consent judgment, in the form negotiated by and between the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

A. *Prohibited Conduct*

The proposed judgment will prohibit each of the defendants from entering into any agreement or arrangement with a competitor manufacturer to fix, maintain or stabilize the price or the terms or conditions for the sale of any dye or to allocate or divide markets or customers for the production, sale or distribution of any dye. Further, with limited exceptions noted infra, the judgment will prohibit any of the defendants: (1) from communicating to any competitor manufacturer information concerning future prices, terms or conditions for sale of dyes or the consideration of changes in such prices, terms or conditions, and (2) for a period of ten years, from communicating to any other such manufacturer information concerning the prices, terms or conditions at which dyes are then being sold or offered for

sale. In addition, the judgment bars defendants for a similar period from communicating to any such manufacturer the prices, terms or conditions at which dyes had been sold or offered during the preceding one-year period. Moreover, the defendants are perpetually barred from requesting from any manufacturer any information of the type which they are enjoined from communicating by the proposed consent judgment.

The limited communications concerning future, present and past and prices permitted by the proposed judgment are for the purpose of negotiating bona fide purchase or sale transactions between a defendent and another dye manufacturer. Also, a defendant is permitted to transmit, without additional comment or explanation, to another manufacturer, upon the latter's request, its dye price list or any change therein providing such list or change had been previously circulated to the trade generally and had become effective on or before the date of transmission.

Each defendant will be required, within 60 days after entry of judgment, to furnish a copy of the judgment to each of its officers and directors, each of its employees who has managerial or supervisory authority in the pricing of dyes or for the establishment or modification of general terms and conditions of sale of dyes, each officer, director and aforementioned employee of a domestic subsidiary engaged in the manufacture or sale of dyes and to its parent corporation, if any. Moreover, for ten years when new officers, directors or employees having such authority are employed by a defendant the employing defendant must furnish a copy of the judgment to them within 30 days after such employment.

Finally, within 90 days of entry of the judgment and each year thereafter for ten years, each defendant will be required to file with the plaintiff an affidavit concerning the fact and manner of compliance with the provision described in the preceding paragraph. These provisions should help to prevent future violations of the judgment by making each responsible employee individually aware of the judgment and its prohibitions.

B. *Scope of the Proposed Judgment*

The proposed judgment applies to each defendant and to each of its officers, directors, employees and agents, and to all other persons in active concert or participation with any of the defendants, provided that such persons have actual notice of the judgment, by personal service or otherwise. Unless the Court either modifies or vacates the proposed judgment, the defendants are forever bound by its prohibitions, except that there is a ten year ban on the communication of present and past prices under Section V(A) of the judgment. This section would expressly bar competitors disclosing to each other current sales transactions with, or offers to, particular customers. During and after the ten year period, such disclosures also would be subject to the other provisions of the Judgment including the perpetual injunction against price fixing and price stabilization.

The judgment would apply to the defendants' activities wherever they may occur within the United States and to such activities occurring outside the United States if the foreign or domestic commerce of the United States is directly affected thereby.

C. *Effect of the Proposed Judgment on Competition*

The relief encompassed in the proposed consent judgment is designed to prevent any recurrence of the activities alleged in the complaint. The prohibitive language of the judgment should ensure that future price actions of the defendants will be independently determined, without the restraining and artificial influences which result from communications and agreements between competitors.

The judgment provides methods for determining the defendants' compliance with the terms of the judgment. Officers, employees and agents of each defendant may be interviewed by duly authorized representatives of the Department of Justice regarding the defendants' compliance with the judgment, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and reports may be required on matters contained in the judgment.

It is the opinion of the Department of Justice that the proposed consent judgment provides fully adequate provisions to prevent continuance or recurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

IV. ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

The Antitrust Division had considered a consent judgment which was different in several respects from the judgment presently proposed. One difference concerns the definition of the term "dye." The proposed judgment makes it clear that color additives for use in foods, drugs and cosmetics are not included in the definiiton of "dye." No specific exclusion of color additives had been made in the definition of "dye" in the consent judgment proposals originally considered by the Antitrust Division. The Antitrust Division agreed to this exclusion from the definition of "dye" because there was no evidence available to indicate that color additives were involved in the alleged price-fixing conspiracy and because such color additives are subject to certification and constitute a separate market from dyes used to color textiles, paper, leather and other fibers.

Another difference concerns the definition of the term "Manufacturer." The Antitrust Division had considered a definition of that term which would have included any person who produces dyes. The proposed judgment defines the term to include only a person who produces "and regularly solicits customers for the sale of a dye or dyes and includes each defendant." The latter definition is designed to exclude a company which manufactures dyes principally for its own use rather than for sale. The proposed definition will, therefore, include any manufacturer who regularly competes in the dyes market.

Other differences concern the extent of the ban on communications between each defendant and any other manufacturer relating to past and present dye prices, terms or conditions for sales or offers to sell to particular customers. The Antitrust Division had considered a provision which would have made the prescribed ban on these communications perpetual. The proposed judgment limits the specific ban to a period of ten years. Defendants contehded that (1) such communications were not always in themselves unlawful, and (2) since a number of dye manufacturers were not named as defendants in this action and so would not be subject to the restraints imposed by the judgment, defendants would be disadvantaged in competing with these nondefendants who it was claimed could verify lower prices reportedly offered by competitors to specific customers and thereby be able to meet such lower prices, in compliance with the price-discrimination provisions of the Robinson-Patman Act (15 U.S.C. § 13). The Antitrust Division believes that regardless of the merits of the arguments advanced by defendants, the ten-year period, together with the perpetual injunctions, will be adequate to eliminate any existing practices involving communications of the prohibited type and to cover future developments of the Robinson-Patman issues.

The Antitrust Division had considered a provision which would have enjoined communications between dye manufacturers concerning past, present or future prices, terms or conditions for the sale of dyes, subject only to the exceptions of information which had been released to the trade generally or as necessary to negotiations for a specific bona fide sale transaction between a defendant and another Manufacturer. The proposed judgment's corresponding provision more narrowly limits the exception by only permitting a defendant to transmit, without additional comment, to another Manufacturer, upon request, the defendant's dyes price list or book which has been previously released to the trade generally. Also, the proposed judgment limits the ban on communications concerning past prices, terms or conditions at which dyes have been sold by a defendant to those sold in the preceding one-year period, unless the prices, terms or conditions of earlier sales continue to be those at which a defendant is selling or offering to sell. The Antitrust Division considers the one-year period adequate to prevent communications have current competitive significance.

V. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this consent judgment has no prima facie effect in any subsequent lawsuits which may be brought against these defendants.

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Bernard Wehrmann, Antitrust Division, U.S. Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10007, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VII. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The alternative to the proposed Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the complaint.

VIII. OTHER MATERIALS

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) were considered in formulating this proposed judgment. Consequently, none are submitted pursuant to such section 2(b).

Dated: November 16, 1976.

DONALD FERGUSON
PHILIP F. CODY
MELVIN LUBLINSKI,
Attorneys, Department of Justice.

[FR Doc.76-34990 Filed 11-29-76;8:45 am]

Antitrust Division

UNITED STATES V. GOODPASTURE, INC.

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)-(h), that a proposed consent judgment and a competitive impact statement have been filed with the United States District Court for the Southern District of Texas, Civil Action No. 73-H-1765. The complaint, filed by the United States, charges the defendant with violating section 1 of the Sherman Act by unreasonably restraining trade and commerce in grain stevedoring. The complaint states that Goodpasture, Inc. operates an export grain elevator at Galena Park, Texas. Goodpasture's diversified operations include a wholly-owned subsidiary, Shippers Stevedoring Company, which functions as the house stevedore at the elevator. The complaint alleges that beginning in 1969, and continuing thereafter, Goodpasture has unlawfully required all tramp vessels loading at its elevator to hire a Goodpasture-designated company—generally Shippers—to perform the necessary stevedoring work at the elevator.

The proposed judgment broadly prohibits the defendant from requiring use of its choice of stevedores as a condition of access to the elevator by tramp vessels. Exceptions are permitted only where Goodpasture bears the cost of the stevedoring services or loading delays, or pays all the vessel transportation costs.

Greater detail is provided in the proposed consent judgment and competitive impact statement, copies of which appear below. Public comments on the proposed judgment are invited on or before January 27, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Antitrust Division, Department of Justice, Washington, D.C., 20530.

Dated: November 19, 1976.

DONALD I. BAKER,
Assistant Attorney General
Antitrust Division.

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

United States of America, Plaintiff, v. *Goodpasture, Inc.*, Defendant.

Civil Action No. 73-H-1765.
Filed: November 19, 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 (15 U.S.C. 16), 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: November 19, 1976.

For Plaintiff: Donald I. Baker, *Assistant; Attorney General;* William E. Swope, Charles F. B. McAleer, Joseph J. Saunders, Robert J. Rose, Donald L. Flexner, David W. Brown, *Attorneys, Antitrust Division, U.S. Department of Justice.*

For Defendant Goodpasture, Inc.: Charles Newton, *Vinson, Elkins, Searls, Connally & Smith;* I. J. Saccomanno, *Saccomanno, Klegg, Martin & Kipple.*

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

United States of America, Plaintiff, v. *Goodpasture, Inc.*, Defendant.
Civil Action No: 73-H-1765.
Filed: November 19, 1976.

FINAL JUDGMENT

The complaint having been filed herein on December 28, 1973, the Plaintiff and the Defendant, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by any party with respect to any issue of fact or law herein.

NOW, THEREFORE, upon a determination by this Court that entry of this Judgment is in the public interest, and 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 as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the Defendant under Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. 1, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Elevator" shall mean any grain elevator owned or operated by the Defendant in the United States, including the one located in Galena Park, Texas;

(B) "Person" shall mean any individual, corporation, partnership, association, firm or other legal entity.

III

The provisions of the Final Judgment shall apply to the Defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with Defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

After the date of entry of this Final Judgment, the Defendant is enjoined and restrained from:

(A) Conditioning, directly or indirectly (except where the Defendant is the charterer or subcharterer or where the Defendant is bearing the cost of stevedoring services), the loading of grain by any person at any elevator upon any requirement, understanding or agreement that the stevedoring services of any particular person be utilized;

(B) Entering into any contract, agreement or understanding (except where the Defendant is the charterer or subcharterer or where the Defendant is bearing the cost of stevedoring services) with the owner or charterer of any vessel that the Defendant may or will select the person which will provide stevedoring services for the loading of grain on any vessel at any elevator; or

(C) Denying or otherwise restricting any person access to and the use of the facilities at the terminal or dock of an elevator in order to provide stevedoring services for loading grain at the elevator;

Provided, however, that the provisions of this Section IV are not intended to cover the situation where the Defendant selects the stevedoring services at competitive rates because the buyer of the grain requires a condition in the grain sales contract that Defendant shall bear the financial detriment in the event of loading delays or suffer other economic penalties because of loading delays. *Provided further*, That the provisions of this Section IV shall not prohibit the Defendant from establishing and enforcing regulations and charges for access to and use of the facilities at an elevator, and the conduct of the stevedoring operations thereat: *Provided*, That such regulations and charges are reasonable and are applied without discrimination to all persons seeking such access and use. In this connection the Defendant may require and enforce written agreements as a condition to such access so long as such agreements are consistent with the provisions of this Section IV.

V

The Defendant is ordered and directed, within thirty (30) days after the effective date of this Final Judgment, to mail a copy of this Final Judgment to each of the stevedoring companies which Defendant knows or has reason to know is or might be interested in offering stevedoring services at any elevator, to each of the stevedoring companies operating in the vicinity of each eleva-

tor, and to each of the stevedoring companies maintaining an office in Houston, Texas, and, within the same period, to mail to the Department of Justice a list of the stevedoring companies to which a copy of the Final Judgment is sent.

VI

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, 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 VI 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.

VII

Jurisdiction is retained for the purpose of enabling any party consenting 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 carrying out of this Final Judgment, for the modification of any of the provisions herein, for the enforcement of compliance herewith and the punishment of the violation hereof.

VIII

Entry of this Final Judgment is in the public interest.

Signed and entered this ____ day of ________, 1976.

UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

United States of America, Plaintiff, v. *Goodpasture, Inc.*, Defendant.

Civil Action No. 73-H-1765.
Filed: November 19, 1976.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the United States hereby files this statement of the competitive impact of the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. Nature and purpose of the Proceeding. The complaint in this proceeding was filed by the United States on December 28, 1973. It alleges that the defendant, Goodpasture, Inc., violated section 1 of the Sherman Act, 15 U.S.C. 1, by unreasonably restraining trade and commerce in grain stevedoring. The United States sought relief in the form of a decree that Goodpasture had so violated the Sherman Act and an injunction prohibiting the conduct alleged to have given rise to the violation.

II. Practices and events giving rise to the alleged violation. A. The Defendant.

Goodpasture, Inc. is a Texas corporation whose principal place of business is in Brownfield, Texas. Among other activities, Goodpasture operates an export grain elevator located in Galena Park, Texas, along the Houston ship channel, as well as numerous inland grain storage elevators. In 1972 Goodpasture had gross revenues in excess of $100 million, nearly half of which was derived from grain sales. About 10% of its revenues were derived from its two wholly-owned subsidiaries, Service Marine Company, a contract dredger, and Shippers Stevedoring Company (Shippers). Shippers functions as the "house" stevedore at the Goodpasture export grain elevator in Houston. It also competes to provide stevedoring services at many of the other export grain elevators in the region. Shippers' gross revenues have recently exceeded $1,000,000 annually.

B. Trade and Commerce Involved.

This action involves the business of grain exportation from the United States. In particular, it focuses on the stevedoring services essential to the loading of grain into a ship from a grain elevator, the normal method by which grain is exported from this country. Most grain is exported from the Gulf Coast area, where more than 20 export elevators are in operation, many owned by several vertically integrated companies much larger than Goodpasture. More than three million tons of grain were exported through Goodpasture's Houston elevator between March 1969 and July 1971. Business continued during the pendency of this action until February 21, 1976, when a major explosion greatly damaged and forced the closing of Goodpasture's export facilities. Indications are that the facility will be rebuilt and will reopen within one or two years.

Grain sold for export is normally sold at a price either (1) including transportation by ship to a designated foreign port, or (2) including only delivery to the export elevator (and sometimes the ship loading costs as well). The first type of sale is offered to buyers who do not wish to arrange their own export transportation by sellers who either act as vessel charterers or offer ships from their own vertically-integrated operations. Goodpasture neither charters nor owns vessels, and thus its export grain customers must arrange their own transportation with vessel charterers. Virtually all the grain exported from the Goodpasture elevator in Houston, whether or not originally sold by Goodpasture, is sold under this second type of arrangement.

The first type of sale is a "package deal" in which the grain seller normally retains full control over all phases of transportation to the foreign port. In contrast, for a typical Goodpasture grain sale the owner of the vessel chartered by the buyer will be instructed to present his vessel at Goodpasture's elevator on the contract delivery date. The vessel owner then retains a stevedoring company. The stevedore works closely with the vessel owner (or his agent) in planning the loading of the ship and arranging other details. When the vessel arrives the stevedore hires a gang of longshoremen, brings them and the necessary equipment to the elevator, and supervises the loading of the ship. Faulty stowage can result in an unseaworthy ship, damage to or mixing of grains, unloading delays, and other losses for which the vessel owner bears full responsibility. Thus, the vessel master traditionally exercises full control over all aspects of the loading operation.

The vessel owner's risks and the need for close cooperation between stevedor and master in the loading operation make it in the owner's interest to select the stevedore it thinks will load the ship most skillfully. The elevator operator, however, would like to clear his stocks as quickly as possible to accommodate more business and thus prefers the stevedore it thinks will load the ship most rapidly. The inherent conflict between the interests of elevator operator and vessel owner in the stevedore selection process underlies the conduct complained of in this case.

C. Defendant's Practices.

Goodpasture's export elevator in Houston is governed by a "dock tariff," which sets forth rules and regulations governing vessel loading and the charges for a variety of services. The tariff's provisions are made applicable to each vessel loading there through a berth application required of the vessel owner by Goodpasture to berth at the elevator. The evidence is clear that the tariff gives Goodpasture the right to select the stevedore on all tramp vessels.

The Shippers subsidiary was formed in March 1969 in order to facilitate resolution of a longshoremen's strike that had shut down the elevator. Two months later the dock tariff was amended to require for the first time appointment of the stevedore by Goodpasture. Between March 1969 and July 1971, 157 of the 161 tramp vessels which loaded at the Goodpasture elevator were stevedored by Shippers. (The other 4 were loaded during the period before Shippers had become operational.) Shippers' revenues from stevedoring tramp vessels at Goodpasture's elevator were $600,000 for the period December 1969–July 1971. Goodpasture thus obtained the dual benefit of selecting the stevedore most likely to act in its interest and keeping the stevedoring revenues in the corporate family.[1]

Goodpasture's preemption of the stevedoring business for tramp vessels loading at its elevators has had an adverse impact on the 20 stevedoring firms other than Shippers operating in the greater Houston area, the tramp vessel owners obliged to call at Goodpasture's elevator, and the purchasers of grain loaded there. The other stevedoring firms are effectively precluded from obtaining the tramp vessel business at the elevator, and the lack of competition permits Goodpasture to impose higher stevedoring charges on the vessel owner than is possible at elevators open to competition. Denied the opportunity to select the stevedore, the vessel owner also suffers a loss of control over the stevedore's performance, increasing his risk of losses from faulty stowage. Lastly, the grain purchasers' costs may increase if the demand for ships is sufficiently great that vessel owners are able to pass the additional expenses and losses through to them.

D. The Antitrust Violation.

The exclusive stevedoring arrangement described above is an illegal tying agreement violative of section 1 of the Sherman Act. In

[1] During this same time period 127 non-tramp vessels (common carriers or liners, regulated by the Federal Maritime Commission) loaded at Goodpasture's elevator, totaling about 20 percent as much grain as the tramp vessels. Those vessels had the freedom to select any stevedore they wished, and in fact selected some 15 different stevedoring companies, including Shippers on occasion.

a typical tie-in situation, the sale of one product or service (the tying product) is conditioned upon the purchase of another product or service (the tied product). Here, tramp vessel owners who have contracted with grain buyers to load at the Goodpasture elevator find their use of Goodpasture's docking and loading facilities conditioned upon their employing the Goodpasture-selected stevedore (i.e., Shippers).

This type of conduct is *per se* illegal, i.e., unlawful notwithstanding any possible claim of commercial reasonableness or business necessity, whenever a party has sufficient economic power with respect to the tying product to appreciably restrain free competition in the market for the tied product and a "not insubstantial" amount of commerce is affected.

Northern Pacific Ry. v. United States, 356 U.S. 1, 4 (1958). The requisite economic power and effect on commerce are present in this case.

III. The Proposed Consent Judgment. The proposed consent judgment grants the fundamental relief the United States sought in the complaint, i.e., to enjoin Goodpasture from requiring vessel owners who are entitled to select the stevedore to agree to hire one designated by Goodpasture, as a condition to being allowed to load at any elevator owned or operated by Goodpasture. The essential prohibitory language accomplishing this objective is contained in section IV of the judgment, which is discussed in detail below. Section IV also includes language designed to remove certain commercial situations from its prohibitions. Other significant provisions acknowledge the Court's jurisdiction (section I); extend the judgment's operation to any grain elevator in the United States owned or operated by Goodpasture (section II(A)); required Goodpasture to notify local stevedoring companies of the judgment (section V); permit the United States access to Goodpasture's books and records and employees to determine and secure compliance with the judgment (section VI(A)); require reports from Goodpasture if requested by the Attorney General or the Assistant Attorney General, Antitrust Division (section VI(B)); and provide for retention of jurisdiction by the Court to enable or facilitate execution, modification, enforcement of compliance, or punishment of violation of the judgment (section VII).

Section IV(A) enjoins Goodpasture from conditioning, directly or indirectly, the loading of grain at any Goodpasture elevator upon any requirement, understanding or agreement that the stevedoring services of any particular person be used. Section IV (B) similarly prohibits Goodpasture from entering into any agreement or understanding with the owner or charterer of any vessel that Goodpasture may or will select the stevedore for the loading of grain on any vessel at any Goodpasture elevator. Both section IV(A) and IV(B) appropriately exclude from their operation situations in which Goodpasture is the charterer or subcharterer of the vessel, or is bearing the cost of stevedoring services. Similar exceptions were included in earlier consent judgments obtained by the United States against other grain exporters, who sometimes sell grain and overseas transportation together, i.e., the "package deal" described above. It was incorporated in this proposed judgment to permit Goodpasture to compete for this grain-and-transportation package business in the future, should it seek to do so.

Section IV(C) specifically prohibits Goodpasture from denying or otherwise restricting access to and use of the terminal or dock of any Goodpasture elevator in order to provide stevedoring services for loading grain at the elevator.

Section IV further contains two provisos excluding certain activities from the operation of the prohibitory language of sections IV(A), (B) and (C). The first proviso allows Goodpasture to select the stevedore at locally competitive rates in those situations where a purchaser of grain from Goodpasture insists that Goodpasture assume the risk of losses attributable to a loading delay. During the negotiation of the proposed judgment, Goodpasture explained that assumption of the risk of loading delay is necessary, in some situations, to obtain business that would otherwise go to larger grain elevators, which can offer guaranteed delivery dates because they do their own shipping or chartering. As was the case with the section IV(A) and IV(B) exceptions discussed above, we believe it reasonable to permit Goodpasture to select the stevedore in this situation. It is obligated, however, to charge the grain purchaser no more than a competitive rate to perform the stevedoring services.

The second proviso recognizes the continuing practical necessity for Goodpasture to establish reasonable, uniform regulations and charges governing access to and use of its grain elevators. The regulations and charges may cover all aspects of elevator use, including the conduct of stevedoring operations. This proviso also recognizes that Goodpasture may require and enforce written agreements as a condition of access to the elevator facilities. We do not believe such agreements (or the underlying regulations and charges) are objectionable, so long as their terms are reasonable, they are applied without discrimination to all seeking access to and use of the facilities, and they are in all other respects consistent with the prohibitions of section IV. The proviso contains language to this effect appropriate to prohibit Goodpasture from using these agreements, regulations and charges as an indirect means of forcing tramp vessels to use Shippers at its elevator.

The United States anticipates that this judgment will enhance competition among stevedores in the greater Houston area for the loading of tramp vessels at a rebuilt Goodpasture facility. This should reduce ship loading costs to grain purchasers, exporters and vessel owners. The judgment should also enhance competition in the grain exporting industry by permitting Goodpasture to employ its stevedoring subsidiary to compete with larger, more vertically integrated grain export companies, where such employment is consistent with Goodpasture's obligation not to restrain competition in the provision of stevedoring services.

IV. Remedies available to potential private plaintiffs. Pursuant to section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), a consent judgment in a civil proceeding brought by the United States under the antitrust laws, if entered before any testimony has been taken, shall not be *prima facie* evidence against such defendant that the antitrust laws have been violated, in any action or proceeding under the antitrust laws brought by any other party. Anyone damaged by the alleged violation, however, retains the right to sue for treble damages under section 4 of the Clayton Act, 15 U.S.C. 15, and all other legal and equitable remedies he may have, as if the consent judgment had not been entered. If the court accepts the proposed consent judgment in this case at this time, the above provisions will be fully applicable to all potential private plaintiffs.

V. Procedures available for modification of the consent judgment. The proposed consent judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed consent judgment at any time before its entry by the Court. In addition, by its terms the proposed consent judgment provides for retention of jurisdiction of this action, permitting either party to apply to the Court for such orders as may be necessary or appropriate for its modification.

Pursuant to subsections (b) and (d) of section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)(d), any person believing that the proposed consent judgment should be modified in any way may, during the 60-day period following the filing of this statement with the Court, submit for consideration written comments relating to the proposed consent judgment to Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Antitrust Division, Department of Justice, Washington, D.C. 20530. Within the 60-day period, such comments will be filed with the Court and published in the FEDERAL REGISTER. At the close of the 60-day period, responses to such comments will also be filed with the Court and published in the Federal Register. All comments will be evaluated by the Department of Justice to determine if there is any reason for withdrawal of its consent to, or for modification of, the proposed consent judgment.

VI. Description and evaluation of alternatives to the proposed consent judgment actually considered by the United States. The relief provided for in the proposed consent judgment is essentialy that sought by the United States in instituting this lawsuit. The first draft judgment submitted to the defendant did not include the provision now appearing in Section IV which permits Goodpasture to select the stevedore in a load guarantee situation, i.e., where Goodpasture pays for loading delays. We concluded that this provision, proposed by Goodpasture, would be appropriate to permit Goodpasture to compete with larger, vertically integrated grain exporting companies, while at the same time eliminating its ability to restrain trade in the provision of stevedoring services.

There are no materials or documents which were considered determinative in formulating this proposed consent judgment; consequently, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), none are being filed with this statement by the United States.

Respectfully submitted,

JOSEPH J. SAUNDERS,
DAVID W. BROWN,
Attorneys,
Department of Justice.

[FR Doc.76-35150 Filed 11-29-76;8:45 am]

Drug Enforcement Administration

[Docket No. 76-31]

DON V. WILLIAMS, T/A WEWA DRUGS

Revocation of Registration

On July 1, 1976, the Administrator of the Drug Enforcement Administration (DEA) issued to Don V. Williams, trading as Wewa Drugs, Wewahitchka, Florida, an Order to Show Cause as to why DEA Certificate of Registration AW0205848, previously issued to Mr. Williams and Wewa Drugs (hereinafter, "Respondent"), should not be revoked for reasons set forth in the Order to Show Cause. On July 30, 1976, through counsel, Respondent requested a hearing on the Order to Show Cause.

While this matter was pending before Administrative Law Judge Francis L. Young, counsel for the Government and the Respondent entered into a Consent

Agreement whereby Respondent withdrew its request for a hearing and consented to the proposed revocation of its registration. On October 28, 1976, Judge Young dismissed the proceeding before him and, pursuant to Title 21, Code of Federal Regulations, § 1316.65, forwarded to the Administrator the record of this matter and his recommendation that the subject registration be revoked. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based on the findings of fact and conclusions of law set forth below.

The Administrator finds that Respondent's privilege to dispense controlled substances, and to be registered to do so under section 303 of the Controlled Substances Act (21 U.S.C. 823), terminated when, on September 16, 1974, Respondent Don V. Williams sold the business entity known as Wewa Drugs to Jackson-Hurst, Inc. Therefore, the Administrator concludes that the Controlled Substances Registration applied for and maintained by Mr. Williams subsequent to September 16, 1974, must be revoked. The Respondent consents in this action.

The Respondent and the Government have also agreed that in the event that the Respondent is successful in the appellate courts of the United States in obtaining a reversal of his felony conviction relating to controlled substances, and should the respondent thereafter seek to engage in the business or profession of pharmacy and apply for a controlled substances registration for said pharmacy, such application will be granted provided that no new or independent grounds for denial or revocation should then appear. The Administrator concurs in this agreement.

Therefore, under the authority vested in the Attorney General by the Controlled Substances Act, specifically, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Registration of Don V. Williams, t/a Wewa Drugs AW0205848, be, and hereby is, revoked, effective immediately.

This Order in no way affects or impairs the registration of the Jackson-Hurst Drug Company, Inc, which now trades as Wewa Drugs, Inc., and has been issued DEA Certificate of Registration number AW6270728.

Dated: November 22, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc.76-35226 Filed 11-29-76;8:45 am]

[Docket No. 76-2]

NICHOLAS G. GAKIDIS, T/A NEW SEABURY PHARMACY

Revocation of Registration

On December 23, 1975, the then Acting Administrator of the Drug Enforcement Administration (DEA) directed to Nicholas G. Gakidis, trading as the New Seabury Pharmacy, Mashpee, Massachusetts (hereinafter, "Respondent"), an Order to Show Cause why Respondent's DEA Registration AG1970513 should not be revoked, pursuant to 21 U.S.C. 824, for reason that on October 17, 1975, in the Superior Court within and for the County of Barnstable, Massachusetts, Mr. Gakidis was convicted of feloniously distributing a controlled substance. On January 13, 1976, Respondent, through his attorney, requested a hearing on the Order to Show Cause.

A prehearing conference was held by telephone on March 2, 1976, following the filing and exchange of prehearing statements by counsel for the Government and the Respondent. The Honorable Francis L. Young, Administrative Law Judge, issued a prehearing ruling on March 5, 1976. Subsequently, a Memorandum of Law on the defense of coercion and a motion to dismiss were filed on behalf of the Respondent. On June 2, 1976, after considering Respondent's motion and the Government's response thereto, Judge Young denied the motion to dismiss without prejudice.

On June 30, 1976, a hearing was held in the U.S. Tax Court courtroom, Judge Young presiding. On October 7, 1976, Judge Young certified to the Administrator, pursuant to 21 CFR § 1316.65, his recommended findings of fact and conclusions of law, a recommended decision, and the record of the proceedings in this matter. The Administrator has considered the record and, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found, inter alia, that on October 17, 1975, the Respondent was convicted, on his plea of guilty, of unlawfully distributing controlled substances under Massachusetts law [one of three counts being a felony violation], and of knowingly failing to keep records and maintain inventories as required by law. Accordingly, Judge Young concluded that Respondent's registration was subject to revocation under 21 U.S.C. 824. The Administrative Law Judge further found that the Respondent's license to practice pharmacy in the State of Massachusetts had been suspended for a period of two years; lawful grounds for denial or revocation of a DEA registration under 21 U.S.C. 823(f) and 824(a)(3), respectively.

Additionally, Judge Young found that the proceeding at hand was not mooted by the "corporate activity in Mashpee" by which the Respondent purportedly transferred his business to a newly formed corporation owned by his father and sought to "cancel" his registration and have these proceedings against said registration declared moot. The Administrative Law Judge found that the subject registration had been issued to Nicholas G. Gakidis, a natural person, who had not ceased legal existence, and that only the technical legal identity of his employer had changed since the Respondent first obtained his DEA registration. Hence, Judge Young found that the registration was still in effect and subject to administrative action through these proceedings.

The Administrator adopts these findings of fact and conclusions of law and, therefore, concludes that the registration of Nicholas G. Gakidis, trading as the New Seabury Pharmacy, should be revoked.

However, in view of all of the circumstances in the record, it is the Administrator's position that the revocation herein ordered need not be permanent. Therefore, at such time as the Respondent's license to practice pharmacy is restored by the State of Massachusetts, the Drug Enforcement Administration will consider a new application for registration, provided that no new or independent grounds for denial or revocation are found to exist at the time of such application.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration by Title 28, Code of Federal Regulations, § 0.100, as amended, the Administrator hereby orders that the registration of Nicholas G. Gakidis, trading as the New Seabury Pharmacy, be, and hereby is, revoked, effective immediately.

Dated: November 23, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc.76-35225 Filed 11-29-76;8:45 am]

Immigration and Naturalization Service

HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 93-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held from 9:30 a.m. to 5:00 p.m., e.s.t., Friday, December 17, 1976, in Conference Room 7061, Immigration and Naturalization Service, 425 "I" Street, N.W., Washington, D.C.

The agenda for the meeting will be as follows:

I. Call to order by the Commissioner.
II. Opening statement by the Commissioner.
III. Election of Chairperson and Chairperson-elect.
IV. Briefings by INS staff.
A. Overview of INS.
B. Employment Profile/Opportunities.
C. Western Hemisphere Bill (Act of October 20, 1976; Pub. L. 94-571).
D. Residential Survey on Illegal Immigration.
E. National Outreach Program.
V. New Business (proposing of next meeting date, agenda topics and other related matters concerning the Committee).

Attendance is open to the interested public, but is limited to the space available.

Persons seeking additional information concerning this meeting should contact:

Mr. E. B. Duarte, Special Assistant to the Commissioner of Immigration and Naturalization for Hispantic Liaison, Room 7058, 425 "I" Street, N.W., Washington, D.C. 20536, Telephone (202) 376-8211.

Dated: November 24, 1976.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.76-35153 Filed 11-29-76;8:45 am]

UNITED STATES V. SCOTT PAPER CO.

Proposed Consent Decree in Action To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 16, 1976, a proposed consent decree in United States v. Scott Paper Company" was lodged with the United States District Court for the District of Maine. The proposed decree would require Scott Paper Company to terminate operations at its Winslow pulp mill, Winslow, Maine, by April 1, 1977.

The Department of Justice will receive on or before December 15, 1976, written comments relating to the proposed judgment. The usual thirty (30) day comment period has been shortened in this case because of prior opportunity for comment and hearing provided by the State of Maine and because of the need to assure compliance with federal primary ambient air quality standards as expeditiously as possible. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to "United States v. Scott Paper Company," D.J. Ref. 90-5-1-7-513.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Courthouse, Portland, Maine 04112, at the Region I Office of the Environmental Protection Agency, Enforcement Division, J. F. Kennedy Federal Building, Boston, Massachusetts, 02203, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2623), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer) of the United States.

PETER R. TAFT,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.76-35152 Filed 11-29-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Ending of Federal Supplemental Benefit Period in Oregon

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Oregon effective November 27, 1976.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State. A Federal Supplemental Benefit Period commenced in the State of Oregon on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 26 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Oregon has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on November 6, 1976, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Oregon for the week ending on November 6, 1976, and that the Federal Supplemental Benefit Period in that State terminates on November 27, 1976.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Oregon Employment Division of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Oregon should contact the nearest Employment Office of the Oregon Employment Division in their locality.

Signed at Washington, D.C., on November 23, 1976.

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

[FR Doc.76-35174 Filed 11-29-76;8:45 am]

Occupational Safety and Health Administration

ALASKA

Approval of Plan Supplements

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 the decision and describing the plan. On February 5, and June 2, 1976, the State of Alaska submitted two supplements to the Alaska plan; one involving a developmental change and one a state-initiated change (see Subparts B and E of 29 CFR Part 1953). On August 13, and August 27, 1976, notices of submission of supplements and providing opportunity for public comment were published in the FEDERAL REGISTER (41 FR 31298 and 41 FR 36219). The supplements are described below.

2. *Description of the supplements.* (a) The State submitted a revision to the plan to withdraw from coverage of the Maritime issue as set forth in the original plan. The State has requested that Federal jurisdiction of the onshore operations be maintained within the State for the following reasons: (1) To eliminate jurisdictional problems within a single industry; and, (2) to relieve employers and employees of having to deal with two separate jurisdictions and Review Commissions concerning identical hazards. The State will, however, continue to cover public employees in this area.

(b) The State submitted a revision to the plan to change the number of industrial hygienists employed under its plan. The revision reduces the original commitment of four industrial hygienists to three industrial hygienists (two (2) enforcement and one (1) consultation). The State determined through its experience in industrial hygiene enforcement and consultation activities that three hygienists presently employed, provide sufficient overall State coverage. The State will include an additional industrial hygiene position (for enforcement) in its 1977 fiscal year budget beginning October 1, 1976.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements 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 Assistant 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.* The August 13, and 27, 1976, notices published in the FEDERAL REGISTER (41 FR 31298 and 41 FR 36219) described the supplements and afforded 30 days for interested persons to submit written comments, data, views, and arguments concerning whether the supplements should be approved. No public comments concerning the supplements have been received.

5. *Decision.* After careful consideration, the Alaska plan supplements described above are hereby approved under Subparts B and E of Part 1953 of this Chapter. Based on determinations for national staffing, the present State staff of health offices appears to be sufficient to provide coverage for the enforcement of State standards under the continuing "at least as effective as" criteria, subject to Federal monitoring. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 19th day of November, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-35013 Filed 11-29-76;8:45 am]

Occupational Safety and Health Administration

ALASKA

Approval of State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On 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 the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1952.243 of Subpart R sets forth the State's schedule for the adoption of Federal standards. By letter dated September 16, 1976, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart Z, §§ 1910.93b through 1910.93p as published in the FEDERAL REGISTER on June 27, 1974 (39 FR 23502) and as recodified to §§ 1910.1002 through 1910.1016 in the FEDERAL REGISTER on May 28, 1975 (40 FR 23072); § 1910.93q as published in the FEDERAL REGISTER on June 27, 1974 (39 FR 23502), as amended in the FEDERAL REGISTER on December 3, 1974 (39 FR 41848) and as recodified to § 1910.1017 in the FEDERAL REGISTER on May 28, 1975 (40 FR 23073); and §§ 1910.1499 and 1910.1500 as published in the FEDERAL REGISTER on May 28, 1975 (40 FR 23073).

These standards, which are contained in Article 2 of Subchapter 4 of the State's Occupational Health and Environmental Control Code, were promulgated by the State on September 20, 1976, after proceedings held in accordance with Alaska's Administrative Procedure Act (AS 44.62).

2. *Decision.* Having reviewed the State submission, it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation:* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for public comment.

This decision is effective November 30, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 29th day of October 1976.

JOHN A. GRANCHI,
Acting Regional Administrator—OSHA.

[FR Doc.76-35010 Filed 11-29-76;8:45 am]

ALASKA

Approval of State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve

standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On 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 the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." In response to Federal standards changes, the State has submitted by letter dated September 16, 1976, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.268, Telecommunications, as published in the FEDERAL REGISTER on March 26, 1975 (40 FR 13441). These standards, which are contained in Article 2 of Subchapter 3, Telecommunications, Alaska Occupational Safety and Health standards were promulgated by adoption by reference pursuant to AS 18.60.020 after proceedings in accordance with the Administrative Procedures Act.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska, 99801; and Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N-3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for public comment.

This decision is effective November 30, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 29th day of October 1976.

JOHN A. GRANCHI,
Acting Regional Administrator—OSHA.

[FR Doc.76-35011 Filed 11-29-76;8:45 am]

ALASKA

Approval of State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occuaptional Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On 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 the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1952.243 of Subpart R sets forth the State's schedule for the adoption of Federal standards.

By letter dated September 20, 1976, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1928.1, 1928.21, 1928.51, 1928.52, 1928.53, and 1928.57 of Part 1928. Occupational Safety and Health Standards for Agriculture as published in the FEDERAL REGISTER on April 25, 1975 (40 FR 18257); and March 9, 1976 (41 FR 10195). The standards adopted are identical, including the numbering, to the Federal standards. They will comprise Article 1 of Subchapter 14, Alaska Occupational Safety and Health Standards. These standards were promulgated by resolution by the Alaska Department of Labor on August 31, 1976 pursuant to the Alaska Administrative Procedures Act (AS 44.62).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and The Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N-3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for public comment.

This decision is effective November 30, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 29th day of October 1976.

JOHN A. GRANCHI,
Acting Regional Administrator—OSHA.

[FR Doc.76-35012 Filed 11-29-76;8:45 am]

Office of the Secretary

[TA-W-923, 997-999, 1059]

AMERICAN MOTORS CORP. SOUTHFIELD, MICHIGAN

Determinations 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-923, 997-999, 1059: investigations regarding certifications of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation with regard to TA-W-997-999 was initiated on July 27, 1976 in response to a worker petition received on the same date which was filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) on behalf of workers and former workers engaged in the production of subcompact, compact, luxury small and intermediate size cars and components for such cars at three (3) plants of the American Motors Corporation (AMC), Southfield, Michigan. A determination with respect to this petition has previously been issued for workers at the Kenosha, Wisconsin plant engaged in employment related to the final assembly of AMC subcompact, compact, luxury small and intermediate size cars. This investigation applies to all other workers at the Kenosha plant in addition to workers at the other two plants. The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 32917) on August 6, 1976.

The investigation with regard to TA-W-1059 was initiated on August 31, 1976

in response to a worker petition received on the same date which was filed by workers formerly processing new American Motors subcompact, compact, luxury small and intermediate size cars in the St. Louis Zonal Sales Office of the American Motors Corporation, St. Louis, Missouri. The Notice of Investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38560).

The investigation with regard to TA-W-923 was initiated on June 7, 1976 in response to a worker petition received on the same date which was filed by workers and former workers engaged in employment related to the production of dies and die patterns in the Tool and Die Department of the Milwaukee Body plant of the American Motors Corporation, Milwaukee, Wisconsin. The Notice of Investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24792). These workers were also included in the petition for the entire Milwaukee Body plant filed by the UAW (TA-W-997). Any determinations of worker eligibility made pursuant to TA-W-997 for the Milwaukee Body plant as a whole will also encompass the workers covered by TA-W-923.

The information upon which the determinations were made was obtained principally from officials of American Motors Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, the Motor Vehicle Manufacturers Association, Automotive News, Ward's Automotive Reports, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(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.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

KENOSHA, WISCONSIN

Average hourly employment of workers engaged in the production of engines declined 6.0 percent from MY 1974 to MY 1975 and declined 12.0 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in the production of axles and gears declined 11.2 percent from MY 1974 to MY 1975 and declined 3.2 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in the production of stampings and forgings declined 0.9 percent from MY 1974 to MY 1975 and declined 8.9 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in the production of body assemblies increased 3.5 percent from MY 1974 to MY 1975 and declined 22.6 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in production support functions increased 2.7 percent from MY 1974 to MY 1975 and declined 6.4 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Averaged salaried employment for the Kenosha plant as a whole declined 8.4 percent from MY 1974 to MY 1975 and declined 10.1 percent in the first three quarters of MY 1976 compared to MY 1975.

MILWAUKEE, WISCONSIN BODY PLANT

Average hourly employment of workers engaged in the production of stampings and forgings declined 41.1 percent from MY 1974 to MY 1975 and declined 22.9 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in the production of body assemblies declined 26.9 percent from MY 1974 to MY 1975 and declined 20.8 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in production support functions declined 14.6 percent from MY 1974 to 1975 and 3.7 percent in the first three quarters of MY 1976 compared to the same period in MY 1975. These figures include workers in the Tool and Die Department of the plant.

Average salaried employment for the Milwaukee plant as a whole declined 10.1 percent from MY 1974 to MY 1975 and declined 7.7 percent in the first three quarters of MY 1976 compared to MY 1975.

MILWAUKEE, WISCONSIN PARTS DISTRIBUTION CENTER

Average hourly employment declined 8.5 percent from MY 1974 to MY 1975 and declined 17.6 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average salaried employment was not available or MY 1974. Average salaried employment declined 3.0 percent in the first three quarters of MY 1976 compared to MY 1975.

ST. LOUIS, MISSOURI ZONAL SALES OFFICE

Average hourly employment did not change from MY 1974 through the first three quarters of MY 1975. All hourly workers were separated during September 1975.

Average salaried employment was unchanged from MY 1974 to MY 1975 and increased 3.0 percent in the first three quarters of MY 1976 compared to MY 1975. All salaried workers were separated during July, 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

KENOSHA, WISCONSIN

Annual total production of engines declined 10.0 percent from MY 1974 to MY 1975 and 9.2 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Annual total production of axles and gears declined 11.1 percent from MY 1974 to MY 1975 and increased 6.8 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Annual total production of stampings and forgings declined 5.1 percent from MY 1974 to MY 1975 and declined 13.3 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Annual total production of body assemblies declined 9.5 percent from MY 1974 to MY 1975 and declined 20.6 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

MILWAUKEE, WISCONSIN BODY PLANT

Annual total production of stampings and forgings declined 26.5 percent from MY 1974 to MY 1975 and declined 24.3 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Annual total production of body assemblies declined 11.1 percent from MY 1974 to MY 1975 and declined 4.7 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

MILWAUKEE, WISCONSIN PARTS DISTRIBUTION CENTER

The value of replacement parts inventory was from 21.5 percent to 24.3 percent below levels for the same quarter in the previous year in the first three quarters of MY 1976 compared to the same quarter in MY 1975.

ST. LOUIS, MISSOURI ZONAL SALES OFFICE

The total number of cars processed declined 5.8 percent from MY 1974 to MY 1975 and declined 68.7 percent in the first three quarters of MY 1976 compared to the same period in MY 1975. The St. Louis Sales Office closed at the end of July 1976.

INCREASED IMPORTS

Imports of all new cars declined 21.3 percent from MY 1973 to MY 1974, increased 7.0 percent from MY 1974 to MY 1975, and then decreased 6.0 percent in the first three quarters of MY 1976 compared to the first three quarters of MY 1975. The share of domestic consumption held by imports decreased from 23.7 per-

cent in MY 1973 to 23.2 percent in MY 1974 and then increased to 28.5 percent in MY 1975. In the first three quarters of MY 1976, the share of the market held by imports fell to 21.9 percent.

SUBCOMPACT CAR MARKET

Sales of imported subcompact cars decreased from 1654.7 thousand units comprising 66.3 percent of the U.S. subcompact market in MY 1973 to 1313.1 thousand units comprising 65.9 percent of the market in MY 1974. In MY 1975, import sales increased to 1395.5 thousand units and increased their share of the total domestic market to 74.5 percent. In the first three quarters of MY 1976, sales of imported subcompact cars were 915.6 thousand units comprising 75.9 percent of the market compared to 995.5 thousand units comprising 74.8 percent in the same period in MY 1975.

American Motors Corporation imports a subcompact car from Canada into the United States which is indistinguishable from domestically produced AMC subcompacts. In the first three quarters of MY 1976, imports of these cars increased 44.0 percent compared to the first three quarters of MY 1975.

COMPACT CAR MARKET

Sales of imported compact cars decreased from 344.4 thousand units comprising 17.4 percent of the domestic market in MY 1973 to 238.3 thousand units comprising 13.2 percent of the market in MY 1974. In MY 1975, import sales declined to 114.1 thousand units comprising 7.8 percent of the domestic market. In the first three quarters of MY 1976, sales of imports were 39.2 thousand units comprising 3.8 percent of the market compared to 93.5 thousand units comprising 8.5 percent of the market for the same period of MY 1975.

American Motors Corporation imports a compact car from Canada into the United States which is indistinguishable from domestically produced AMC compacts. In the first three quarters of MY 1976, imports of these cars increased 25.1 percent compared to the first three quarters of MY 1975.

LUXURY SMALL CAR MARKET

Sales of imported luxury small cars decreased from 250.8 thousand units comprising 100.0 percent of the domestic market in MY 1973 to 223.1 thousand units comprising 35.7 percent of the market in MY 1974. In MY 1975, sales of imports increased to 354.0 thousand units comprising 36.1 percent of the market. In the first three quarters of MY 1976, sales of imports were 198.1 thousand units comprising 17.2 percent of the domestic market compared to 261.3 thousand units comprising 38.0 percent of the market in the same period of MY 1975.

American Motors Corporation does not import a luxury small car.

INTERMEDIATE SIZE CAR MARKET

Sales of imported intermediate size cars increased from 265.1 thousand units comprising 9.7 percent of the domestic market in MY 1973 to 269.2 thousand units comprising 11.7 percent of the market in MY 1974. In MY 1975, import sales declined to 189.4 thousand units comprising 9.9 percent of the market. In the first three quarters of MY 1976, sales of imports were 212.4 thousand units comprising 10.5 percent of the domestic market compared to 131.0 thousand units comprising 9.4 percent of the market for the same period in MY 1975.

American Motors Corporation does not import an intermediate size car.

CONTRIBUTED IMPORTANTLY

The present investigation is based upon the findings of a previous Department of Labor investigation (TA-W-999; 41 FR 48801). In that investigation it was determined that domestic production and employment related to the final assembly of American Motor subcompact, compact, and intermediate size cars were adversely affected by increased imports in each of those car classes.

The determination of injury to workers producing American Motors subcompact cars was based primarily on the significant increase in the Canadian imports of AMC subcompact cars in the first three quarters of MY 1976 compared to the same period in MY 1975. The AMC Canadian subcompact imports are identical to domestically produced AMC subcompacts.

The determination of injury to workers producing American Motors compact cars was based on an increase of AMC compact cars from Canada which accounted for approximately 25 percent of the decline in domestic AMC compact car production. The AMC Canadian compact imports are identical to domestically produced AMC compacts.

The determination of injury to workers producing American Motors intermediate size cars was based on a relative and absolute increase in intermediate size car imports, particularly the Canadian imports of one domestic manufacturer which does not have a domestically produced equivalent. AMC does not import an intermediate size car.

It was further determined that imports of luxury small cars had a negligible impact on the domestic production and employment of workers assembling AMC luxury small cars. AMC does not produce its luxury small car outside of the United States.

The present investigation involves the determination of the adverse import impact these cars had on workers engaged in employment related to the production of component parts for or the sale of new AMC subcompact, compact and intermediate size cars. Workers were separately identifiable according to the parts they produced but not according to the class of car for which the part was produced. The measure of import impact used for these workers was based on the percentage of each component parts total production that was used for new AMC cars in the subcompact, compact or intermediate car classes.

However, the impact of increased imports of AMC subcompact and compact cars and aggregate imports of intermediate size cars on the petitioning facilities or sections of those facilities is reduced by (a) the degree to which those facilities were engaged in activities related to the manufacture of replacement parts for American Motors subcompact, compact or intermediate size cars; (b) the degree to which those facilities were engaged in activities related to the production of parts for, or the sale of, motor vehicles other than domestically produced American Motors subcompact, compact or intermediate size cars; and (c) the degree to which those facilities also supplied parts for use in Canadian built AMC subcompact or compact cars that were exported to the United States.

The Kenosha, Wisconsin plant produced engines, axles and gears, stampings and forgings and body assemblies. The Milwaukee, Wisconsin Body plant produced stampings and forgings and body assemblies. These plants supplied AMC of Canada with 106 percent of its needs for engines, axles and gears and stampings and forgings for subcompact and compact cars later imported into the United States. AMC's Canadian imports of subcompact and compact cars formed the basis of the finding of import injury for domestic AMC workers assembling subcompact and compact cars. Therefore, workers manufacturing engines, axles and gears and stampings and forgings in the two plants could not have been adversely affected by the increased imports of AMC cars in the subcompact and compact car classes.

Only increased imports of intermediate size cars could have adversely affected workers producing engines, axles and gears or stampings and forgings at the Kenosha plant and workers producing stampings and forgings at the Milwaukee Body plant.

The body assembly sections of the Kenosha plant and the Milwaukee Body plant only assembled bodies for domestically manufactured AMC cars. Production and employment in these two sections were therefore adversely affected by increased imports of AMC subcompact and compact cars from Canada as well as imports of intermediate size cars.

MILWAUKEE BODY PLANT

At the stamping and forging section of the Milwaukee Body plant, production of parts for use in AMC intermediate size cars accounted for an average of 44.1 percent of total production in MY 1975 and the first three quarters of MY 1976. Production of stampings and forgings for intermediate size cars declined 41.1 percent from MY 1974 to MY 1975 and 67.7 percent in the first three quarters of MY 1976 compared to the same period in MY 1975. Average hourly employment of workers engaged in the production of stampings and forgings at the Milwaukee Body plant declined 41.1 percent from MY 1974 to MY 1975 and declined 22.9 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

In the first three quarters of MY 1976, the body assembly section of the Mil-

waukee Body plant produced only AMC subcompact and intermediate size car bodies. Production of body assemblies for subcompact and intermediate size cars increased 9.2 percent from MY 1974 to MY 1975 and declined 4.7 percent in the first three quarters of MY 1976 compared to the same period in MY 1975. Average hourly employment of workers engaged in the production of body assemblies at the Milwaukee Body plant declined 26.9 percent from MY 1974 to MY 1975 and 20.8 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in production support functions at the Milwaukee Body plant declined 14.6 percent from MY 1974 to MY 1975 and 3.7 percent in the first three quarters of MY 1976 compared to the same period of MY 1975. Average salaried employment at the Milwaukee Body plant declined 7.7 percent in the first three quarters of MY 1976 compared to MY 1975.

KENOSHA PLANT

The engine, axle and gear, and stamping and forging sections of the Kenosha plant produced less than one-seventh of their total output for use in AMC intermediate size cars. The impact of increased imports of intermediate size cars on the production of these component parts and employment related to that production was therefore negligible.

For MY 1975 and the first three quarters of MY 1976, the body assembly section of the Kenosha plant produced an average of 46.6 percent of its total output for import impacted cars.

The Kenosha plant assembled bodies for luxury small cars and compact cars in MY 1976. Production of body assemblies for import impacted cars at the Kenosha plant declined 48.8 percent from MY 1974 to MY 1975 and 43.8 percent in the first three quarters of MY 1976 compared to the same period of MY 1975. Average hourly employment of workers engaged in the production of body assemblies at the Kenosha plant increased 3.5 percent from MY 1974 to MY 1975 declined 22.6 percent in the first three quarters of MY 1976 compared to the same period in MY 1975.

Average hourly employment of workers engaged in production support functions at the Kenosha plant increased 2.7 percent from MY 1974 to MY 1975 and declined 6.4 percent in the first three quarters of MY 1976 compared to the same period in MY 1975. Average salaried employment at the Kenosha plant declined 10.1 percent in the first three quarters of MY 1976 compared to MY 1975.

ST. LOUIS ZONAL SALES OFFICE

The St. Louis Zonal Sales Office processed all new AMC automobiles, regardless of whether the cars were assembled in the United States or Canada. Since AMC's Canadian imports of subcompact and compact cars formed the basis of the previous finding of import injury to AMC subcompact and compact cars, only imports of intermediate size cars imported by other domestic manufacturers could have adversely affected employment at the St. Louis Sales Office. Intermediate size cars were not a significant percentage of the total number of cars processed through the office, representing approximately one-seventh of all new cars processed in MY 1975 and the first three quarters of MY 1976.

MILWAUKEE PARTS DISTRIBUTION CENTER

The Milwaukee Parts Distribution Center was responsible for the warehousing and subsequent distribution of automotive replacement parts to AMC and JEEP dealers nationwide. The plant received these replacement parts from the various AMC manufacturing facilities and did not handle any parts that were used as original equipment in AMC cars. Competition from other independent domestic companies in the replacement parts industry, rather than competition from imports of new automobiles, caused the declines in employment experienced at the Parts Distribution Center.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of intermediate size cars contributed importantly to the total or partial separation of workers engaged in employment related to the production of stampings and forgings at the Milwaukee, Wisconsin Body plant of the American Motors Corporation.

I further conclude that increases of imports of subcompact, compact and intermediate size cars contributed importantly to the total or partial separation of workers engaged in employment related to the prodution of body assemblies at the Milwaukee, Wisconsin Body plant and the Kenosha, Wisconsin plant of the American Motors Corporation.

I further conclude that increases of imports of subcompact, compact and intermediate size cars did not contribute importantly to the total or partial separation of workers engaged in employment related to the production of engines, axles and gears and stampings and forgings at the Kenosha, Wisconsin plant of American Motors Corporation (TA-W-999) and all workers at the St. Louis, Missouri Zonal Sales Office (TA-W-1059) and the Milwaukee, Wisconsin Parts Distribution Center (TA-W-998) of the American Motors Corporation.

In accordance with the provisions of the Act, I make the following certifications:

All hourly and salaried workers of the American Motors Corporation, Milwaukee, Wisconsin Body plant (TA-W-997) (TA-W-923), engaged in employment related to the production of stampings and forgings and body assemblies who became totally or partially separated on or after September 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the American Motors Corporation, Kenosha, Wisconsin plant (TA-W-999), engaged in employment related to the production of body assemblies who became totally or partially separated on or after September 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35175 Filed 11-29-76;8:45 am]

[TA-W-947]

BRYAN MANUFACTURING CO., MAYFIELD, KENTUCKY

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-947: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 24, 1976 in response to a worker petition received on June 24, 1976, which was filed by the workers formerly producing men's custom-made suits at the Mayfield, Kentucky plant of Bryan Manufacturing Company.

The notice of investigation was published in the FEDERAL REGISTER on July 9, 1976 (41 FR 28373). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bryan Manufacturing Company, its customers, the National Labor Relations Board, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers extended from March 19, 1974 through August 16, 1974. All production workers were terminated on August 16, 1974 more than one year prior to the date of the petition (April 29, 1976). Maintenance workers and salaried workers remaining after the plant closed were engaged in activities related to final shutdown and sale of the plant and equipment.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production of men's custom-made suits at Bryan Manufacturing Company was based on orders received, and therefore equalled sales. Bryan Manufacturing Company produced men's custom-made suits on a contractual basis for a men's clothing manufacturer from March 19, 1974 until the plant closed on August 16, 1974.

INCREASED IMPORTS

Imports of men's made-to-measure tailored suits are not separately identified in the Tariff Schedules of the United States, but are included with the aggregate data on imports of men's tailored suits.

Imports of men's tailored suits increased absolutely and relatively in each year from 1971 through 1975 and then declined relatively from the first half of 1975 to the first half of 1976. The ratios of imports of men's tailored suits to domestic production and consumption increased from 14.18 percent and 12.42 percent, respectively, in 1974 to 21.60 percent and 17.76 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The evidence developed during the course of the Department's investigation revealed that Bryan Manufacturing Company ceased operations in August 1974 because of the cancellation of contract work from its sole customer, a clothing manufacturer. This clothing manufacturer suffered loss sales due to import competition and consolidated operations. A customer accounting for a large proportion of retail sales from the clothing manufacturer switched purchases from the manufacturer to import sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's custom-made suits produced at the Bryan Manufacturing Company, Mayfield, Kentucky contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provision of the Act, I make the following certification:

All workers at Bryan Manufacturing Company, Mayfield, Kentucky who became totally or partially separated from employment on or after April 29, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35176 Filed 11-29-76;8:45 am]

[TA-W-1,247]

CARIBBEAN LEATHER PRODUCTS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 9, 1976 the Department of Labor received a petition dated October 19, 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 Caribbean Leather Products, Inc., Mayaguez, Puerto Rico (TA-W-1,247). 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 detremine whether absolute or relative increases of imports of articles like or directly competitive with women's leather sandals produced by Caribbean Leather Products, 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 December 10, 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 December 10, 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, 200 Constitution Avenue, NW., Washintgon, D.C. 20210.

Signed at Washington, D.C., this 9th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35177 Filed 11-29-76;8:45 am]

[TA-W-1136]

CENTRAL FOUNDRY, TONAWANDA, NEW YORK

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 5, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing cast iron pipe fittings, drain waste pipes and vent pipes in the Iron Division of the Tonawanda, New York plant of the Central Foundry.

The notice of the investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47620). No public hearing was requested and none was held.

During the course of the investigation, it was established that all employment at the Tonawanda, New York plant was terminated on or before May 31, 1975. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in the case is September 23, 1976 and, thus, workers terminated prior to September 23, 1975 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35178 Filed 11-29-76;8:45 am]

[TA-W-1055]

EDRU SHOE, INC., BOYERTOWN, PENNSYLVANIA

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-1055: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 31, 1976 in response to a worker petition received on August 31, 1976 which was filed on behalf of workers and former workers producing infants', children's, and boys' and youths' shoes at the Boyertown, Pennsylvania plant of Edru Shoe, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Edru Shoe, Incorporated, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or portially 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 above criteria were met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined 14.3 percent from 1974 to 1975; and decreased 29.5 percent in the first six months of 1976 compared to the same period in 1975.

Production workers at Edru Shoe are used interchangeably.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of infants' shoes by Edru increased 23.5 percent from 1974 to 1975. Sales of infants' shoes, increased 66.2 percent from 1974 to 1975. The company ceased production and sales of infants' shoes after January 1976.

Company production of children's shoes declined 20.9 percent from 1974 to 1975; and decreased 50.7 percent in the first six months of 1976 compared to the same period in 1975; company sales of children's shoes during those same periods, decreased 16.9 percent and 41.9 percent respectively.

Company production of youths' and boys' shoes declined 26.2 percent from 1974 to 1975; and decreased 51.6 percent in the first six months of 1976 compared to the same period in 1975; sales of youths' and boys' shoes during those same periods, declined 16.9 percent and 44.9 percent, respectively.

Edru does not import in order to carry out production; nor does it produce for inventory purposes.

INCREASED IMPORTS

Imports of infants' and babies' nonrubber footwear increased from 6.8 million pairs in 1974, to 6.9 million pairs in 1975; and increased from 4.1 million pairs in the first six months of 1975, to 5.7 million pairs in the same period of 1976.

Imports of children's nonrubber footwear increased, relative to domestic production, from 59.2 percent in 1974, to 64.5 percent in 1975; and increased absolutely, from 6.1 million pairs in the first six months of 1975, to 8.8 million pairs in the same period of 1976.

Imports of youths' and boys' dress and casual footwear increased from 7.8 million pairs in 1974, to 11.4 million pairs in 1975; and from 4.4 million pairs in the first six months of 1975, to 9.0 million pair in the same period of 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of Edru's major customers in 1975 and 1976 indicated that several of these customers have increased imports of shoes such as those produced by Edru, while decreasing their purchases from Edru.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with infants', children's, and boys' and youths' shoes produced at the Boyertown, Pennsylvania plant of Edru Shoe, Incorporated, contributed importantly to the total or partial separations of the workers engaged in the production of such shoes at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of infants', children's, and boys' and youths' shoes at the Boyertown, Pennsylvania plant of Edru Shoe, Incorporated, who became totally or partially separated from employment on or after August 25, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35179 Filed 11-29-76;8:45 am]

[TA-W-1,229]

LESANDE SHOE COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 8, 1976 the Department of Labor received a petition dated November 3, 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 LeSande Shoe Company, Inc., Haverhill, Massachusetts (TA-W-1,229). 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 women's shoes produced by LeSande Shoe Company, 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 December 10, 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 December 10, 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, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35180 Filed 11-29-76;8:45 am]

[TA-W-1054]

LITTLE LISA LTD., NEW YORK, NEW YORK

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-1054: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 31, 1976 in response to a worker petition received on August 31, 1976 which was filed by workers and former workers at Little Lisa Limited, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 38566) on September 10, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Little Lisa Limited.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in section 222(3) of the Act. See Notice of Negative Determination in "Pan American World Airways, Incorporated" (TA-W-153; 40 FR 54639).

Little Lisa Limited is engaged in importing, warehousing and wholesaling junior (women's) knit tops. Little Lisa performs no manufacturing operations.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by workers at Little Lisa Limited are not "articles" within the meaning of section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35181 Filed 11-29-76;8:45 am]

[TA-W-1069]

PHELPS COOPERATIVE SOCIETY, PHELPS, WISCONSIN

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 results of TA-W-1069: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 13, 1976 in response to a worker petition received on September 13, 1976 which was filed on behalf of workers and former workers engaged in the retailing of various consumer articles at the Phelps Cooperative Society in Phelps, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Phelps Cooperative Society 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.

If any of the above criteria is not satisfied, a negative determination must be made.

The Phelps Cooperative Society is a retail establishment which sells groceries, gasoline, hardware, clothing and other assorted consumer goods.

The Phelps Cooperative Society does not produce an "article" within the meaning of section 222 of the Trade Act of 1974. This Department has previously determined that the performance of services is not covered by the Adjustment Assistance program. See Notice of Determination in "Pan American World Airways, Inc.," (TA-W-153, 40 FR 54639).

CONCLUSION

After careful review of the facts obtained in the investigation, I have determined that services of the kind provided by the Phelps Cooperative Society are not "articles" within the meaning of section 222 of the Trade Act of 1974. The petition for trade adjustment assistance is therefore denied.

Signed at Washington, D.C., this 17th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35182 Filed 11-29-76;8:45 am]

[TA-W-1001]

ROCKWELL INTERNATIONAL-ADMIRAL GROUP ENGINEERING DEPARTMENT, CHICAGO, ILLINOIS

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-1001: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 29, 1976 in response to a worker petition received on July 29, 1976 which was filed on behalf of workers providing engineering functions related to the production of televisions at the Chicago, Illinois department of Rockwell International, Pittsburgh, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on August 13, 1976 (41 FR 34394). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry anlysts, 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, and

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(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.

FINDINGS OF FACT

The petitioning group of workers is employed in Rockwell's engineering department in Chicago, Illinois. The engineering department performs functions such as circuit design, quality control, and product testing and product development. These functions are integral to the

production of color and monochrome televisions at Rockwell's only domestic production facility in Harvard, Illinois.

The term appropriate subdivision is defined in the Department's regulations as "an establishment in a multi-establishment firm which produces the domestic article in question" (29 CFR 90.2).

The term "appropriate subdivision" includes auxiliary facilites operated in conjunction with (whether or not physically separate from) production facilities. The engineering department therefore qualifies as an appropriate subdivision of Rockwell International's Admiral Group.

Rockwell International has announced its intention of transferring a larger proportion of its domestic television production to its facilities in Taiwan. To date the transfer has not taken place. Company imports of color television from Taiwan declined 96.6 percent in the first 6 months of 1976 compared to the first 6 months of 1975. Company imports of black and white televisions declined 18.6 percent during the same period.

Section 222(2) of the Trade Act of 1974 requires that, "sales or production, or both, of such firm or subdivision * * * must have decreased absolutely in order to make an affirmative determination and in order to issue a certification of eligibility to apply for adjustment assistance. Without regard as to whether any of the other criteria have been met, criteria (2) has not been met.

Sales of domestically produced televisions are not separately identifiable in Rockwell International-Admiral Group's total sales because company sales of televisions includes company imports. Domestic production of color and monochrome televisions at the Harvard, Illinois facility increased 27.9 percent and 31.2 percent in quantity, respectively, in 1975 compared to 1974 and increased 6.7 percent and 38.8 percent in quantity, respectively, in the first three quarters of 1976 compared to the like 1975 period.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with color and monochrome televisions designed by the engineering department did not contribute importantly to the separations at the Chicago, Illinois engineering department of Rockwell International's Admiral Group.

Signed at Washington, D.C., this 12th of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35183 Filed 11-29-76;8:45 am]

LEGAL SERVICES CORPORATION

CENTRAL KENTUCKY, LEGAL SERVICES, ET AL.

Grants and Contracts

NOVEMBER 23, 1976.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Central Kentucky Legal Services, Lexington, Kentucky.
2. East Tennessee Legal Services, Inc., Johnson City, Tennessee.

Also a change.

We published South Mississippi LSC as being located in Jackson should be BILOXI, MISSISSIPPI.

Additional information may be obtained by writing the Legal Services Corporation, 733 Fifteenth Street, NW., Suite 700, Washington, D.C. 20005.

THOMAS EHRLICH,
President.

[FR Doc.76-35187 Filed 11-29-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[76-110]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON AERONAUTICAL PROPULSION

Meeting

The meeting of the NASA Research and Technology Advisory Council Committee on Aeronautical Propulsion will be held as reported in the FEDERAL REGISTER Doc. 76-104 dated November 18, 1976 on page 5085. The previously announced hours and place of the meeting remain the same. The meeting is open to the public.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact Mr. Harry W. Johnson, NASA Headquarters, Washington, DC, Area Code 202, 755-3003.

DECEMBER 6, 1976

Time	*Topic*
8 a.m.	Introductory remarks by center director, committee chairman, and executive secretary. (Purpose: To review agenda; note actions of last Research and Technology Advisory Council meeting and NASA response to recommendations; summarize NASA organizational, programmatic and budgetary status pertinent to Committee interests.)
9 a.m.	Research center program highlight reports. (Purpose: To review recent accomplishments and status of aeronautical propulsion and related programs conducted at the Lewis, Langley, Ames and Dryden Research Centers, and the Jet Propulsion Laboratory.)
1 p.m.	Tour of Dryden Flight Research Center (DFRC) (Purpose: To acquaint Committee members with NASA aeronautical flight test hardware and test facilities at DFRC.)
2:30 p.m.	Alternative Hdyrocarbon Fuels Research. (Purpose: To report the activities of the ad hoc Panel on Jet Engine Hydrocarbon Fuels, review NASA fuels research status and plans, and develop Committee discussion of fuels problems and issues.)

DECEMBER 7, 1979

8 a.m.	Small aircraft engine technology review. (Purpose. To review NASA's research and technology programs and plans pertaining to military and civil small aircraft engines including gas turbine and intermittent combustion engines.)
10:00 a.m.	Coannular nozzle noise reduction and variable cycle engines. (Purpose: To review status and plans for coannular nozzle noise suppression research and to discuss implications on variable cycle engine concepts for advanced supersonic cruise aircraft.)
1 p.m.	Tour of Air Force flight test center. (Purpose: To acquaint Committee members with aeronautical test facilities and flight hardware used in Air Force flight test programs with which NASA is concerned.)
3 p.m.	Technology Transfer Processes. (Purpose: To review the impact and value of in-house aeronautical propulsion research and technology conducted by the Government as compared to contract research with reference to maximizing the transfer of technology within the United States.)

DECEMBER 8, 1976

8 a.m.	Committee Discussions and Recommendations. (Purpose: To discuss major program elements and issues presented during the meeting, summarize Committee views, prepare recommendations for presentation to the NASA Research and Technology Advisory Council, and to plan committee future activities and next meeting.)
12 noon	Adjournment.

Dated: November 22, 1976.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.76-35053 Filed 11-29-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

STUDENT-ORIGINATED STUDIES PROGRAM

Project Directors' Meeting

A project directors' meeting will be held from 9:00 a.m. to 5:00 p.m. on December 28, 1976 and from 9:00 a.m. to 4:00 p.m. on December 29, 1976 at the Sheraton Park Hotel, 2660 Woodley Road, NW., Washington, D.C.

The purpose of this meeting is to give student project directors of the Student-Originated Studies Program an opportunity to present reports on the studies carried out by the student groups and to give the Program Staff added insight into the functioning and effectiveness of the Program.

While these project directors' meetings are not considered to be a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 91–463) the conferences are believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as meetings open for public attendance and participation.

The meeting will be chaired by Dr. Max Ward. Because of space limitation, members of the public who wish to attend should call (202–282–7150) regarding attendance at any of these meetings.

ALLEN M. SHINN, Jr.,
Deputy Assistant Director for Science Education.

NOVEMBER 24, 1976.

[FR Doc.76–35111 Filed 11–29–76;8:45 am]

SUBPANEL FOR MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM (MISIP)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Minority Institutions Science Improvement Program (MISIP), Advisory Panel on Science Education Projects.

Date and Time: December 15, 1976—7:30 p.m.–10:00 p.m., December 16–17, 1976—8:30 a.m.–5:00 p.m., December 18, 1976—8:30 a.m.–12:00 noon.

Place: Sheraton-Park Hotel, 2660 Woodley Road, NW., Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Shirley M. McBay, Program Director, MISIP, Room W–450, National Science Foundation, Washington, D.C. 20550, Tel: 202–282–7760.

Purpose of Panel: To provide advice and recommendations concerning support for the MISIP Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 23, 1976.

[FR Doc.76–35110 Filed 11–29–76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 22, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Veteran's Election to Receive Current Law Pension, 21–8781A(NR), single-time, veterans, Caywood, D. P., 395–3443.

ENVIRONMENTAL PROTECTION AGENCY

Hazardous Substance Data Questionnaire, Single-time, predominately trade associations, Ellett, C. A., 395–5867.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Questionnaire for Sub-Regional Study of Citizen Attitudes Towards Geothermal Energy, single-time, individuals and sector interviews: 3 counties, George Hall, 395–6140.

ENVIRONMENTAL PROTECTION AGENCY

Emissions Defect Report, on occasion, automotive manufacturers, Tracey Cole, 395–5870.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cultural Post Readership Survey, single-time, subscriber to cultural post, Caywood, D. P., 395–3443.

REVISIONS

VETERANS ADMINISTRATION

Compliance Inspection Report, 26–1839, on occasion, Compliance Inspectors, Warren Topelius, 395–5872.

School Attendance Report, 21–674B, on occasion, school, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Economic Development Administration, Relocation and Land Acquisition Certificate, ED–168 on occasion, Units of Local Government, Marsha Traynham, 395–4529.

Bureau of Census, Animal and Vegetable Fats and Oils, Monthly Report of Consumers, M20M, Monthly, Consumers of Fats and Oils, Cynthia Wiggins, 395–5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration:

1977 Health Interview Survey Questionnaire, NCHS 1014, other, (see SF–83), sample househ. rep. civ. noninst. population of the United States, Richard Eisinger, 395–6140.

Relevance of Health Care Administration Curricula, single-time, program directors and recent graduates, Richard Eisinger, 395–6140.

A Study of the Effectiveness of the Family Nurse Practitioner, BHRDO 127, single-time, samples of physicians, nurse practitioners, Richard Eisinger, 395–6140.

National Medical Care Expenditure Survey, Household Interview Portion, none, single-time, sample househ. rep. U.S. civ. noninstit. population, Richard Eisinger, 395–6140.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Regulations Governing Applications Under Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, on occasion, railroads and other persons, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration, Application for Technical Assistance Report through Government Staff or by Private Contract, ED–302, on occasion, all in areas of substantial economic, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Notice Concerning Dependent Child on Black Lung Claim Who Will Soon Attain Age 18, SSA–2434, on occasion, children attaining age 18 who are disabled, Marsha Traynham, 395–4529.

Inpatient Admission and Billing—Christian Science Sanitorium, SSA–1486, on occasion, Christian Science Sanitorium, Marsha Traynham, 395–4529.

Food and Drug Administration. A Follow-up Study of Persons Exposed to 131/Iodine for Diagnosis of Thyroid Disease, FDABRH0319, single-time, persons exposed and unexposed and siblings, Richard Eisinger, 395–6140.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Law Enforcement Education Program Institutional Application, LEEP-1, annually, higher educational institutions in LEEP, Tracey Cole, 395-5870.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-35246 Filed 11-29-76;8:45 am]

CLEARANCE OF REPORTS

Lists of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 23, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census:

(Part of 1980 Decennial Census of Population and Housing) Camden, New Jersey, DF-800, single-time, structures in sample areas of Camden, N.J., George Hall, 395-6140.

Questionnaire and Flash for Structure Respondents—1976 Census of Camden, New Jersey, DF-130-131, single-time, multiunit structures in Camden, N.J., George Hall, 395-6140.

Reconciliation Questionnaire for Household Roster Check—1976 Census of Camden, N.J., DF-132, single-time, households in Camden, N.J. with questionable rosters, George Hall, 395-6140.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, National Survey of Crime Severity, Supplement to the National Crime Survey, singletime, households in 10 PSU's in various parts of United States, George Hall, 395-6140.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Coal Mine Equipment Use Survey Operator Information, 6-PI 11, singletime, coal mining companies, Cynthia Wiggins, 395-5631.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Medical Device and Laboratory Product Problem Report, FD-2519F, on occasion, health related professional associations, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Occupancy Report—Multifamily HUD Insured and Section 202 Housing Act of June 30, HUD 9801, annually, managers of HUD-insured multifamily projects, housing, veterans and labor division, 395-3532.

EXTENSIONS

TENNESSEE VALLEY AUTHORITY

Farmer Questionnaire—Vicinity of Proposed Nuclear Power Plants, on occasion, farm operator within designated area, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary):

Occupancy Report—HUD-Insured Nursing Homes, HUD 9802, annually, managers of HUD-insured nursing homes, housing, veterans and labor division, 395-3532.

Mortgagee's Certification and Application for Assistance or Interest Reduction Payments, FHA 3102, monthly, mortgagees, housing, veterans and labor division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-35247 Filed 11-29-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Doc. No. 301-11]

FLORIDA CITRUS COMMISSION AND CALIFORNIA-ARIZONA CITRUS LEAGUE, TEXAS CITRUS MUTUAL TEXAS CITRUS EXCHANGE

Complaint

On November 12, 1976, the Chairman of the Section 301 Committee received from Mr. Edward A. Taylor, Executive Director of the Florida Citrus Commission, a petition alleging adverse trade effects for U.S. citrus juice producers as a result of preferential import duties established by the European Community for imports of orange and grapefruit juices from certain Mediterranean countries. Relief is requested under Section 301 of the Trade Act of 1974 (Pub. L. 93-618; 88 Stat. 1978). The text of the petition is as follows:

Chairman,
Section 301 Committee,
Office of the Special Representative for Trade Negotiations,
1800 G Street, NW., Room 725,
Washington, D.C. 20506.

Subject: Complaint and request for Public Hearing Pursuant to Section 301 of the Trade Act of 1974.

DEAR SIR: The Florida Department of Citrus is an agency of the State of Florida charged with the responsibility of regulating the Florida citrus industry and with assisting all segments of the industry in the marketing of its fruits and products. It administers the Florida Citrus Code, with regulations designed to assure the quality of citrus fruits and products; and supervises programs designed to improve markets for Florida citrus in domestic and export markets. The Florida Citrus Commission, acting as a board of directors, establishes the policies for the operations of the Department of Citrus.

On behalf of the Florida citrus industry, the State of Florida-Department of Citrus and the Florida Citrus Commission, we file this complaint and request a public hearing, pursuant to Section 301 of the Trade Act of 1974, with respect to preferential import duties established by the European Community for imports of orange and grapefruit juices from certain Mediterranean countries. A 70 percent reduction in the EC common external tariff (BTN 20.07) for imports of orange and grapefruit juices from Israel is set forth in EEC Regulation No. 1274/75 of the Council of May 20, 1975. This duty preference became effective July 1, 1975. The same preferential duty treatment was accorded in the new EC Corporation Agreements with Tunisia (signed April 25, 1976), Morocco (signed April 26, 1976) and Algeria (signed April 27, 1976). These duty preferences became effective July 1, 1976.

These duty preferences mean that imports into the EC from Israel, Tunisia, Morocco, and Algeria now are assessed import duties of only 5.7 percent ad valorem for orange juices and 4.5 percent ad valorem for grapefruit juices compared to 19 and 15 percent ad valorem, respectively, for imports of these juices from other third country suppliers including the United States.

Florida is the major producer of orange and grapefruit juices in the United States. The United States exports orange and grapefruit juices to the European Community and other world markets. A summary of U.S. exports of orange and grapefruit juices to the EC and world markets in 1975 is as follows:

Exports of U.S. orange and grapefruit juices to the European Community and world, calendar 1975

[In thousands]

Item	To European Community	To world
Orange juice:		
Single strength concentrated	$2,908	$12,250
Frozen	7,537	50,190
Hot pack	2,082	4,963
Grapefruit juice:		
Single strength concentrated	1,122	5,942
Frozen	856	4,269
Hot pack	214	984
Total	14,718	74,598

Source: U.S. Department of Agriculture, Foreign Agricultural Service.

These duty preferences already have adversely affected orders received by Florida processors for shipments to the EC market. It is likely that they will lead to trade diversion affecting U.S. exports to other world markets and possibly affecting the U.S. domestic market as well.

The EC duty preferences are incompatible with Article I of the GATT, which provides for general most-favored-nation treatment in customs duties and charges with the exception of certain historical preferences which are not applicable to the actions by the EC. The EC common external tariffs on orange juices and grapefruit juices are bound to the United States. The EC preferential import duties for orange and grapefruit juices, thus, are unjustifiable and unreasonable import measures within the meaning of Section 301 (a) of the Trade Act of 1974.

We know of no avenue of relief from the EC preferential import duties other than to request that all appropriate and feasible steps be taken to obtain their elimination. Toward

that end, and to enable the Office of the Special Representative to obtain the best available information concerning these preferential import duties, a public hearing is necessary and therefore requested.

Sincerely.

EDWARD A. TAYLOR,
Executive Director.

Also on November 12, the Chairman received a petition from Julian B. Heron, Jr., Counsel for the California-Arizona Citrus League, Texas Citrus Mutual, and the Texas Citrus Exchange. This petition also alleges unfair trade practices by the European Community resulting from preferential duties established for citrus imports from certain Mediterranean countries. The product coverage, however, is wider. The text of this petition is as follows:

Chairman,
Section 301 Committee,
Office of the Special Representative for Trade Negotiations,
1800 G Street, NW., Room 725,
Washington, D.C. 20506.

Re: Complaint and Request for Public Hearing Pursuant to Section 301 of the Trade Act of 1974.

DEAR SIR: 1. The complainants are the California-Arizona Citrus League, Texas Citrus Mutual, and the Texas Citrus Exchange. The California-Arizona Citrus League is a voluntary non-profit trade association composed of marketers of California-Arizona citrus fruits. Members are farmer cooperatives and independent shippers which represent over 90 percent of the 12,000 citrus fruit growers in California and Arizona. These growers produce oranges, lemons, grapefruit, tangerines, and limes. This fruit is marketed in both fresh and processed forms. Texas Citrus Mutual is a voluntary non-profit trade association composed of growers of citrus fruits in the Rio Grande Valley of Texas. The more than 2,500 growers in the organization produce oranges, grapefruit, and tangerines. Texas Citrus Mutual represents its grower members on matters of general interest and importance which include problems of international trade. The Texas Citrus Exchange is a federated marketing cooperative which handles approximately 40 percent to 45 percent of the citrus production in the state of Texas. Exchange members include three cooperative packing associations owned by 1,300 grower members. In addition, the Texas Citrus Exchange owns and operates two citrus processing plants. The Exchange markets fresh oranges and grapefruit, bulk citrus concentrate, single strength juice and cattlefeed made from citrus peel.

2. This complaint involves the discriminatory system of preferential agreements and import duties granted by the E.E.C. in favor of a number of Mediterranean countries. These agreements clearly come within the provisions of Section 301(a) of the Trade Act of 1974.

3. The discriminatory preferential trading arrangements which are the subject of this complaint are those which have been entered into between the E.E.C. and Morocco, Algeria, Tunisia, Spain, Egypt, and Israel. The agreement between the E.E.C. and Israel, which may be taken as typical of these discriminatory preferential trading arrangements, is published in the official journal of the European Communities, Vol. 18, No. L136, English edition (May 28, 1975).

4. The subject of this complaint are the discriminatory preferential trading agreements entered into between the E.E.C. and Morocco, Algeria, Tunisia, Spain, Egypt, and Israel.

5. The following citrus fruits and products are subject to the restrictions complained of herein:

CCT No.	*Description*
08.02	Citrus fruit, fresh or dried: Ex. A. Oranges: fresh. Ex: B. Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids: fresh. Ex. C. Lemons: fresh. D. Grapefruit.
20.06	Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit: B. Other: II. Not containing added spirit: (a) Containing added sugar, in immediate packings of a net capacity of more than 1 kg. 2. Grapefruit segments. Ex. 3. Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids: comminuted. Ex. 8. Other fruits: grapefruit, comminuted oranges and lemons. (b) Containing added sugar, in immediate packings of a net capacity of 1 kg or less: 2. Grapefruit segments. Ex. 3. Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids: Comminuted. Ex. 8. Other fruits: grapefruit, comminuted oranges and lemons.
ex. 20.07	Fruit juices (including grape must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit: B. Of a specific gravity of 1.33 or less at 15° C: II. Other: (a) Of a value exceeding 30 u.a. per 100 kg net weight: 1. Orange juice. 2. Grapefruit juice. Ex. e. Lemon juice and other citrus fruit juices: other citrus fruit juices (excluding lemon juice). 5. Tomato juice. (b) Of a value of 30 u.a. or less per 100 kg net weight: 1. Orange juice. 2. Grapefruit juice.

6. (i) The United States exported 1,582,000 70 pound boxes of oranges and tangerines to the E.E.C. during the last reported year, 90 percent of which were exported by the complainants. The United States exported 1,603,000 76 pound boxes of lemons to the E.E.C. in the last reported year, 99 percent of which were exported by the complainants. The United States exported 656,000 80 pound boxes of grapefruit to the E.E.C. in the last reported year. The United States exported 3,267,000 gallons of citrus juices to the E.E.C. in the last reported year. The United States exported 9,000 30 pound cases of grapefruit sections to the E.E.C. in the last year reported.

(ii) Continuation of the discriminatory restrictions complained of herein will substantially reduce or eliminate the exports of the complainants to the E.E.C. which is a major market. In addition it will encourage expansion of production in the countries receiving the discriminatory preference resulting in a greater competition in other export markets.

7. The discriminatory preferences in question violate the General Agreement on Tariffs and Trade, specifically the Most Favored Nation requirement of Article 1. They are discriminatory, unjustifiable, and unreasonable as those terms are used in Section 301(a) of the Trade Act of 1974 and violate the provisions of that section.

8. The complainants have not filed for any other form of relief under the Trade Act of 1974. The California-Arizona Citrus League has filed two previous complaints under the provisions of Section 252 of the Trade Act of 1964.

It is understood that Florida has filed a complaint under Section 301 of the Trade Act of 1974 which complaint deals with the same discriminatory preferences as this complaint and involves some of the same citrus products. It is requested that these two cases be consolidated.

Respectfully submitted,

JULIAN B. HERON, JR.,
Pope Ballard & Loos, 888 17th Street, NW., Washington, D.C. 20006, Attorney for California-Arizona Citrus League, Texas Citrus Mutual, and Texas Citrus Exchange.

The complainants have agreed that the two cases be consolidated.

HEARINGS

I. The complainants have requested that hearings be held on this matter. Such hearings will be held at 10 a.m. on Friday, January 14, 1977, at the Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Washington, D.C., Room 730.

II. Requests to present oral testimony and accompanying briefs must be received on or before January 7, 1977. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 F.R. 39497—August 28, 1975).

A. *Submission of Briefs and Requests to Present Oral Testimony.* Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR Part 2006.6 and 2006.7 (40 F.R. 39497—August 28, 1975).

B. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed within 15 days after the close of the hearings.

C. *Attendance at Hearings.* The hearings will be open to the public.

ALAN W. WOLFF,
General Counsel, Office of the Special Representative for Trade Negotiations.

[FR Doc.76-34833 Filed 11-29-76;8:45 am]

DEPARTMENT OF STATE

[CM-6/137]

FINE ARTS COMMITTEE

Rescheduled Meeting

The Fall meeting of the full Fine Arts Committee announced in the FEDERAL REGISTER of November 12, 1976, (41 FR 50066) has been rescheduled from Monday, December 6, 1976, at 2:00 p.m. to Tuesday, December 14, 1976, at 2:30 p.m. in the John Quincy Adams State Drawing Room. The Finance Committee meeting which was scheduled to meet at 11:15 a.m. December 7, 1976, has been cancelled.

The agenda for the full committee meeting will remain as previously announced.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office before Friday, December 10, 1976, telephone (202) 632-0298, to make reservations to enter the building.

Dated: November 26, 1976.

CLEMENT E. CONGER,
Chairman, Fine Arts Committee.

[FR Doc.76-35293 Filed 11-29-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held December 17, 1976, at 9:00 a.m. until 4:00 p.m. at the Department of Transportation, 400 7th Street, SW., Room 5532 and 5534, Washington, D.C. 20590. The agenda for this meeting is as follows:

(a) Discussion of the status of Business Development activities
(b) Presentations from Trade and Professional Groups
(c) Items as determined by the Chairman

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mr. Kenneth E. Bolton, Executive Director, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590 Telephone: 202-426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on November 23, 1976.

KENNETH F. PLUMB,
Executive Secretary.

[FR Doc.76-35186 Filed 11-29-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 199]

ASSIGNMENT OF HEARINGS

NOVEMBER 23, 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 43867 (Sub-No. 29), A. Leander McAlister Trucking Company now assigned December 6, 1976, at Wichita Falls, Tex. is canceled and application dismissed.

MC 105984 (Sub-No. 15), John B. Barbour Trucking Company now assigned December 6, 1976, at Wichita Falls, Tex. is canceled and application dismissed.

MC 2900 Sub 293, Ryder Truck Lines, Inc., now assigned February 7, 1977, at Atlanta, Ga., in a hearing room to be later designated.

MC 113855 (Sub 357), International Transport, Inc. now being assigned January 12, 1977 (1 day), at San Francisco, California in a hearing room to be later designated.

MC 1931 Sub-16, Vonder Ahe Van Lines, Inc.; MC 15735 Sub-27, Allied Van Lines, Inc. and MC 52793 Sub-21, Bekins Van Lines, Co., now being assigned continued hearing January 24, 1977 (1 week), at Chicago, Illinois; in a hearing room to me later designated.

MC 95540 Sub-952, Watkins Motor Lines, Inc., now being assigned January 31, 1977 (1 day), at Chicago, Illinois; in a hearing room to be later designated.

MC 136899 Sub-17, Higgins Transportation Ltd., now being assigned February 1, 1977 (1 day), at Chicago, Illinois, in a hearing room to be later designated.

MC 138824 Sub-4, Redway Carriers, Inc., now being assigned February 2, 1977 (1 day), at Chicago, Illinois, in a hearing room to be later designated.

MC 119619 Sub-87, Distributing Service Co., now being assigned February 3, 1977 (2 days), at Chicago, Illinois, in a hearing room to be later designated.

No. 36467, Passenger Fare Increase, November 1976, Rockland Coaches, Inc., now assigned January 10, 1977 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 114725 (Sub 75), Wynne Transport Service, Inc. now being assigned February 3, 1977 (2 days), at Omaha, Nebraska in a hearing room to be later designated.

MC 136168 (Sub 8), Wilson Certified Express, Inc. now being assigned February 1, 1977 (2 days) at Omaha, Nebraska in a hearing room to be later designated.

MC 128 273 (Sub 231), Midwestern Distribution, Inc. now being assigned January 31, 1977 (1 day), at Omaha, Nebraska in a hearing room to be later designated.

MC 140829 (Sub 10), Cargo Contract Carrier Corp. now being assigned January 28, 1977 (1 day), at Omaha, Nebraska in a hearing room to be later designated.

AB 3 (Sub 10), Missouri Pacific Railroad Company Abandonment Between Bronson and Iola, in Allen and Bourbon Counties, Kansas now being assigned January 25, 1977 (1 day), at Iola, Kansas in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35045 Filed 11-29-76;8:45 am]

[No. 36451]

COLORADO INTRASTATE FREIGHT RATES AND CHARGES—1976

Petition for Investigation

NOVEMBER 23, 1976.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed September 27, 1976, petitioners, eleven common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Colorado, request that this Commission institute an investigation of their Colorado intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 318, *Increased Freight Rates and Charges—1976.*

By tariff filed on April 26, 1976, with the Public Utilities Commission of the State of Colorado, petitioners sought to make the increases granted in Ex Parte 318, supra, applicable on Colorado intrastate traffic, effective May 27, 1976. Following suspension and subsequent hearing regarding said tariff, said Commission, by order entered September 14, 1976, extended the suspension period for an additional 90 days.

Petitioners contend that present interstate freight rates from, to, and within Colorado are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Colorado are not more

[1] The Atchison, Topeka and Santa Fe Railway Company; Burlington Northern, Inc.; Chicago, Rock Island and Pacific Railroad Company; The Colorado and Southern Railway Company; The Colorado and Wyoming Railway Company; The Denver and Rio Grande Western Railroad Company; The Great Western Railway; Missouri Pacific Railroad Company; San Luis Central Railroad; Southern San Luis Valley Railroad Company; and Union Pacific Railroad Company.

favorable than for interstate traffic; that traffic moving under present Colorado intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Colorado intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Colorado and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 318, *supra*.

Under section 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation, into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate state body a change in an intrastate rate, fare, or charge for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority. We note the failure of the Public Utilities Commission of the State of Colorado to act within 120 days after filing by petitioners for an appropriate change in intrastate rates, vesting our jurisdiction.

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is hereby, granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Colorado intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons and localities in interastate commerce and those in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 318, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Colorado, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively 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 December 15, 1976. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

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 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.

And it is further ordered, That a copy of this order be served upon each of the petitioners herein; that the State of Colorado be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Colorado and The Public Utilities Commission of the State of Colorado, Denver, Colorado; 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.

Dated at Washington, D.C., this 18th day of November, 1976.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35042 Filed 11-29-76;8:45 am]

[Notice No. 157]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 22, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than December 15, 1976. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31389 (Sub-No. 222TA), filed November 16, 1976. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, N.C. 27102. Applicant's representative: David F. Eshelman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Putnam, Cabell, Mason and Jackson Counties, W. Va., as off-route points in conjunction with applicant's regular route operations. Applicant intends to tack its existing authority with MC 31389 and interline at all present interline points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 86779 (Sub-No. 35TA), filed November 8, 1976. Applicant: ILLINOIS CENTRAL GULF RAILROAD COMPANY, 233 N. Michigan Ave., Chicago, Ill. 60601. Applicant's representative: John Doeringer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* including those of unusual value (except Classes A and B explosives, commodities in bulk, in tank vehicles, and those requiring special equipment), between Gulfport, Miss., and New Orleans, La., serving no intermediate points; (1) via U.S. Highway 90; and (2) via Interstate Highway 10 between New Orleans and the intersection of I–10 and U.S. 49, thence via U.S. 49 between said intersection and Gulfport, restricted to shipments having prior or subsequent

rail movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Illinois Central Gulf Railroad Company, M. A. Watkins, Director of Marketing, Automotive/Intermodal, 233 N. Michigan Ave., Chicago, Ill. 60601. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 100666 (Sub-No. 336TA), filed November 16, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite and warehouse facilities of Louisiana-Pacific Corporation, at or near Clayton, Ala., to points in Arkansas, Louisiana, Oklahoma and Texas, for 180 days. Supporting shipper: Louisiana-Pacific Corporation, Assistant General Traffic Manager, 1300 S.W. 5th Ave., Portland, Oreg. 97201. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 105375 (Sub-No. 67TA), filed November 12, 1976. Applicant: DAHLEN TRANSPORT OF IOWA, INC., 1680 Fourth Ave., Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring the use of special equipment), from the facilities of Ashland Oil, Inc., at St. Paul, Minn., to Ashland Oil, Inc., retail facilities, located in Illinois, Iowa, Michigan, Minnesota, Missouri, Montana, North Dakota, Ohio, South Dakota and Wisconsin, for 180 days. Supporting shipper: Ashland Petroleum Company, Division of Ashland Oil, Inc., P.O. Box 391, Ashland, Ky. 41101. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118159 (Sub-No. 187TA), filed November 15, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum containers; return shipments of empty pallets and other dunnage materials; and refused or rejected shipments*, between the plantsites and warehouses of Reynolds Metal Company, located at or near Tampa, Fla., on the one hand, and, on the other, Memphis, Tenn., and points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER: Reynolds Metal Company, P.O. Box 27003, Richmond, Va. 23261. SEND PROTESTS TO: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N. W. Third St., Oklahoma City, Okla. 73102.

No. MC 118806 (Sub-No. 50TA), filed November 15, 1976. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Suite 200, Winnipeg, Manitoba, Canada R2J OT8. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Alcoa, Tenn., to the port of entry on the International Boundary line between the United States and Canada, at or near Detroit, Mich., restricted to traffic from the plantsite of Veach-May-Wilson, Inc., at or near Alcoa, Tenn., and having a subsequent movement in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Canadian Trailmobile Limited, 100 Shaver St., Brantford, Ontario, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 124846 (Sub-No. 3TA), filed November 15, 1976. Applicant: KALLMEYER BROS. ENTERPRISES, INC., 4 Chillier St., P.O. Box 223, Hermann, Mo. 65041. Applicant's representative: Thomas P. Rose, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Milwaukee, Wis., to Jefferson City, Mo., under a continuing contract with Quality Wholesalers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Quality Wholesalers, Inc., 606 Hilda St., Jefferson City, Mo. 65101. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 138469 (Sub-No. 34TA), filed November 15, 1976. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Joseph T. Bambrick, Jr., 217 Old Airport Road, Douglassville, Pa. 19518. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Colonial pine furniture and household accessories* to include: *bath seats, beds and bed frames, clocks, cooking utensils, curtains, decorative plaques, doll furniture, doll houses, dolls, earthenware, fabric, figurines, metal chairs, mirrors, outdoor grills, outdoor lamps, outdoor lights, paint, pictures, plates, sewing sets, stairtreds, trash receptacle, varnish stains, window boxes*, from Fryeburg, Maine; Conway, North Conway and Ossipee, N.H., to Atlanta, Ga.; Baltimore, Md.; Newark, N.J.; New York, N.Y.; Charlotte, N.C.; Columbia, S.C.; Philadelphia, Pa.; Washington, D.C.; Worcester, Mass.; Greensboro, N.C.; Norfolk, Va.; Chattanooga, Tenn., for 180 days. Supporting shipper: Yield House, Inc., Pleasant St., North Conway, N.H. 03860. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

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No. MC 139850 (Sub-No. 7TA), filed November 16, 1976. Applicant: FOUR STAR TRANSPORTATION, INC., 301–12 Park Bldg., Council Bluffs, Iowa 15101. Applicant's representative: Leonard Wilkins, Box 66, Underwood, Iowa 51576. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat* packinghouses, as described in Sections A and C of the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Omaha, Nebra., and Oakland, Iowa, to points in Florida, Georgia, North Carolina, Mississippi, South Carolina, Ohio, Pennsylvania, New York and New Jersey. Applicant intends to tack its existing authority with MC 139850, for 180 days. Supporting shipper: M. J. Sheehan, Vice-President of Finance, American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. 68106. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 124212 (Sub-No. 94TA), filed November 15, 1976. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, P.O. Box 30248, Cleveland, Ohio 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plantsite of Diamond-Kosmos Cement Division, The Flintkote Company, located at Evansville, Ind., to points in Illinois and Kentucky, for 180 days. Supporting shipper: The Flintkote Company, Diamond-Kosmos Cement Division, Suite 100 Plainview Plaza, 10101 Linn Station Road, Louisville, Ky. 40223. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 125777 (Sub-No. 181TA), filed November 15, 1976. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, Ind. 46403. Applicant's representative: William F. Frantz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, in bulk, in dump vehicles, from Hammond, Ind., to points in Kentucky, Pennsylvania, Ohio, Wisconsin and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hammond Lead Products, Inc., 5231 Hohman Ave., P.O. Box 308, Hammond, Ind. 46325. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 142577 (Sub-No. 1TA), filed November 11, 1976. Applicant: GERALD BRAUN, doing business as GERALD BRAUN TRUCKING, P.O. Box 128, Warner, S. Dak. 57479. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Edgeley, N. Dak., to points in Brown County, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warner Co-op Elevator, Warner, S. Dak. 55479. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 142632TA, filed November 15, 1976. Applicant: DOLAN CAMPBELL, 302 High St., Duncan, Ariz. 85534. Applicant's representative: Irval L. Mortensen, 516 Main St., Safford, Ariz. 85546. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Ore*, from the mine site at the Center, East Camp and various mines in the Steeple Rock, New Mexico Mining District, the mines located approximately 18 miles East of Arizona-New Mexico State Line, from Duncan, Ariz., on road known as Carlisle Road, to Fox Siding of the Southern Pacific Railroad, under a continuing contract with Dresser Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dresser Industries, Inc., P.O. Box 6504, Houston, Tex. 77005. SEND protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bld., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 142633TA, filed November 15, 1976. Applicant: HATHORN TRANSFER & STORAGE CO., INC., 620 Elliott St., Alexandria, La. 71301. Applicant's representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in the Louisiana Parishes of Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, and Rapides, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shippers: Jet Forwarding, Inc., 2908 Oregon Court, Torrance, Calif. 90510 Imperial Van Lines, Inc., 2805 Columbis St., Torrance, Calif. 90503. Mollerup Freight Forwarding, 1110 N. 175th St., Seattle, Wash. 98133. Smyth Worldwide Movers, Inc., 314 108th N.E., Bellevue, Wash. 98009. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35044 Filed 11-29-76;8:45 am]

[Notice No. 158]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 23, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 94 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than December 15, 1976. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50307 (Sub-No. 85TA), filed November 15, 1976. Applicant: INTER-STATE DRESS CARRIERS, INC., 247 W. 35th St., New York, N.Y. 10001. Applicant's representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, machinery, supplies and equipment* used in the manufacture of wearing apparel, between Brownsville, Ky., and points in New York, New Jersey and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fairfield-Noble Corporation, 1411 Broadway, New York, N.Y. 10018. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 100666 (Sub-No. 337TA), filed November 16, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilbur L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (except in bulk), from Lawrenceville, Ill., to Shreveport, La., for 180 days. Supporting shipper: Bird & Son, Inc., Traffic Manager, P.O. Box 72, Shreveport, La. 71161. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 103066 (Sub-No. 43TA), filed November 16, 1976. Applicant: STONE TRUCKING CO., INC., 4927 S. Tacoma, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: C. L. Phillips, Room 248, 1411 N. Classen, Classen Terrace Bldg., Oklahoma City, Okla. 73106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, including dairy products*, in vehicles equipped with mechanical refrigeration, from the plantsites and/or storage facilities, at or near Plymouth, Wis., and Van Wert, Ohio, to points in Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden Foods, Div. Borden, Inc., 180 E. Broad St., Columbus, Ohio 43215. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 108207 (Sub-No. 447TA), filed November 16, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and foodstuffs,*

from St. Louis, Mo., and its commercial zone, to points in Kansas, for 180 days. Supporting shipper: Max German, Inc., 3836 Aldine, St. Louis, Mo. 63113. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 111729 (Sub-No. 687TA), filed November 15, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, narcotics, pharmaceuticals, toiletries, sundries, proprietaries, and other items* related to drug stores and hospitals, restricted against the transportation of articles or packages weighing more than 50 pounds per shipment or 100 pounds in the aggregate, from one consignor to one consignee on any one day; (1) between Nashville, Tenn., on the one hand, and, on the other, Bloomington, Bolingbrook, Bridge View, Decatur, Des Plaines, Dolton, Elgin, Franklin Park, Hanover Park, Joliet, Lansing, Lores Park, Melrose Park, Mundelein, N. Aurora, Pekin, Peoria, Peru, Rockford, Schaumburg and Tinley Park, Ill.; Cadiz, Central City, Lexington, Marion, Mayfield, Murray, Paducah, Princeton, Providence, Salam, and Smith Groves, Ky; Baltimore, Hagerstown and Posodera, Md.; Charlottesville, Danville, Hampton, Lynchburg, Newport News, Norfolk, Petersburg, Richmond and Roanoke, Va.; Charleston, Parkersburg, St. Albans and Vienna, W. Va.; and (2) between Huntsville, Ala., on the one hand, and, on the other, Pensacola, Fla.; Alexandria, Baton Rouge and Lafayette, La.; Balch Springs, Dallas, Houston, McAllen, S. Houston and Temple, Tex., for 180 days. Supporting shipper: Tennessee Wholesale Drug Co., 160 2nd Ave., North, Nashville, Tenn. 37201. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 116457 (Sub-No. 18TA), filed November 16, 1976. Applicant: GENERAL TRANSPORTATION, INCORPORATED, 1804 S. 27th Ave., P.O. Box 6484, Phoenix, Ariz. 85009. Applicant's representative: Donald Parker Crosby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and structural glazed brick and tile, and commodities* incidental to the installation thereof (except commodities in bulk moving in tank vehicles), from points in Dona Ana County, N. Mex., and Oklahoma, to points in Arizona, California, Nevada, Colorado, Utah, Washington, Oregon, Idaho, and New Mexico; from points in Texas, Arkansas and Kansas, to points in Idaho, Utah, Colorado, New Mexico, Washington, Oregon and north of San Luis Obispo County, Kern County and San Bernardino County, Calif., for 180 days. Supporting shippers: (1) Elgin-Butler Brick Co., P.O. Box 1947, Austin, Tex. 78767. (2) Tri-Delta Building Materials, 3803 Cinder Lane, Las Vegas, Nev. 89103. (3) Brand Materials Inc., 4141 E. Winslow Ave., Phoenix, Ariz. 85040. (4) Anaheim Builders, 1635 S. State College Bldg., Anaheim, Calif. 92805. and (5) Acme Brick Company, P.O. Box 425, Fort Worth, Tex. 76101. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 119118 (Sub-No. 56TA), filed November 15, 1976. Applicant: MCCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: William J. Levelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Cliffwood, N.J., to points in New York, for 180 days. Supporting shipper: Midland Glass Co., Inc., Cliffwood, N.J. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 119789 (Sub-No. 315TA), filed November 16, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from spers, Pa., to points in Texas, Oklahoma, Louisiana and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Duffy-Mott, Inc., 370 Lexington Ave., New York, N.Y. 10017. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 119789 (Sub-No. 316TA), filed November 12, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from St. Francisville and Belledau, La., to points in Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joan of Arc Company, 2231 W. Altofer Drive, Peoria, Ill. 61614. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123294 (Sub-No. 41TA), filed November 16, 1976. Applicant: WARSAW TRUCKING CO., INC., 1102 W. Winona, Warsaw, Ind. 46580. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Popcorn oil, marshmallow cream, cereal, flour mixes and products*, from the facilities of Little Crowe Foods, located at Warsaw, Ind., to Little Rock, Ark.; Nashville and Memphis, Tenn.; Huntington, W. Va., and points in Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority: Supporting shipper: Little Crowe Foods, Corner Market and Detroit Streets, P.O. Box 431, Warsaw, Ind. 46580. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 129387 (Sub-No. 27TA), filed November 12, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING CO., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, S. Dak., to Portland, Oreg., and Tacoma, Seattle and Everett, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Company, 111 W. Clarendon, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 129631 (Sub-No. 52TA), filed November 12, 1976. Applicant: PACK TRANSPORT, INC., 3975 S. 300 West, Salt Lake City, Utah 84107. Applicant's representative: P. L. Smart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Ogden, Salt Lake City and Provo, Utah, to points in Colorado. Applicant intends to tack its existing authority with Sub-No. 43G, for 180 days. Supporting shippers: Wheatridge Lumber Co., 8995 W. 44th Ave., Wheatridge, Colo. 80033. Northwest Hardwoods, 1300 S.W. 5th, Suite 2222, Portland, Oreg. 97205. West Coast Forest Industries, 1050 S.W. Allen Blvd., Beaverton, Oreg. 97005. Publishers Paper Company, 6637 S.E. 100th Ave., Portland, Oreg. 97266. Woodmaster Company, P.O. Box 26181, Lakewood, Colo. 80226. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 135195 (Sub-No. 2TA), filed November 15, 1976. Applicant: JOSEPH L. STOVER, doing business as STOVER AIR CARGO, 3830 Wisman Lane, Quincy, Ill. 62301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission), restricted to the transportation of traffic having an immediately prior or subsequent movement by air, between Cook and Dupage Counties, Ill.; St. Louis and St. Louis County, Mo.; Peoria, Ill., including the Greater Peoria Airport; Quincy, Ill., and Baldwin Field in Adams County, Ill.; and Burlington, Iowa, on the one hand, and on the other, Burlington and West Burlington, Fairfield, Fort Madison, Keokuk, Middletown, Mt. Pleasant, New London and Ottumwa, Iowa; Carmen, Carthage, Cook County, Dallas City, DuPage County, Galesburg, Hamilton, Kewanee, Lomax, Macomb, Monmouth, Nauvoo, Niota, Peoria, Princeton, Quincy, Warsaw, Ill.; Hannibal, Louisianna, Monroe City, Palmyra, St. Louis and St. Louis County, Mo. Applicant intends to tack its existing authority with MC 135195, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 28 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 136267 (Sub-No. 7TA), filed November 11, 1976. Applicant: BELS PRODUCE CO., INC., 11357 Vienna Road, P.O. Box 348, Montrose, Mich. 48457. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles and related pickle products*, (except refrigerated and in bulk), from the facilities of Vlasic Foods, Inc., at Greenville, Miss., to points in Missouri, New Mexico, Kentucky, Kansas and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vlasic Foods, Inc., Ira Kaplan, Director of Distribution, 33200 W. 14 Mile Road, West Bloomfield, Mich. 48033. Send protests to: James A. Augustyn, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 141029 (Sub-No. 3TA), filed November 16, 1976. Applicant: JON A. JUILLERAT, doing business as JON A. JUILLERAT & CO., R.R. #2, Box 10, Portland, Ind. 4737k. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feeds, dry animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides, pesticides, livestock and poultry feeders and equipment and advertising matter and premiums related to such commodities* (except the transportation of liquid commodities in bulk), from the plantsite and warehouse facilities of Moorman Manufacturing Co., at or near Bluffton, Ind., to points in Virginia, Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, New York, Tennessee, West Virginia, Illinois, Michigan, Mississippi, Ohio, Pennsylvania, South Carolina, North Carolina and Wisconsin; and (2) *Materials, equipment and supplies* used in the manufacture, sales and distribution of the above-named commodities (except the transportation of liquid commodities in bulk and dry chemicals in bulk), from the above-named destination states to the plantsite or warehouse facilities of Moorman Manufacturing Co., at or near Buffton, Ind., restricted to transportation performed under a continuing contract with Moorman Manufacturing Co., for 180 days. Supporting shipper: Moorman Manufacturing Company, 1000 N. 30th St., Quincy, Ill. 62301. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 142575 TA (correction), filed October 21, 1976, published in the FEDERAL REGISTER issue of November 8, 1976, and republished as corrected this issue. Applicant: UNDERWOOD TRUCK LINES, INC., 21 S. Depot St., Brazil, Ind. 47831. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, trailer chassis* (other than designed to be drawn by passenger automobiles), and parts and accessories therefor, in initial movements, from the plantsite and storage facilities of Great Dane Trailers, of Indiana, Inc., located at or near Brazil, Ind., to points in Indiana, Kentucky, Illinois, Ohio, Michigan and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Dane Trailers Indiana, Inc., Highway 40 East, P.O. Box 350, Brazil, Ind. 47834. Send protests to: Fran Sterling, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 142596 TA (Correction), filed October 21, 1976, published in the FEDERAL REGISTER issue of November 8, 1976, and republished as corrected this issue. Applicant: DELIVERY SERVICE & TRANSFER CO., INC., 962 S. 700 West, Salt Lake City, Utah 84104. Applicant's representative: Keith E. Soh, Suite 81 Trolly Square, Salt Lake City, Utah 84102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household products* for Jewel Companies, Inc., such as but not limited to dry packaged foods, cleaning aids, household utensils and similar general merchandise, from Salt Lake City, Utah, on the one hand, to Ogden, on the other, going north including intermediate points along Interstate 15 and U.S. Highways 89 and 91 and off-route points within 10 miles thereof; and from Salt Lake City, Utah, on the one hand, to Provo, Utah, on the other, going south including intermediate points along Interstate 15 and U.S. Highways 89 and 91 and off-route points within 10 miles thereof, and return with rejected merchandise, under a continuing contract with Jewel Companies, Inc., and Park Corporation (Subsidiary), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Jewel Companies, Inc., and Park Corporation (Subsidiary), 511 Lake Zurich Road, Barrington, Ill. 60610. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138. The purpose of this republication is to correct docket number MC 142596 TA in lieu of MC 14479 (Sub-No 3TA).

PASSENGER APPLICATION

No. MC 142643TA, filed November 16, 1976. Applicant: RELIABLE RAILROAD SERVICE, INC., 1014 Enquirer Bldg., Cincinnati, Ohio 45202. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authortiy sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Indianapolis, Ind., on the one hand, points in Illinois, Kentucky, and Ohio, restricted to a continuing contract with Consolidated Rail Corporation, for 180 days. Supporting shipper: James S. Kerr, Senior Industrial Engineer, Consolidated Rail Corporation, 31 E. Georgia, Indianapolis, Ind. 46204. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35043 Filed 11-29-76;8:45 am]

[Notice No. 200]

ASSIGNMENT OF HEARINGS

NOVEMBER 24, 1976.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective as-

signments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 19 (Sub 24), Baltimore and Ohio Railroad Company Abandonment Portion Elk Branch Between Hartland and Clendenin, in Clay and Kanawha Counties, West Virginia now being assigned for continued hearing on December 13, 1976 (2 days) at Charleston, West Virginia and will be held at the State Capitol Building, Main Building, Room 410 and December 15, 1976 (1 day) at Clay, West Virginia and will be held in the Circuit Court Room, Clay County Court House.

MC 136632 (Sub 6), Copeland Transportation Co., Inc. now being assigned February 16, 1977 (3 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 44735 (Sub No. 28), Kissick Truck Lines, Inc. now being assigned February 8, 1977 (1 day) at Kansas City, Missouri in a hearing room to be later designated.

MC 136711 (Sub 28), McCorkle Truck Line, Inc. now being assigned February 9, 1977 (3 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 124774 (Sub 96), Midwest Refrigerated Express, Inc., MC 134922 (Sub 188), B. J. McAdams, Inc., MC 133566 (Sub 57), Gangloff and Downham Trucking Co., Inc., and MC 134755 (Sub 77), Charter Express, Inc. now being assigned February 14, 1977 (3 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 141920, Keller Trucking, Inc., now assigned December 2, 1976, at Chicago, Illinois, hearing canceled and the application is dismissed.

MC 141969 (Sub-No. 1), Noble Transport, Inc., now assigned January 14, 1976, at San Francisco, Calif. is canceled and application dismissed.

MC-C-9106, Freightways Express, Inc., V. Seco Trucking, Inc., now assigned January 13, 1977, at Little Rock, Ark., will be held in the Arkansas Transportation Commission, Hearing Room Justice Bldg., 1500 West 7th Street.

MC 121597 Sub 5, Chickasaw Motor Line, Inc., now assigned January 10, 1977, at Nashville, Tenn., will be held in Room A-961, U.S. Courthouse, 801 Broadway.

AB 28 Sub 1, Central of Georgia Railroad Company Abandonment of Operation Between Clayton And Ozark in Barbour And Dale Counties, Alabama, now being assigned February 23, 1977 (3 days), at Ozark, Ala., in a hearing room to be later designated.

MC-F-12873, Motor Dispatch, Inc.—Investigation of Control—Loudon Lines, Inc., and Lincoln Express & Freight Lines, Inc., and MC-C-9130, Loudon Lines, Inc., Lincoln Express & Freight Lines, Inc., & Motor Dispatch, Inc.—Investigation & Revocation of Certificates and Certificates of Registration, now assigned February 3, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn Street (2 days).

MC 129131 Sub 6, Richard T. Plattner, dba Jans Motor Service now assigned February 1, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn Street (2 days).

MC 134922 Sub 175, B. J. McAdams, Inc., now assigned January 31, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn Street (1 day).

MC 127042 Sub 172, Hagen, Inc., now assigned January 26, 1977, (1 day) at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn, Street.

MC 51146 Sub 468, Schneider Transport, Inc., MC 114457 Sub 262, Dart Transit Co., and MC 138328 Sub 29, Clarence L. Werner dba Werner Enterprises, now assigned January 27, 1977 (2 days), at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 107515 Sub 1009, Refrigerated Transport Co., Inc., now assigned January 25, 1977, (1 day), at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 29029 Sub 87, Brada Miller Freight System, Inc., MC 41406 Sub 51, Artim Transportation System, Inc., MC 105045 Sub 61, R. L. Jeffries Trucking Co., Inc., 106674 Sub 180, Schilli Motor Lines, Inc., 116915 Sub 23, Eck Miller Transportation Corp., 119656 Sub 34, North Express, Inc., MC 124083, Sub 53, Skinner Motor Express, Inc., MC 136182 Sub 3, B & C Motor Freight Inc., MC 138741 Sub 20, E K Motor Service, Inc., MC 141805 Hoosier Transport, Inc., MC 123407 Sub 319, Sawyer Transport, Inc., MC 140452 Sub 4, Rose Brothers Trucking, Inc., and MC 142258, Dale Bland Trucking, Inc., now assigned January 13, 1977, (2 days) at Chicago, Ill., will be held in Courtroom 1944-C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 141956 Sub 1, Area Container Service, Inc., now assigned January 17, 1977, (1 week) at Chicago, Ill., will be held in Courtroom 1944-C, Everett McKinley Dirksen Bldg., 219 Dearborn Street.

MC 43269 (Sub 61), Wells Cargo, Inc. now being assigned the 4th day of February, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135824 (Sub-No. 1), J. Bernard Klapec, now being assigned January 27, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124211 (Sub-No. 278), Hilt Truck Line, Inc., now being assigned Pre-hrg. Conf. February 1, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138520 (Sub-No. 1), R. Johns Transfer, Inc., now being assigned pre-hearing conference February 8, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142249 (Sub-No. 1), A. T. Nichols Trucking Co., Inc., now being assigned February 9, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135425 (Sub-No. 20), Cycles Limited, now being assigned February 10, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 11207 Sub 367, Deaton, Inc., MC 73165 Sub 384, Eagle Motor Lines, Inc., MC 106644 Sub 221, Superior Trucking Company, Inc., MC 111545 Sub 221, Home Transportation Company, Inc., and MC 136828 Sub 8, Cox & Shay, Inc., now being assigned February 28, 1977 (2 days), at Birmingham, Ala., in a hearing room to be later designated.

MC-F 12939, Deaton, Inc—Investigation of Control-H.S. Anderson Trucking Company, now being assigned March 2, 1977 (3 days) at Birmingham, Ala., in a hearing room to be later designated.

MC 119741 (Sub-No. 56), Green Field Transport Company, Inc., now assigned December 13, 1976, at Chicago, Ill. will be held in Room 2568, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 209, 536 South Clark Street.

MC 133655 (Sub-No. 93), Trans-National Truck, Inc., now assigned January 18, 1977, at Chicago, Ill. is postponed to February 14, 1977 (1 week), at Chicago, Ill.; room to be later designated.

MC 140511 (Sub-No. 2), Autolog Corporation, now assigned December 13, 1976, at New York, N.Y. is postponed indefinitely.

MC 51146 (Sub-No. 463), Schneider Transport, Inc. and MC 133655 (Sub-No. 87), Trans-National Truck, Inc., now assigned January 11, 1977, at Chicago, Ill. is postponed to February 14, 1977, at Chicago, Ill. (1 week); in a hearing room to be later designed.

MC 133880 (Sub No. 4), Alter Trucking & Terminal Corp. now being assigned January 18, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35224 Filed 11-29-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 24, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before December 15, 1976.

FSA No. 43280—*Soda Ash From Points in Wyoming.* Filed by Western Trunk Line Committee, Agent (No. A-2732), for interested rail carriers. Rates on soda ash, in carloads, as described in the application, from points in Wyoming, to specific points in Louisiana.

Grounds for relief—Market competition.

Tariffs—Supplement 210 to Western Trunk Line Committee, Agent, tariff 124-N, I.C.C. No. A-4374, and supplement 275 to Southwestern Freight Bureau, Agent, tariff 270-F, I.C.C. No. 4832. Rates are published to become effective on December 25, 1976.

FSA No. 43281—*Joint Water-Rail Container Rates—Pacific Far East Line, Inc.* Filed by Pacific Far East Line, Inc. (No. 11), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Pacific and Gulf Coast Seaboards, to Egyptian, Mediterranean, Middle Eastern and Turkish ports.

Grounds for relief—Water competition.

FSA No. 43282—*Chlorine from Points in Louisiana.* Filed by Southwestern Freight Bureau, Agent, (No. E-644), for

interested rail carriers. Rates on chlorine, in tank-car loads, as described in the application, from Lake Charles, Plaquemine, and Taft, Louisiana, to St. Louis, Missouri and East St. Louis, Illinois.

Grounds for relief—Market competition.

Tariff—Supplement 20 to Southwestern Freight Bureau, Agent, tariff 12–J, I.C.C. No. 5219. Rates are published to become effective on December 21, 1976.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–35223 Filed 11–29–76;8:45 am]

[Notice No. 76]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before December 30, 1976. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76727, filed September 3, 1976. Transferee: Agri Trucking, Inc., A Texas Corporation, Box 496, Pampa, Tex. 79065. Transferor: Agri Trucking, Inc., A Colorado Corporation, Box 496, Pampa, Tex. 79065. Applicants' representative: Charles J. Kimball, Attorney-at-Law, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. Authority sought for purchase by transferee of the operating rights set forth in Permits Nos. MC 139454 and MC 139454 (Sub-No. 2), issued August 20, 1975 and November 11, 1975, respectively, authorizing the transportation of: Feed ingredients, between points in the United States (with exceptions); and inedible meat by-products and inedible articles distributed by meat packinghouses (except frozen commodities, hides and liquids in bulk moving in tank vehicles), between points in Arizona, Arkansas, Colorado, Iowa, Illinois, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; and between points in Alabama, California, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and the District of Columbia, restricted to operations to be performed under a continuing contract, or contracts, with Wellens & Co., Inc. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC–FC–76730, filed November 9, 1976. Transferee: Evans Cartage, Inc., (Incorporated 1976), 91st St. and County Line Road, Hinsdale, Ill. 60521. Transferor: Evans Cartage, Inc., (Incorporated 1960), 10 S. LaSalle St., Suite 1620, Chicago, Ill. 60603. Applicants' representative: Paul J. Maton, Attorney-at-Law, Suite 1620, 10 South LaSalle St., Chicago, Ill. 60603. Authority sought for purchase by transferee of the operating rights set forth in Certificate of Registration No. MC 120960 (Sub-No. 1), issued December 16, 1963, in the name of transferor, as follows: Commodities generally within a fifty (50) mile radius of 1510 S. State Street, Chicago, Ill., and to transport such property to or from any point outside of such authorized area of operations for a shipper or shippers within such area. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under section 210a (b) of the Act.

No. MC–FC–76754, filed November 5, 1976. Transferee: Dalton Air Freight, Inc., Route 5, Box 279, Morristown, Tenn. 37814. Transferor: Air-way Transport, Inc., Country Auto Mart, Fairground Rd., Greeneville, Tenn. 37443. Applicants' representative: R. Cameron Rollins, Attorney-at-Law, 321 E. Center St., Kingsport, Tenn. 37660. Authority sought for purchase by transferee of the operating rights set forth in Permit No. MC 127888 (Sub-No. 1), issued August 2, 1974, to transferor, as follows: Radios, and electronic parts and related items used in the manufacture of audio and video equipment, and cabinets therefor, from Knoxville Municipal Airport, near Knoxville, Tenn., to Greeneville, Jefferson City, and Morristown, Tenn.; and from Tri-Cities Airport, near Bristol, Tenn., to Greeneville, Jefferson City, Johnson City, and Morristown, Tenn.; restricted to shipments having a prior movement by air, and further restricted to a transportation service to be performed under a continuing contact, or contracts, with the Magnavox Company. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC–FC–76761, filed September 29, 1976. Transferee: BLOSSER TRUCKING, INC., 215 N. Main St., Middlebury, Ind. 46540. Transferor: O. W. Blosser, doing business as Blosser Trucking, 215 N. Main St., Middlebury, Ind. 46540. Applicants' Representative: Alki E. Scopelitis, Attorney-at-Law, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 128256, MC 128256 (Sub-No. 1), MC 128256 (Sub-No. 4), MC 128256 (Sub-No. 5), MC 128256 (Sub-No. 6), MC 128256 (Sub-No. 7), MC 128256 (Sub-No. 9), MC 128256 (Sub-No. 10), MC 128256 (Sub-No. 11), MC 128256 (Sub-No. 12), MC 128256 (Sub-No. 14), MC 128256 (Sub-No. 16), MC 128256 (Sub-No. 20), MC 128256 (Sub-No. 21), and MC 128256 (Sub-No. 22), issued by the Commission April 28, 1967, July 1, 1968, August 15, 1969, February 22, 1971, June 5, 1970, Novmeber 30, 1970, June 11, 1973, March 14, 1973, August 22, 1973, October 5, 1972, April 26, 1974, March 11, 1974, January 9, 1975, July 9, 1975, and May 23, 1974, respectively as follows: Lumber, wooden trusses, pallets, boxes, crates, mattress frames, wooden mouldings, composition board and materials, supplies, and accessories used in the manufacture and installation thereof, molded fiberglas products (except boats), finished and decoratively surfaced or overlaid plywood, particle board and hardboard, axle assemblies, frames, wheels, axles and related parts and accessories, windows, doors, screens, aluminum extrusions, and related hardware and accessories used in the installation thereof, siding and roofing, from, to, and between points and places in the United States. Transferee presently holds no authority from this Commission. Application has not been made for temporary authority under section 210a(b) of the Act.

No. MC–FC–76773, filed October 12, 1976. Transferee: REYNOLDS TRUCKING & CONSTRUCTION CO., INC., P.O. Box 2182, Morgan City, Louisiana 70380. Transferor: TRUCK TRANSPORT, INC., P.O. Box 1658, Morgan City, Louisiana 70380. Applicants' representative: Nathan A. Levy, Jr., Attorney at Law, P.O. Box 2625, Morgan City, Louisiana 70380. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121696, issued December 1, 1972, evidencing a right to engage in transportation pursuant to Certificate of Public Convenience and Necessity No. 5102–E, dated September 14, 1972, issued by the Louisiana Pub-

lic Service Commission, authorizing the transportation of lumber and oilfield materials, from, to and between all points in the State of Louisiana. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) has not been filed.

No. MC–FC–76781, filed October 19, 1976. Transferee: CAIN MOTOR LINES, INC., 8410 Wallisville Road, Houston, Tex. 77029. Transferor: Lake Truck Lines, Inc., 8410 Wallisville Road, Houston, Tex. 77029. Applicants' representative: Joe G. Fender, Attorney-at-Law, 1150 Pennzoil Place, 711 Louisiana, Houston, Tex. 77002. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 136912 (Sub-No. 1), issued December 29, 1975, as follows: Barite drilling mud, in tank vehicles, from Houston, Tex., to Lake Charles, Abbeville, Cameron, and Intracoastal City, La. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–76788, filed October 28, 1976. Transferee: RONALD MYERS & LEONARD MYERS, d.b.a., MYERS TRUCKLINE, Delia, Kansas 66418. Transferor: Floyd Brune, d.b.a., Holton-St. Joseph Freightline, Circleville, Kansas 66416. Applicants' representative: Ronald Myers, Delia, Kansas 66418. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 10601, issued January 22, 1974, as follows: *Livestock, seed, farm machinery and parts*, over irregular routes, from Holton, Kans., and points within 10 miles thereof, to Kansas City, Mo., Kansas City, Kans., and St. Joseph, Mo.; and *Livestock, seed, farm machinery and parts, feed, grain* and *lumber*, over irregular routes, from Kansas City, Mo., Kansas City, Kans., and St. Joseph, Mo., to Holton, Kans., and points within 10 miles thereof. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–76793, filed October 22, 1976. Transferee: Larry D. Breeden, doing business as Breeden Wrecker Service, 1301 Fayetteville Road, Van Buren, Arkansas 72956. Transferor: Jim Pence, doing business as Big Brutus Wrecker Service, Sallisaw, Oklahoma 74955. Applicants' representative: Gene Kuykendall, 1821 Phoenix, Fort Smith, Arkansas 72901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136607, issued March 19, 1974, as follows: *Disabled vehicles*, by use of wrecker equipment only, between points in Oklahoma, Arkansas, Kansas and Texas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–76799, filed October 26, 1976. Transferee: Robert Patrick McCarthy, P.O. Box 1319, Tulare, Calif. 93274. Transferor: A & R Lumber Sales, a corporation, P.O. Box 2803, Euguen Oreg. 97402. Applicants' Representative: Randall M. Faccinto, attorney-at-law, 100 Pine St., Suite 2550, San Francisco, Calif. 94111. Authority sought for purchase by transferee of the operating rights set forth in Permit No. MC 140678, issued November 9, 1976, as follows: Dry fertilizer, from the plant sites (1) of the Best Fertilizers Co., near Lathrop, Calif., (2) of the Filtrol Corporation in Los Angeles, Calif., (3) of the Collier Carbon & Chemical Corporation at Brea Chem, Calif., (4) of the California Chemical Co., at Richmond, Calif., (5) of the Western States Chemical Co., at Nichols, Calif., (6) of the Shell Chemical Company at Nitroshell, about 5 miles north of Ventura, Calif., and at Shell Point, near Pittsburg, Calif., and (7) at Dominguez, Calif., to points in Oregon, restricted to operations to be performed for specified shippers. Application for temporary authority under section 210a (b) of the Act has been filed. Transferee presently holds no authority from this Commission.

No. MC–FC–76811, filed November 2, 1976. Transferee: MELVIN, MOONEY & LORRAINE MOONEY, doing business as MOONEY'S BUTTE-DEER LODGE MOTOR FREIGHT, 107 Rocky Mountain Lane, Butte, Mont. 59701. Transferor: David Fetters & Virginia Fetters, doing business as Fetters' Butte-Deer Lodge Motor Freight, 3020 Hannibal St., Butte, Montana 59701. Applicants' Representative: Virginia S. Fetters, 3020 Hannibal St., Butte, Montana 59701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 140357, issued February 11, 1976, as follows: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes, between Butte and Deer Lodge, Mont., serving all intermediate points: Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–35220 Filed 11–29–76;8:45 am]

[Notice No. 77]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 29, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and transfer rules, 49 CFR Part 1132:

No. MC–FC–76831. By application filed November 19, 1976, CML, INCORPORATED, d.b.a. COLONY MOTORLINES, 9506 Timberlake Road, Lynchburg, VA 24504, seeks temporary authority to transfer the operating rights of Morton Transfer, Inc., P.O. Box 21, Richmond, VA 23201, under section 210a(b). The transfer to CML, Incorporated d.b.a. Colony Motor Lines, of the operating rights of Motor Transfer, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–35221 Filed 11–29–76;8:45 am]

[Notice No. 78]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 29, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and transfer rules, 49 CFR Part 1132:

No. MC–FC–76833. By application filed November 19, 1976, CHEECHAKO TRUCKING CO., INC., d/b/a ALASKA TRUCK TRANSPORT, INC., 416 Third Street, Graell Fairbanks, AK 99701, seeks temporary authority to transfer a portion of the operating rights of ALASKA TRUCK TRANSPORT, INC., 416 Third Street, Graell Fairbanks, AK 99701. The transfer to CHEECHAKO TRUCKING, CO., INC., d/b/a ALASKA TRUCK TRANSPORT, INC., of ALASKA TRUCK TRANSPORT, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–35222 Filed 11–29–76;8:45 am]

federal register

TUESDAY, NOVEMBER 30, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICATED FEEDS

Current Good Manufacturing Practice

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N–0056]

PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Medicated Feeds: Current Good Manufacturing Practice

The Food and Drug Administration (FDA) is issuing revised regulations describing current good manufacturing practice and technology in the manufacture of medicated animal feeds; effective December 30, 1976.

In the FEDERAL REGISTER of August 8, 1975 (40 FR 33554), the Commissioner of Food and Drugs proposed that the regulations describing current good manufacturing practice in the production of medicated animal feeds be revised to reflect current practice and technology in the manufacture of medicated feeds. Interested persons were invited to submit comments on the proposed amendments by October 7, 1975. In response to several requests, the period of comment was extended to November 6, 1975 by a notice published in the FEDERAL REGISTER of October 9, 1975 (40 FR 47516).

One hundred and one responses to the August 8, 1975 proposal were received: 88 from industry and industry associations, 11 from State regulatory agencies, and 2 from interested persons. Twenty nine of the comments were solely endorsements of another comment. Another 23 comments were also endorsements of other comments and simply repeated the particular sections of interest without adding further information or criticism. The comments ranged from almost total acceptance to almost total rejection.

Several comments concerned the process by which the regulations were developed. One of these suggested that an inflation impact statement was necessary under Executive Order 11821. The Commissioner has carefully considered the inflation impact of the proposed regulation as required by Executive Order 11821, OMB Circular A–107, and the Guidelines issued by the Department of Health, Education, and Welfare, and no major inflation impact has been found. A copy of the FDA inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Seven comments asserted that the intra-agency Medicated Feed Task Force, which reviewed and evaluated the existing FDA programs and regulations for medicated feeds and recommended revision of the current good manufacturing practice regulations, should have included a member of the feed industry with practical experience in the day-to-day operations of a feed mill. The Commissioner concludes that industry has had ample and equitable opportunity to provide its expertise in the development of final regulations through the rule making procedures followed by the agency in this matter.

Three comments suggested that the regulations be republished for comment after revision in light of the comments received in response to the August 8, 1975 proposal. The Commissioner concludes that such republication is unnecessary because of the significant participation by industry in the development of the final regulations as set forth below.

Other comments concerned particular sections of the regulations. A summary of those comments and the Commissioner's responses, are as follows:

1a. One comment considered the definition of "medicated feed" in § 210.3(c)(1) inadequate and imprecise.

The Commissioner concludes that the definition is adequate because it adopts the provisions of section 201 (g) and (x) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (g) and (x)), and the definition is being retained.

b. A number of comments asserted that the definition of "medicated premix" in § 210.3(c)(2) was too broad because the definition could be construed to include conventional supplements and concentrated feeds.

The Commissioner advises that the term "medicated premix" is intended to cover only products used in manufacturing medicated feed and is not intended to cover supplements or concentrates as such products are defined in § 558.3 (21 CFR 558.3). Paragraph (c)(2) is being retained as proposed, pending a complete revision of the terms applied to medicated feed products, which will be the subject of a future proposal.

GENERAL PROVISIONS

2a. Comments stated that section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)) is specific in relating current good manufacturing practice regulations to the safety, identity and strength, and the quality and purity characteristics the product is represented to possess. The comments suggested that for the sake of clarity, and to place the current good manufacturing practice regulations in the proper perspective, § 225.1(a) should either be deleted or revised to quote section 501(a)(2)(B) of the act in its entirety.

The Commissioner agrees with these comments and is revising § 225.1(a) to adopt more closely the language of section 501(a)(2)(B) of the act.

b. Four comments asserted that the word "purity" in § 225.1(b) is not applicable to medicated feeds.

The Commissioner concludes that the term "purity" is applicable to medicated feeds, particularly with reference to cross-contamination by drugs not intended to be present in the feed.

c. Two comments suggested that paragraph (b) on applicability of the regulations places unequal emphasis on automated equipment.

The Commissioner agrees that it is not appropriate to emphasize the applicability of the regulations to automated equipment; the regulations apply equally to firms employing automated equipment and to those that do not. Therefore, the reference to automated equipment is being deleted from the regulation.

d. Comments also objected to the provision that, in those circumstances in which failure to adhere to the regulations has caused nonmedicated feed to be adulterated, the medicated feed produced within the facility shall be deemed to be adulterated within the meaning of section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)) and the nonmedicated feed within the meaning of section 402(a)(2)(D) of the act (21 U.S.C. 342(a)(2)(D)).

The Commissioner presumes that these comments were based upon the misunderstanding that a violation of section 501(a)(2)(B) of the act occurs only when the drug level of a medicated feed deviates from its labeled amount or when cross-contamination is present. In fact, regulations governing current good manufacturing practice establish criteria upon the basis of which drugs may be deemed to be adulterated without the requirement of establishing by substantial evidence that each drug produced in an establishment is, in fact, adulterated. Thus, where a nonmedicated feed produced in the same facilities as a medicated feed is found to contain unsafe drug residues, the same conditions apply as would be the case if one medicated feed were adulterated by drug carry-over from another medicated feed. Section 501(a)(2)(B) of the act does not require the Commissioner to establish that each article of drug or medicated feed produced is not in accord with the other provisions of the act in order to determine that an adulteration has occurred. This section clearly states that articles that are not produced in accord with the regulations that set forth the conditions of current good manufacturing practice are deemed to be adulterated under the act, and the Commissioner concludes that the paragraph shall be retained as proposed.

3. As proposed, § 225.10(b) stated that all employees involved in the manufacture of medicated feeds shall have an understanding of the manufacturing or control operations that they perform. A number of comments suggested that the phrase "all employees" be replaced by the phrase "responsible employees."

The Commissioner does not agree with this suggestion. It has been the experience of FDA that all personnel in a manufacturing plant, not just "responsible personnel," may have an adverse effect on the finished product. For example, a sweeper may place sweepings containing drugs in a bin containing nonmedicated or medicated feeds not intended to contain the same drugs as in the sweepings. Everyone in a medicated feed manufacturing facility must know his responsibilities and how to perform his job. The extent of training required is, of course, directly related to the nature of and the knowledge and skill required for the duties performed. Satis-

factory training involves training to the extent necessary to achieve competence in the worker in performing his assigned task. However, certain types of operations carried out within a medicated feed facility, though requiring an initial training period, may not require an ongoing training program as suggested by the phrase "on-the-job training program." To provide for this kind of flexibility, paragraph (b) (2) is being deleted.

CONSTRUCTION AND MAINTENANCE OF FACILITIES AND EQUIPMENT

4a. Several comments suggested that in § 225.20(a) the word "assure" be replaced with the word "facilitates" in the sentence that speaks of the features of facilities necessary to "assure" proper manufacture of medicated feed because a building by itself cannot "assure" proper manufacturing.

The Commissioner concludes that the words "to assure" should be replaced with the words "for the" in order to convey more clearly the intent of this section.

b. Two comments questioned the appropriateness of requiring facilities for personal hygiene in current good manufacturing practice regulations.

The Commissioner concludes that facilities for personal hygiene are necessary in any type of food- or feed-manufacturing operation and that the reference to such facilities shall be retained.

c. One comment suggested that the word "minimize" be used to qualify the phrase "structural conditions for control and prevention of vermin and pest infestation."

Because the procedures used to "minimize" vermin and pest infestations are included in the other sections of the regulation, the Commissioner concludes that it is unnecessary to incorporate the word into this paragraph.

d. Two comments suggested that in § 225.20(b) the word "shall" be replaced with the word "should" in describing the requirements for buildings in which medicated feeds are manufactured.

The Commissioner concludes that since these regulations constitute mandatory minimum requirements necessary to be followed in the manufacturing of medicated feed, the word "shall" is appropriate and is retained.

e. Comments asserted that the surroundings of a building cannot always be entirely free from litter, waste, refuse, uncut weeds or grass, standing water, and improperly stored equipment, as is required by § 225.20(b) (1). They suggested that the phrase be modified by the word "reasonably."

The Commissioner advises that FDA regulations are always to be administered "reasonably," but he assents to the inclusion of the word "reasonably" before the word "free" to indicate more precisely the conditions that should exist around feed-manufacturing facilities. However, he advises that insertion of "reasonably" is not intended to indicate any lessening of the standard of the regulation as proposed.

f. One comment suggested that proper drainage is the responsibility of the municipality.

The Commissioner concludes that although it may be the municipality's responsibility to control water drainage, appropriate measures must be taken by the manufacturer if the municipality fails to correct a drainage problem. For this reason the requirement for adequate drainage is retained.

g. Comments also asserted that the surroundings of a building, for which neatness requirements are prescribed in this paragraph, may not affect feed quality.

The Commissioner does not agree. The presence of litter, waste, refuse, uncut weeds or grass, standing water, and improperly stored equipment provides harborage for rodents and other pests; therefore, the Commissioner concludes that reference to conditions existing around a building shall be retained.

h. A comment suggested that in § 225.20(b) (2) the word "building" be replaced with the word "building(s)."

The Commissioner agrees and this change is being made to cover multi-building facilities.

i. Comments stated that no building is entirely free of cracks, holes, and other structural defects, as required by § 225.20 (b) (3). In many instances, doors of feed-manufacturing facilities are kept open during manufacturing operations.

The Commissioner agrees and is revising the regulation to read, "The building(s) shall be of suitable construction to minimize access by rodents, birds, insects and other pests."

j. Comments asserted that proper space and lighting alone will not preclude or prevent mixups or cross-contamination, as is implied by paragraph § 225.20(b) (4).

The Commissioner agrees, and the regulation is being revised to read, "The building(s) shall provide adequate space and lighting for the proper performance of the following medicated feed manufacturing operations:"

k. Two comments asserted that since labeling includes a variety of printed materials not normally found in a feed mill, the term "labeling" in paragraph (b) (4) (v) should be replaced with the word "labels" in this requirement for storage facilities.

The Commissioner concludes that since promotional literature is found at feed mills, the term "labeling" shall be retained.

5a. One comment suggested that equipment presently in use should be "grandfathered," and that § 225.30 should pertain to new equipment.

The Commissioner concludes that this section shall apply to all equipment, old and new, because it is essential to the production of safe and effective feed that equipment meets the requirements set forth therein. Therefore, no change is made in paragraph (a).

b. One comment suggested that the word "shall" be replaced with the word "should" throughout § 225.30.

The use of "shall" rather than "should" has been discussed under item 4 above; the change is not made.

c. Two comments suggested that the word "known" be replaced with the word "intended" in paragraph (b) (1), the requirement that all equipment shall possess the capability to produce a medicated feed of "known" potency, safety, and purity.

The Commissioner accepts this suggestion because the word "intended" is more accurate in this context.

d. Two comments stated that the word "purity" when applied to medicated feeds, as it is in paragraph (b) (1) and elsewhere in these regulations, is not appropriate.

The question of whether the word "purity" is applicable to animal feeds has been discussed under item 2 above; the word "purity" is retained.

e. One comment suggested, regarding § 225.30(b) (2), that only "functional equipment" be maintained in a clean and orderly manner.

The Commissioner concludes that all equipment shall be maintained in a reasonably clean and orderly manner to meet the requirements of § 225.30(b) (1), that equipment which is being stored or is on standby shall also be maintained to prevent deterioration.

f. Several comments suggested that the word "reasonably" be added to this requirement of paragraph (b) (2) that all equipment shall be maintained in a clean and orderly manner.

The Commissioner accepts that suggestion and is revising the regulation to read, "All equipment shall be maintained in a reasonably clean and orderly manner." However, the Commissioner advises here, as he did above in discussing item 4, that FDA regulations are always to be administered "reasonably" and that the addition of "reasonably" in this paragraph is not intended to indicate any lessening of the standard of the regulation as proposed.

g. Two comments related to a grammatical revision in § 225.30(b) (3), substituting the word "its" for the word "their."

The suggested change is being adopted.

h. Five comments stated that the requirement of § 225.30(b) (4) that scales and metering equipment be tested upon installation and at least once a year is too restrictive and should be based on need and design of the device.

The Commissioner concludes that because correctly functioning scales and metering are essential to manufacturing medicated feeds in conformity with these regulations, the requirement that the equipment be tested at least once a year is reasonable.

i. One comment asked who is to do the testing.

The Commissioner advises that the testing of equipment may be conducted by anyone qualified by virtue of his training and/or experience to conduct such testing.

j. A number of comments on § 225.30 (b) (5) were received regarding the uses of lubricants and coolants. It was as-

serted that prevention of contact between feed and all lubricants and coolants is impossible, particularly in the case of pellet mills. The comments suggested rewording that paragraph to prohibit only toxic lubricants and coolants from coming into contact with the feed being processed.

The Commissioner agrees, and the regulation is being revised accordingly.

k. A number of comments expressed concern that the requirements of § 225.30(b)(6) could not be met because feed-processing equipment is not usually designed for total examination of all contact surfaces.

The Commissioner concludes that the comments are valid and the regulation is being revised to make clear that dismantling of equipment for cleaning is not required.

6a. Four comments suggested that the title of § 225.35 be revised to cover storage or handling areas as well as work areas.

The Commissioner agrees and is revising the section heading accordingly.

b. Several comments stated that certain pesticides are approved for use in animal feed and that paragraph (b), which requires separation of feed manufacturing processes from pesticide manufacturing processes, should recognize use of approved pesticides in animal feeds.

The Commissioner agrees and is adding the phrase "or approved additives" after the phrase "approved drugs" to clarify the intent of the regulation.

PRODUCT QUALITY CONTROL

7a. Two comments took issue with § 225.42 as being an apparent attempt by the agency to require the same inventory controls in the medicated feed industry that are required in pharmaceutical manufacturing facilities.

The Commissioner advises that the regulation is not intended to require the same degree of inventory control that is required in the manufacture of pharmaceutical drugs. The regulation includes the minimum requirements that the Commissioner concludes will assure that drug accountability is maintained in the manufacture of medicated feeds.

b. One comment recommended rewording paragraph (a) to clarify its intent.

The Commissioner is revising the paragraph accordingly.

c. Several comments indicated that the phrase "intermediate mixes" should be deleted in § 225.42(b) and replaced with the phrase "medicated premixes" on the grounds that "intermediate mix" is not defined, and the control of an "intermediate mix" is not as critical as the control of an undiluted drug component.

The Commissioner concludes that the regulation shall be revised to indicate more clearly that the intermediate premixes mentioned in paragraph (b) are intended to include inplant premixes and concentrates that may be prepared as a step in the manufacture of the final product. It is necessary to maintain control of the drug components used in each step of the manufacturing process, and the regulation is being revised to indicate more clearly the products intended to be encompassed by the term "intermediate mixes."

d. Two comments stated that the word "shall" should be replaced by the word "should."

The use of "shall" has been explained in the discussion of item 4 above; "shall" is being retained in the final regulation.

e. Several comments regarding § 225.42 (b)(1) suggested that incoming shipments of drugs should be "visually" inspected for identity and damage, and that drugs that have been subjected to conditions that "may" have adversely affected them shall not be accepted for use.

The Commissioner agrees with the suggestions, and the regulation is being revised accordingly.

f. Several comments related to the requirement of § 255.42(b)(2) that packaged drugs shall be stored in their original containers. It was asserted that during production, drugs may be placed in other containers as part of the normal operation of the manufacturing process, and a requirement that drugs be stored in their original containers at all times would interfere with efficient production of medicated feeds.

The Commissioner agrees, and the regulation is being revised to specify that this storage requirement applies only while the drugs are held in the storage area.

g. One comment suggested that § 225.-42(b)(6) require a weekly, instead of a daily, inventory of drugs be made.

The Commissioner concludes that for adequate control it is necessary for the manufacturer to maintain a daily record of drug use.

h. Several comments suggested that the reference to lot numbers either be deleted or broadened to include lot numbers assigned by the feed manufacturers.

The Commissioner agrees, and the regulation is being revised to provide for use of either the drug manufacturer's lot number or an identifying number assigned by the feed manufacturer.

i. One comment suggested that in paragraph (b)(6)(i) the closing inventory of the previous day be considered the beginning inventory on the following day.

The Commissioner agrees, and the paragraph is being revised accordingly.

j. Comments also suggested that the phrase "on hand" be replaced with the phrase "in the working area."

The Commissioner does not agree that only drugs "in the working area" should be subject to inventory. It is necessary to determine whether drugs in other areas have been incorrectly removed and used. Therefore, this suggestion is not being adopted.

k. One comment stated that the requirement of paragraph (b)(6)(ii), that a daily record of the amount of each drug used be maintained, is not practical for bulk drugs because they cannot be weighed.

The Commissioner concludes that it is essential to adequate inventory control that the amount of drug used be a part of the inventory whether or not the drug is in bulk form. However, the Commissioner is of the opinion that the reference to the amount of drug used should be expanded to include the amount of drug used, sold, or otherwise disposed of, and the regulation is being revised accordingly.

l. One comment suggested that the requirement of paragraph (b)(6)(iii) to record the batches of medicated feed in which each drug was used on the daily inventory record should permit the recording of production runs in lieu of batches of medicated feeds.

The Commissioner agrees that the regulation should be modified to include reference to production runs of medicated feeds.

m. Several comments stated that this requirement should be deleted since the production records will indicate what medicated feed was produced and the amount of drug called for in each batch or run of feed.

The Commissioner concludes that it is necessary for the inventory record to indicate the batch or production run of medicated feed in which each drug was used in order to check the production records; therefore, this suggestion is not being adopted.

n. One comment suggested that paragraph (b)(6)(iv) be modified to make it clear that the term, "intermediate mix," applies to intermediate mixes produced as a step in the manufacture of medicated feed.

The Commissioner concludes that any article, such as semiprocessed or intermediate mixes, that is maintained on the premises and that includes any quantities of drug premix shall be included as a part of the overall drug inventory. He is also modifying the term "intermediate mixes" by adding the term "semi-processed" in order to make this clear.

o. A number of comments asserted that because bulk feed manufacturers ship the feed before an inventory is accomplished, it is impossible to detain the batches of medicated feed if discrepancies are found in the comparison of the actual drug used with the theoretical drug usage. They suggested that paragraph (b)(7) provide for detaining the remaining portion of the feed when a discrepancy is found.

The Commissioner concludes that since industry operations are such that much of the feed produced during daily operations will be shipped before concluding a daily inventory, it is not possible to detain the entire daily production in the event discrepancies are found. For this reason, he is revising the regulation to state that where any significant discrepancy is found, the medicated feed remaining on the premises that is affected by the discrepancy shall be detained until the discrepancy is reconciled.

p. Two comments suggested that paragraph (b)(7) is redundant because it covers the same subject as proposed § 225.102(b)(4).

The Commissioner concludes that this requirement is not redundant because the paragraph describes the records that

must be maintained, whereas § 225.102 (b) (4) refers to persons responsible for checking production records.

q. One comment requested clarification in paragraph (b) (8) of the phrase "after complete use of the drug component" in the requirement that all records shall be maintained for at least 1 year after complete use of the drug component.

The Commissioner is amending the regulation to state that records shall be retained for at least 1 year after complete use of a drug component of a specific lot number or feed manufacturer's shipment identification number.

8a. Several comments suggested that in § 225.58(a) the word "reproducible" be replaced with the word "intended" in referring to the potency tested by the periodic assay.

The Commissioner agrees and the regulation is being revised accordingly.

b. Three comments requested simplification or elimination of Form FD–1800 referred to in paragraph (b) (1) (i) (redesignated (b) (1) below).

Because approval for the manufacture of animal feeds bearing or containing new animal drugs is required by section 512(m) of the act (21 U.S.C. 360b(m)), Form FD–1800 remains a requirement except under certain circumstances where the requirement has been waived by the regulations.

c. Other comments requested that Form FD–1800 be revised to reflect the new assay requirements.

The Commissioner agrees, and Form FD–1800 will be revised and the assay requirements of the revised form will be consistent with the current good manufacturing practice regulations set forth below. In the interim, after the effective date of this regulation, the assay schedule set forth herein shall be in effect.

d. One comment stated that the drugs subject to the requirements of Form FD–1800, and those not subject to such requirements, should be treated equally in being subject to the same number of assays.

Because feeds requiring Form FD–1800 contain drugs that are "new drugs" and have not met the requirements for exemption, the Commissioner concludes that it is appropriate to require more stringent minimum standards than for medicated feeds not requiring Form FD–1800.

e. One comment suggested that the use of microtracers should be listed as an alternate analytical procedure for checking on the adequacy of the overall manufacturing procedures.

The Commissioner does not object to the use of various physical, chemical and/or biological procedures, provided that such methods, however, cannot substitute for the required chemical methods of drug assay; therefore, this suggestion is not adopted.

f. One comment suggested that assay of one drug component of a fixed combination premix in medicated feed be considered sufficient.

The Commissioner agrees that assay of one drug component of a fixed combination premix in a medicated feed is sufficient. A fixed combination has previously had its individual components assayed by the drug manufacturer; the assay at this point in the feed manufacturing process is intended to assure that the methods, facilities, and controls result in a finished product of uniform drug composition. Hence, if one drug component is within the prescribed assay limits, the other drug component(s) may also reasonably be assumed to be within specification.

g. A number of comments suggested that assay records be maintained at an alternative centralized location rather than on the premises as required by paragraph (b) (1) (ii) (redesignated paragraph (c) below).

The Commissioner is revising the regulation to expressly permit either originals or copies of results of asays to be maintained at the manufacturing facility to enable a firm to maintain central records for its own use. But the Commissioner has concluded that it is essential that all such results be maintained on the premises of each facility to enable each mill manager to assess any developing trends toward an increase or decrease of drug levels, which would indicate a need to recheck control procedures, and to facilitate inspection of such records by State and Federal officials. The Food and Drug Administration finds it impractical to visit an alternative centralized record location for each inspection of a feed mill.

h. Three comments stated that the assays that are kept should relate only to "official samples."

The Commissioner advises that this requirement pertains to the assays of all samples collected.

i. One comment indicated that the assay requirements, even as reduced, cannot be met by firms manufacturing medicated feeds for their own use.

The Commissioner advises that the number of assays required in the regulations set forth below have been substantially reduced from the current regulation, recognizing that current requirements place an undue financial burden on the medicated feed industry, and that current requirements can be accomplished by other controls that are less expensive. But he concludes that this minimum number is necessary to assure proper preparation of medicated feeds by periodically checking the efficiency of the methods, facilities, and controls so that manufactured medicated feed is uniform in potency and conforms to the amount of drug declared on the label.

j. Three comments regarding paragraph (b) (2) (i) (redesignated paragraph (b) (2) below) stated that one assay for drugs that do not require Form FD–1800 approval for production of a medicated feed is not sufficient and that the number of assays should be increased.

Assays are required to permit a determination of the firm's capability to produce a uniform feed, not to check each lot produced; hence, the Commissioner concludes that the requirement for one assay a year for each drug or drug combination is reasonable, and no change is being made in this requirement.

k. One comment indicated that it is management's responsibility to determine the assay requirements needed for the production of feeds not subject to the requirements of Form FD–1800.

The Commissioner recognizes that the determination of the maximum number of assays is a management prerogative. However, the Commissioner is setting forth the minimum number of assays consistent with good manufacturing practice.

l. Six comments requested that provision be made for using other recognized test methods in addition to those approved by the Association of Official Analytical Chemists.

The Commissioner agrees that the specified test methods should be amended to include other appropriate methods, and the regulation is being amended accordingly.

m. Comments on paragraph (b) (2) (ii) (redesignated paragraph (c) below) and the Commissioner's response are the same as those concerning paragraph (b) (1) (ii) above.

n. Comments on paragraph (b) (2) (iii) (redesignated paragraph (d) below) and the Commissioner's response are the same as those concerning paragraph (b) (1) (iii) above.

o. Comments stated that the references in paragraph (b) (3) (redesignated paragraph (e) below) to medicated feeds failing to meet the labeling requirements should be revised to indicate clearly that this provision relates to medicated feeds that fail to contain the labeled amount of drug.

The Commissioner agrees with these comments and is revising the regulation accordingly.

p. Comment was also received stating that the second sentence of this paragraph could be construed to mean that distribution of all products should be discontinued until proper control procedures had been established. The comment suggested that the sentence be revised to indicate that suspension of distribution applies only to the particular feed that fails to contain the labeled amount of drug.

The Commissioner agrees with this comment and is revising the regulation accordingly.

9a. A number of comments were received regarding § 225.65(a), which concerns equipment cleanout procedures. Six comments requested that the agency recognize that achieving zero carryover of drugs to subsequently made feeds is not feasible, and three comments requested that the section be amended to indicate that it refers to "unsafe" levels of drug contaminants.

The Commissioner recognizes that zero carryover may not be achieved, and for that reason the regulation is being revised to refer to "unsafe contamination of feed."

b. Five comments stated that the entire section is vague and/or requires rewording.

The Commissioner agrees and is revising the entire section to clarify it.

c. Most of the comments regarding paragraphs (b)(1), (2), and (3), which describe cleanout procedures, requested a rewording or clarification.

The Commissioner agrees that the paragraphs require rewording and clarification, and the paragraphs are being revised accordingly.

d. Comments requested a definition of "unsafe contamination."

The Commissioner agrees that there is a need to define this term, and he advises that careful definition of the term will be the subject of a future proposed regulation. In the interim, FDA will continue to consider each situation on a case-by-case basis. In these instances a judgment will be based upon an assessment of the human and animal health hazard involved.

e. One comment suggested the use of tracer chemicals to determine contamination.

The Commissioner advises that the section as written and revised does not prohibit the use of tracer chemicals.

PACKAGING AND LABELING

10a. Comments asserted that proper labels of themselves do not assure safe and effective use of a medicated feed, as § 225.80(a) seems to imply.

The Commissioner agrees that issuance of proper labeling in and of itself will not assure proper use of medicated feeds, and paragraph (a) is being revised to indicate that the medicated feeds are safe and effective when the directions for use are followed.

b. Other comments stated that the word "labeling" should be replaced by the word "labels."

The Commissioner concludes that the statutory language for labeling (section 201(n) of the act (21 U.S.C. 321(n)) in which "labeling" includes, but is not limited to, "labels" shall be retained.

c. Several comments stated that the method used by the feed manufacturer to assure suitability of labeling should be left to the manufacturer and not specified explicitly in paragraph (b)(2).

The Commissioner acknowledges that it is management's responsibility to assure that the medicated feeds produced are labeled correctly, but he concludes that it is his responsibility to specify the criteria of good manufacturing practice. The paragraph is being revised, but the intent of the paragraph as proposed is being retained.

d. Comments also objected to the requirement that proofread labels be stored for one year.

The Commissioner concludes that storage of proofread labels for one year for each product should not impose a significant storage problem on the manufacturers.

e. Five comments suggested that in paragraph (b)(3) the word "placard" be replaced by the word "labels" because it is common industry practice to attach labels to delivery tickets.

The Commissioner concludes that the paragraph should be expanded to provide for use of labels attached to invoices or delivery tickets, and it is being revised accordingly.

f. Two comments stated that there is no need for labels when the shipment is in "intra-company" status.

The Commissioner concludes that feed shall be accompanied by appropriate labeling in all cases, including those where feed is intended for "intra-company" use, as a guide to the proper use of the feed.

g. One comment stated that label stock review required in § 225.80(b)(4) should be a prerogative of management and not included in the regulation.

The Commissioner concludes that periodic label review is necessary to assure that labeling used correctly reflects current formulation, directions, and indications for use, and that old, outdated labels are not stored where they may be used accidently. Therefore, no change is being made in this requirement.

RECORDS AND REPORTS

11a. Several comments suggested that the production record described in § 225.102(a) should refer to production runs as well as batches.

The Commissioner agrees and is revising the paragraph so that "batches" is followed by "or production run."

b. Several other comments suggested in paragraph (a) that the term "master formula" be qualified with the word "file."

The Commissioner agrees that the term "master formula" should be modified, and he is changing the reference to "master record file." Accordingly, the section heading and language are being revised.

c. Three comments suggested that in § 225.102(b) the word "master" be deleted and that the master formula be referred to as "formula file."

The Commissioner concludes that the word "master" shall be retained, but he is adopting the suggestion in intent by changing the phrase "master formula" to "master record file."

d. Two comments concerned the requirement of § 225.102(b)(1) for a signature on the master record file, one suggesting that no signature is necessary, the other suggesting that only initials of a qualified person need be used.

The Commissioner concludes that the master record file shall be signed or initialed by a qualified person who has the responsibility for such a review.

e. One comment suggested that the phrase "master formula" be followed by the word "file."

The Commissioner has substituted the phrase "master record file" for the phrase "master formula record or card."

f. One comment suggested that the word "batch" be followed by the phrase "or run."

The Commissioner concludes that reference to batches shall be revised to include production runs, and the section is being revised accordingly.

g. Three comments stated that § 225.102(b)(1)(ii) should be amended by inserting the word "percent" where reference is made to weight or measure of ingredients.

The Commissioner agrees, and the section is being revised accordingly.

h. Comments suggested that in § 225.102(b)(1)(iii) the phrase "copy or description" relating to label, be expanded to include the words "a reference" or "or appropriate identification."

The Commissioner does not agree that the phrase should be expanded. The master record file shall include a copy of the label actually intended to be used or, alternatively, a description of the label or labeling to identify adequately the manner in which the medicated feed is to be labeled.

i. Comments on § 225.102(b)(1)(iv) and (v) were received relative to qualifying the presence of the manufacturing instructions within the master record file by the addition of the words "or reference thereto."

The Commissioner agrees and the section is being revised accordingly.

j. Comments were received regarding the requirement of § 225.102(b)(2) that production records could alternatively be held at a central location.

The Commissioner does not agree with these comments. A check of procedures by the manufacturer or a regulatory official inspecting the firm could not properly be made unless such records are on the premises. Paragraph (b)(2) is being amended, however, to provide for either the original production record or a copy thereof to be held on the premises.

k. Comments suggested that in § 225.102(b)(2)(i) the phrase "written endorsement," be replaced by the phrase "signature or initials" in the requirement for authenticating the production record.

The Commissioner agrees and is revising paragraph (b)(2)(i) accordingly.

l. Comments suggested that in § 225.102(b)(2)(ii) the word "identity" be replaced by the word "kind" or "name" in the requirement for stating in the production record the quantity and identity of drug components used in the feed.

The Commissioner agrees and is revising the regulation to use the word "name" in place of "identity."

m. Comments asserted that the actual quantity of medicated feed cannot be determined for the production record when such feed is held in bulk storage bins. It was suggested that the word "estimated" be used to replace the word "actual" where it appeared in § 225.102(b)(2)(iv).

The Commissioner agrees that paragraph (b)(2)(iv) should be revised to permit the use of an estimate where specific accurate quantity measurements are not possible and when based upon the quantity of drug and other components contained in the bulk-stored article.

n. One comment in reference to § 225.102(b)(3) stated that custom formula feed orders are occasionally received by telephone, in which case purchase orders in writing do not exist.

The Commissioner concludes that when an order is received by telephone, the firm shall prepare the necessary records, and the regulation is being modified

to provide for receipt of custom orders by telephone.

o. Two comments requested that the word "master" be deleted when referring to the master formula.

The Commissioner agrees with the intent of these comments, and he is modifying the regulation to replace the term "master formula" with "Master Record File."

p. Several comments objected to the inclusion in § 225.102(b)(4) of the requirement that production records be checked before release of the medicated feed. The comment contended that this was not feasible where, at the time of its manufacture, bulk feed is loaded directly onto trucks and delivered.

The Commissioner agrees, and the regulation is being revised to provide for checking batch production records at the end of the working day.

q. Several comments suggested that in § 225.102(b)(5) the identification to be used on each batch run and the documents to be marked with the identification be expanded.

The Commissioner concludes that the suggestions shall be adopted to provide for additional means of identification of batches or production runs of medicated feed.

r. Other comments suggested replacement of the word "permit" with the word "facilitate" in the requirement that the explanation that the batch number or date shall provide a basis to permit the manufacturer to trace accurately the manufacturing history of the batch.

The Commissioner concludes that such identification is intended to "permit" the tracing of the complete and accurate manufacturing history of the product by the manufacturer; therefore, the word "permit" is retained.

12a. One comment requested in reference to § 225.110(a) a definition of "production run."

The Commissioner concludes that the term "production run" is well understood by the industry and no further definition is necessary.

b. Another comment suggested that in paragraph (a) the sentence that reads "This information may be helpful in instituting a recall" be modified by adding the phrase "if necessary."

The Commissioner concludes that such an addition is unnecessary because a firm is unlikely to initiate a recall if it is not necessary.

c. Comments stated that it would be difficult to match codes to medicated feeds handled in bulk, as required by § 225.110(b).

The Commissioner concludes that no change shall be made because it is essential that the manufacturer identify all lots, including those in bulk containers, to permit the tracing of potentially violative lots.

d. Comments requested that the requirements of § 225.110(b)(1) for the product code or manufacturing date be deleted. The point was made that this is not a practice of the industry and that recalls could be instituted based on the code number on the label, tag, placard or other labeling and the date of manufacture.

The Commissioner agrees, and the regulation is being revised accordingly.

e. Comments stated that distribution records should be permitted to be maintained at a location other than the manufacturing premises and that § 225.110(b)(2) be modified to provide for retention of such records either on the premises or at a centralized location.

The Commissioner concludes that distribution records, like assay records (§ 225.58(b)(1)(ii), redesignated § 225.58(c) below) and production records (§ 225.102(b)(2)), shall be available on the premises for inspection by regulatory officials because inspection of such records at centralized locations is not always convenient. The requirement is being modified, however, to provide for either originals or copies of distribution records to be maintained on the premises.

13a. Several comments suggested that the title of § 225.115 be changed to "Drug Experience and Complaint Files" or "Complaint File for Medicated Feeds," instead of "Complaint Files."

The Commissioner concludes that the term "complaint file" as used in this section title is adequate to draw attention to the purpose of the section.

b. Comment was also received stating that the complaint file should relate solely to information received on medicated animal feeds.

The Commissioner concludes that, as a precaution, complaints relating to nonmedicated feeds should voluntarily be maintained to show where unsafe contamination or other problems might have occurred.

c. Comments also objected to the use of a complaint file as a regulatory tool; others suggested that the entire section is unacceptable, but failed to state the reason for disapproval.

The Commissioner regards the review of the complaint file as an essential part of regulatory inspections of manufacturing facilities because the complaint file reflects user experience with manufactured products.

d. Comments also requested that storage of complaint files be allowed on the premises or at a central location or main office.

The Commissioner concludes that although it is reasonable for multiplant firms to maintain complaint files at a central location, at least one copy of the complaint shall be maintained at the manufacturing facility to enable the facility to determine whether a trend is developing regarding a particular product, batch, or run, and to enable inspecting regulatory officials to collect necessary information without repeated visits to a main office or central location.

e. Comments suggested that the word "verbal" be deleted in reference to the kinds of complaints that must be recorded because, it was asserted, verbal complaints have no validity and no written record is received.

The Commissioner concludes that the requirement for maintaining oral reports of complaints must be retained because, in cases of extreme emergency, the only complaint that may have been received may, in fact, have been oral because of insufficient time to prepare a written complaint.

f. Some comments indicated that the instructions given in § 225.115 conflict with those given in § 510.301 (21 CFR 510.301).

The Commissioner sees no conflict. Section 510.301 concerns records and reports of experiences with animal feeds bearing or containing new animal drugs for which an approved application is in effect. The regulation extends this requirement to those medicated feeds not subject to Form FD–1800 approval.

g. Finally, one comment asserted that all complaints should be handled in the same manner whether or not the feeds covered by the complaint are subject to the requirements of Form FD–1800.

The Commissioner rejects this suggestion for the same reason that he rejected a similar comment regarding § 225.58(b)(1)(i).

In light of these comments, the Commissioner is revising § 225.115(a) while retaining its intent, and § 225.115 (b) and (b)(2) is retained as proposed. Section 225.115(b)(1) is being revised in the first sentence to provide for the retention of either the original or a copy of each oral and written complaint received regarding the safety and efficacy of medicated feeds manufactured by the firm.

The Commissioner has carefully considered the environmental effects of the regulation and, because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 512, 701(a), 52 Stat. 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 351, 360b, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Parts 210 and 225 are amended as follows:

1. Part 210 is amended in § 210.3 by revising paragraphs (c) (1) and (2) as follows:

§ 210.3 Definitions.

* * * * *

(c) * * *

(1) The term "medicated feed" means any animal feed as defined in section 201(x) which contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated feeds is subject to §§ 225.1 through 225.115 of this chapter, inclusive.

(2) The term "medicated premix" means any drug as defined in section 201(g) of the act which is used for further manufacture in the production of a medicated feed. The manufacture of medicated premixes is subject to §§ 226.1 through 226.115 of this chapter, inclusive.

2. Part 225 is revised to read as follows:

AUTHORITY: Secs. 501, 512, 701(a), 52 Stat. 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 351, 360(b), 371(a)).

Subpart A—General Provisions

§ 225.1 Current good manufacturing practice.

(a) Section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act provides that a drug (including a drug contained in a medicated feed) shall be deemed to be adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirement of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

(b) The provisions of §§ 225.10 through 225.115, inclusive, set forth the criteria for determining whether the manufacture of a medicated feed is in compliance with current good manufacturing practice. These regulations shall apply to all types of facilities and equipment used in the production of medicated feeds, and they shall also govern those instances in which failure to adhere to the regulations has caused nonmedicated feeds that are manufactured, processed, packed, or held to be adulterated. In such cases, the medicated feed shall be deemed to be adulterated within the meaning of section 501(a)(2)(B) of the act, and the nonmedicated feed shall be deemed to be adulterated within the meaning of 402(a)(2)(D).

§ 225.10 Personnel.

(a) Qualified personnel and adequate personnel training and supervision are essential for the proper formulation, manufacture, and control of medicated feeds. Training and experience leads to proper use of equipment, maintenance of accurate records, and detection and prevention of possible deviations from current good manufacturing practices.

(b)(1) All employees involved in the manufacture of medicated feeds shall have an understanding of the manufacturing or control operation(s) which they perform, including the location and proper use of equipment.

(2) The manufacturer shall provide an on-the-job training program for employees.

Subpart B—Construction and Maintenance of Facilities and Equipment

§ 225.20 Buildings.

(a) The location, design, construction, and physical size of the buildings and other production facilities are factors important to the manufacture of medicated feed. The features of facilities necessary for the proper manufacture of medicated feed include provision for ease of access to structures and equipment in need of routine maintenance; ease of cleaning of equipment and work areas; facilities to promote personnel hygiene; structural conditions for control and prevention of vermin and pest infestation; adequate space for the orderly receipt and storage of drugs and feed ingredients and the controlled flow of these materials through the processing and manufacturing operations; and the equipment for the accurate packaging and delivery of a medicated feed of specified labeling and composition.

(b) The construction and maintenance of buildings in which medicated feeds are manufactured, processed, packaged, labeled, or held shall conform to the following:

(1) The building grounds shall be adequately drained and routinely maintained so that they are reasonably free from litter, waste, refuse, uncut weeds or grass, standing water, and improperly stored equipment.

(2) The building(s) shall be maintained in a reasonably clean and orderly manner.

(3) The building(s) shall be of suitable construction to minimize access by rodents, birds, insects, and other pests.

(4) The buildings shall provide adequate space and lighting for the proper performance of the following medicated feed manufacturing operations:

(i) The receipt, control, and storage of components.

(ii) Component processing.

(iii) Medicated feed manufacturing.

(iv) Packaging and labeling.

(v) Storage of containers, packaging materials, labeling and finished products.

(vi) Routine maintenance of equipment.

§ 225.30 Equipment.

(a) Equipment which is designed to perform its intended function and is properly installed and used is essential to the manufacture of medicated feeds. Such equipment permits production of feeds of uniform quality, facilitates cleaning, and minimizes spillage of drug components and finished product.

(b)(1) All equipment shall possess the capability to produce a medicated feed of intended potency, safety, and purity.

(2) All equipment shall be maintained in a reasonably clean and orderly manner.

(3) All equipment, including scales and liquid metering devices, shall be of suitable size, design, construction, precision, and accuracy for its intended purpose.

(4) All scales and metering devices shall be tested for accuracy upon installation and at least once a year thereafter, or more frequently as may be necessary to insure their accuracy.

(5) All equipment shall be so constructed and maintained as to prevent lubricants and coolants from becoming unsafe additives in feed components or medicated feed.

(6) All equipment shall be designed, constructed, installed and maintained so as to facilitate inspection and use of cleanout procedure(s).

§ 225.35 Use of work areas, equipment, and storage areas for other manufacturing and storage purpose.

(a) Many manufacturers of medicated feeds are also involved in the manufacture, storage, or handling of products which are not intended for animal feed use, such as fertilizers, herbicides, insecticides, fungicides, rodenticides, and other pesticides. Manufacturing, storage, or handling of nonfeed and feed products in the same facilities may cause adulteration of feed products with toxic or otherwise unapproved feed additives.

(b) Work areas and equipment used for the manufacture or storage of medicated feeds or components thereof shall not be used for, and shall be physically separated from, work areas and equipment used for the manufacture of fertilizers, herbicides, insecticides, fungicides, rodenticides, and other pesticides unless such articles are approved drugs or approved food additives intended for use in the manufacture of medicated feed.

Subpart C—Product Quality Control

§ 225.42 Components.

(a) A medicated feed, in addition to providing nutrients, is a vehicle for the administration of a drug, or drugs, to animals. To ensure proper safety and effectiveness, such medicated feeds must contain the labeled amounts of drugs. It is necessary that adequate procedures be established for the receipt, storage, and inventory control for all such drugs to aid in assuring their identity, strength, quality, and purity when incorporated into products.

(b) The receipt, storage, and inventory of drugs, including undiluted drug components, medicated premixes, and semiprocessed (i.e., intermediate premixes, inplant premixes and concentrates) intermediate mixes containing drugs, which are used in the manufacture and processing of medicated feeds shall conform to the following:

(1) Incoming shipments of drugs shall be visually examined for identity and damage. Drugs which have been subject-

ed to conditions which may have adversely affected their identity, strength, quality, or purity shall not be accepted for use.

(2) Packaged drugs in the storage areas shall be stored in their original closed containers.

(3) Bulk drugs shall be identified and stored in a manner such that their identity, strength, quality, and purity will be maintained.

(4) Drugs in the mixing areas shall be properly identified, stored, handled, and controlled to maintain their integrity and identity. Sufficient space shall be provided for the location of each drug.

(5) A receipt record shall be prepared and maintained for each lot of drug received. The receipt record shall accurately indicate the identity and quantity of the drug, the name of the supplier, the supplier's lot number or an identifying number assigned by the feed manufacturer upon receipt which relates to the particular shipment, the date of receipt, the condition of the drug when received, and the return of any damaged drugs.

(6) A daily inventory record for each drug used shall be maintained and shall list by manufacturer's lot number or the feed manufacturer's shipment identification number at least the following information:

(i) The quantity of drug on hand at the beginning and end of the work day (the beginning amount being the same as the previous day's closing inventory if this amount has been established to be correct); the quantity shall be determined by weighing, counting, or measuring, as appropriate.

(ii) The amount of each drug used, sold, or otherwise disposed of.

(iii) The batches or production runs of medicated feed in which each drug was used.

(iv) When the drug is used in the preparation of a semiprocessed intermediate mix intended for use in the manufacture of medicated feed, any additional information which may be required for the purpose of paragraph (b) (7) of this section.

(v) Action taken to reconcile any discrepancies in the daily inventory record.

(7) Drug inventory shall be maintained of each lot or shipment of drug by means of a daily comparison of the actual amount of drug used with the theoretical drug usage in terms of the semiprocessed, intermediate and finished medicated feeds manufactured. Any significant discrepancy shall be investigated and corrective action taken. The medicated feed(s) remaining on the premises which are affected by this discrepancy shall be detained until the discrepancy is reconciled.

(8) All records required by this section shall be maintained on the premises for at least one year after complete use of a drug component of a specific lot number or feed manufacturer's shipment identification number.

§ 225.58 Laboratory controls.

(a) The periodic assay of medicated feeds for drug components provides a measure of performance of the manufacturing process in manufacturing a uniform product of intended potency.

(b) The following assay requirements shall apply to medicated feeds:

(1) For feeds requiring approved Medicated Feed Applications (Form FD 1800) for their manufacture and marketing. At least three representative samples of medicated feed containing each drug or drug combination used in the establishment shall be collected and assayed by approved official methods, at periodic intervals during the calendar year, unless otherwise specified in this chapter. At least one of these assays shall be performed on the first batch using the drug. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each time, provided the one tested is different from the one(s) previously tested.

(2) For feeds not requiring approved Medicated Feed Applications (Form FD-1300) for their manufacture and marketing. At least one representative sample of medicated feed containing each drug or drug combination used in the establishment shall be collected and assayed by approved Association of Official Analytical Chemists (AOAC) methods, or other appropriate analytical methods, at intervals no longer than 12 months, unless otherwise specified in this chapter. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each 12 months, provided the one tested is different from the one(s) previously tested.

(c) The originals or copies of all results of assays, including those from State Feed Control Officials and any other governmental agency, shall be maintained on the premises for a period of not less than 1 year after distribution of the medicated feed.

(d) Where the results of assays indicate that the medicated feed is not in accord with label specifications or is not within permissible assay limits as specified in this chapter, investigation and corrective action shall be implemented and an original or copy of the record of such action maintained on the premises.

(e) Corrective action shall include provisions for discontinuing distribution where the medicated feed fails to meet the labeled drug potency. Distribution of subsequent production of the particular feed shall not begin until it has been determined that proper control procedures have been established.

§ 225.65 Equipment cleanout procedures.

(a) Adequate cleanout procedures for all equipment used in the manufacture and distribution of medicated feeds are essential to maintain proper drug potency and avoid unsafe contamination of feeds with drugs. Such procedures may consist of cleaning by physical means, e.g., vacuuming, sweeping, washing, etc. Alternatively, flushing or sequencing or other equally effective techniques may be used whereby the equipment is cleaned either through use of a feed containing the same drug(s) or through use of drug free feedstuffs.

(b) All equipment, including that used for storage, processing, mixing, conveying, and distribution that comes in contact with the active drug component, feeds in process, or finished medicated feed shall be subject to all reasonable and effective procedures to prevent unsafe contamination of manufactured feed. The steps used to prevent unsafe contamination of feeds shall include one or more of the following, or other equally effective procedures:

(1) Such procedures shall, where appropriate, consist of physical means (vacuuming, sweeping, or washing), flushing, and/or sequential production of feeds.

(2) If flushing is utilized, the flush material shall be properly identified, stored, and used in a manner to prevent unsafe contamination of other feeds.

(3) If sequential production of medicated feeds is utilized, it shall be on a predetermined basis designed to prevent unsafe contamination of feeds with residual drugs.

Subpart D—Packaging and Labeling

§ 225.80 Labeling

(a) Appropriate labeling identifies the medicated feed, and provides the user with directions for use which, if adhered to, will assure that the article is safe and effective for its intended purposes.

(b) (1) Labels and labeling, including placards, shall be received, handled, and stored in a manner that prevents labeling mixups and assures that correct labeling is employed for the medicated feed.

(b) (1) Labels and labeling, including placards, upon receipt from the printer shall be proofread against the Master Record File to verify their suitability and accuracy. The proofread label shall be dated, initialed by a responsible individual, and kept for 1 year after all the labels from that batch have been used.

(3) In those instances where medicated feeds are distributed in bulk, complete labeling shall accompany the shipment and be supplied to the consignee at the time of delivery. Such labeling may consist of a placard or other labels attached to the invoice or delivery ticket, or manufacturer's invoice that identifies the medicated feed and includes adequate information for the safe and effective use of the medicated feed.

(4) Label stock shall be reviewed periodically and discontinued labels shall be discarded.

Subpart E—Records and Reports

§ 225.102 Master record file and production records.

(a) The Master Record File provides the complete procedure for manufacturing a specific product, setting forth the formulation, theoretical yield, manufacturing procedures, assay requirements, and labeling of batches or production runs. The production record(s) includes the complete history of a batch or production run. This record includes the amounts of drugs used, the amount of medicated feed manufactured, and pro-

vides a check for the daily inventory record of drug components.

(b) The Master Record File and production records shall comply with the following provisions:

(1) A Master Record File shall be prepared, checked, dated, and signed or initialed by a qualified person and shall be retained for not less than 1 year after production of the last batch or production run of medicated feed to which it pertains. The Master Record File or card shall include at least the following:

(i) The name of the medicated feed.

(ii) The name and weight percentage or measure of each drug or drug combination and each nondrug ingredient to be used in manufacturing a stated weight of the medicated feed.

(iii) A copy or description of the label or labeling that will accompany the medicated feed.

(iv) Manufacturing instructions or reference thereto that have been determined to yield a properly mixed medicated feed of the specified formula for each medicated feed produced on a batch or continuous operation basis, including mixing steps, mixing times and, in the case of medicated feeds produced by continuous production run, any additional manufacturing directions including, when indicated, the settings of equipment.

(v) Appropriate control directions or reference thereto, including the manner and frequency of collecting the required number of samples for specified laboratory assay.

(2) The original production record or copy thereof shall be prepared by qualified personnel for each batch or run of medicated feed produced and shall be retained on the premises for not less than 1 year. The production record shall include at least the following:

(i) Product identification, date of production, and a written endorsement in the form of a signature or initials by a responsible individual.

(ii) The quantity and name of drug components used.

(iii) The theoretical quantity of medicated feed to be produced.

(iv) The actual quantity of medicated feed produced. In those instances where the finished feed is stored in bulk and actual yield cannot be accurately determined, the firm shall estimate the quantity produced and provide the basis for such estimate in the Master Record File.

(3) In the case of a custom formula feed made to the specifications of a customer, the Master Record File and production records required by this section shall consist either of such records or of copies of the customer's purchase orders and the manufacturer's invoices bearing the information required by this section. When a custom order is received by telephone, the manufacturer shall prepare the required production records.

(4) Batch production records shall be checked by a responsible individual at the end of the working day in which the product was manufactured to determine whether all required production steps have been performed. If significant discrepancies are noted, an investigation shall be instituted immediately, and the production record shall describe the corrective action taken.

(5) Each batch or production run of medicated feed shall be identified with its own individual batch or production run number, code, date, or other suitable identification applied to the label, package, invoice or shipping document. This identification shall permit the tracing of the complete and accurate manufacturing history of the product by the manufacturer.

§ 225.110 Distribution records.

(a) Distribution records permit the manufacturer to relate complaints to specific batches and/or production runs of medicated feed. This information may be helpful in instituting a recall.

(b) Distribution records for each shipment of a medicated feed shall comply with the following provisions:

(1) Each distribution record shall include the date of shipment, the name and address of purchaser, the quantity shipped and the name of the medicated feed. A lot or control number, or date of manufacture or other suitable identification shall appear on the distribution record or the label issued with each shipment.

(2) The originals or copies of the distribution records shall be retained on the premises for not less than one year after the date of shipment of the medicated feed.

§ 225.115 Complaint files.

(a) Complaints and reports of experiences of product defects relative to the drug's efficacy or safety may provide an indicator as to whether or not medicated feeds have been manufactured in conformity with current good manufacturing practices. These complaints and experiences may reveal the existence of manufacturing problems not otherwise detected through the normal quality control procedures. Timely and appropriate follow-up action can serve to correct a problem and minimize future problems.

(b) The medicated feed manufacturer shall maintain on the premises a file which contains the following information:

(1) The original or copy of a record of each oral and written complaint received relating to the safety and effectiveness of the product produced. The record shall include the date of the complaint, the complainant's name and address, name and lot or control number or date of manufacture of the medicated feed involved, and the specific details of the complaint. This record shall also include all correspondence from the complainant and/or memoranda of conversations with the complainant, and a description of all investigations made by the manufacturer and of the method of disposition of the complaint.

(2) For medicated feeds requiring an approved Medicated Feed Application (Form FD–1800), records and reports of clinical and other experience with the drug shall be maintained and reported, appropriately identified with the number(s) of the Form FD–1800 to which they relate, to the Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, MD 20857, in duplicate, pursuant to § 510.301 of this chapter.

Effective date: This regulation shall become effective December 30, 1976.

(Secs. 501, 512, 701(a), 52 Stat. 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 351, 360b, 371(a)).)

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of on inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76–34796 Filed 11–29–76;8:45 am]

federal register

TUESDAY, NOVEMBER 30, 1976

PART III:

FEDERAL ELECTION COMMISSION

■

ACKNOWLEDGMENT OF RECEIPT FORM FOR RECEIVING INITIAL FILINGS

FEDERAL ELECTION COMMISSION

[Notice No. 1976–64]

RECEIPT FORM (FEC FORM 20)

Acknowledgement for Receiving Initial Filings

The Federal Election Commission today publishes notice of a new Acknowledgement of Receipt Form (FEC Form 20) to be used by the Commission for receiving all "initial" filings. The new form supersedes FEC Form 13 (Acknowledgement of Receipt of a Statement of Organization), FEC Form 14 (Acknowledgement of Receipt of the Designation of a Principal Campaign Committee and/or Campaign Depositories), and FEC Form 15 (Acknowledgement of Receipt for the Receipts and Expenditures Report). The new form will be used for receiving all initial documents filed, including Statements of Organization (FEC Form 1), Candidate Statements (FEC Form 2), Independent Expenditure Reports filed by an Individual (FEC Form 5), and Internal Communication Expenditure Reports filed by Corporations or Labor Unions (FEC Form 7). The Commission will not be issuing receipts for routine periodic reports and statements filed subsequent to the initial filing.

The Commission further advises reporting committees to mail reports and statements by certified or registered mail, return receipt requested, in order to ensure timeliness of filings and to provide additional receipt(s) for committee records.

Dated: November 19, 1976.

VERNON W. THOMSON,
Chairman,
Federal Election Commission.

ACKNOWLEDGEMENT OF RECEIPT OF

Filed pursuant to the Federal Election Campaign Act of 1971, as amended

Date: ----------

NOTICE REGARDING FILINGS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED

Your assigned FEC Identification Number is ----------.

In the future this number should be entered on all subsequent reports filed under the Act, as well as on all communications concerning such reports and statements. This acknowledgement will be the only receipt provided directly by the Commission, for documents filed. The Commission recommends that all future filings be mailed Certified or Registered, Return Receipt Requested, in order to insure timeliness of your filings and to provide additional receipts for your records.

FEDERAL ELECTION COMMISSION.

FEC Form 20 (10/12/76) (supersedes FEC Forms 13, 14, and 15)

[FR Doc.76–34973 Filed 11–29–76;8:45 am]

federal register

TUESDAY, NOVEMBER 30, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Grant Administration and Other Program Requirements; Proposed Rulemaking

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R–76–292]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Grant Administration, and Other Program Requirements

On June 9, 1975, the Department of Housing and Urban Development published in the FEDERAL REGISTER (40 FR 24692) the consolidated rules and regulations governing the community development block grant program under Title I of the Housing and Community Development Act of 1974. Subpart F of 24 CFR Part 570 contains regulations regarding the administrative and financial responsibilities of the recipient in carrying out the program. Subpart G of 24 CFR Part 570 contains regulations setting forth other applicable Federal laws which a recipient must comply with in carrying out the program, as well as certain limitations on the use of grant funds. The purpose of this notice is to propose amendments to Subparts F and G in order to provide greater detail and clarity in accordance with our experience during the first operating year of the program, delete material specifically designed for Fiscal Year 1975, add new material regarding the Lead-Based Paint Poisoning Prevention Act and the closeout of discretionary grants, and correct certain technical errors. These changes are discussed in the following paragraphs:

1. Section 570.503 has been revised to delete material concerning the method of disbursing advances made against entitlement, which applied only in Fiscal Year 1975. New material concerning cash withdrawals from the U.S. Treasury is now contained in this section.

2. Section 570.503(a) has been added to reference Federal regulations on the timing and amount of cash withdrawals from the U.S. Treasury.

3. Section 570.503(b) has been added to clarify the relationship between the expenditure of program income and the timing of cash withdrawals from the U.S. Treasury.

4. Section 570.503(c) has been added to proscribe the practice of depositing a lump sum of grant funds in a financial institution as an incentive for that institution's participation in financing the rehabilitation of privately owned properties. Such lump sum deposits have the effect of increasing the amount of a recipient's grant at the expense of increased borrowing costs by the U.S. Treasury. If incentives are needed to encourage participation by financial institutions in rehabilitation activities, the incentives can be paid for directly with grant funds. Examples of some acceptable incentives are: (1) Service fees paid to the financial institution on a pier transaction or periodic basis; (2) Rehabilitation loan guarantees financed with grant funds and placed in a reserve account at the time individual loan transactions are closed; (3) Interest subsidies on rehabilitation loans financed with grant funds by payment to the lending institution of the present value of subsidies required over the life of the loan; (4) Loans financed with grant funds and made by a public entity to individuals at below-market interest rates, with the loan notes subsequently sold to lending institutions at discounts set by the going market rate.

5. Section 570.504 has been revised to clarify the relationship between the amount of funds included in the recipient's letter of credit and the restrictions placed on the commitment and expenditure of those funds.

6. Section 570.506(c) has been revised to cross-reference §§ 570.503(b), 570.305 and 570.402(f), and to clarify the meaning of program income.

7. Section 570.506(e) has been added to cross-reference new § 570.512(c) regarding the disposition of program income received subsequent to grant closeout.

8. Section 570.509(b) has been revised to cross-reference § 570.512(g) and allow for waiver of a final audit of the recipient's discretionary grant program.

9. Section 570.510(d) has been added to state the time period during which records pertaining to the acquisition of real property shall be retained.

10. Section 570.512 has been added to set forth the policies and procedures for closing out discretionary grants, approved in accordance with this Part.

11. Section 570.602(d) has been revised to clarify the options available to the recipient with respect to relocation payments not subject to Title II of the Uniform Relocation and Real Property Acquisition Policies Act of 1970.

12. Section 570.606 has been revised to clarify that any facility constructed with funds made available under this Part shall be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible and Usable by, the Physically Handicapped."

13. Section 570.607(c) has been amended to clarify the procedures by which it is determined that other Federal funds are not available for the purpose of qualifying public services or flood or drainage facilities for block grant assistance.

14. Section 570.610 has been amended to include a reference to the regulations issued under the Clean Air Act, as well as the previous reference to the Federal Water Pollution Control Act.

15. Section 570.611 has been added to set forth the recipient's responsibilities under the Lead-Based Paint Poisoning Prevention Act.

Interested persons are invited to participate in the making of the final rules by submitting written comments or views. Comments should be filed with the Rules Docket Clerk, Office of the Secretary Room 10141, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before December 30, 1976, will be considered before adoption of final rules. Copies of comments will be available for examination during business hours at the above address.

In connection with the environmental review of these amendments, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19182. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, at the address above.

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with OMB Circular No. A–107. These amendments are proposed under the authority of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.,) and sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

In consideration of the foregoing, it is proposed to amend 24 CFR Part 570, Subparts F and G, as follows:

1. By revising § 570.503 heading and text to read as follows:

§ 570.503 Cash withdrawals.

(a) The timing and amount of cash withdrawals from the U.S. Treasury by the recipient for activities which are free from all conditions specified pursuant to § 570.306(e) or § 570.402(d)(5)(iii) shall be in accordance with U.S. Department of the Treasury regulations on withdrawal of cash from the Treasury for Advances Under Federal Grant and Other Programs (31 CFR Part 205), as incorporated in HUD Handbook 1900.23, Letter of Credit Procedures—Treasury Regional Disbursing Office System.

(b) Program income shall be disbursed prior to making additional draws from the letter of credit to finance approved community development activities (including local option activities) as follows:

(1) If the program income is derived from a revolving fund or any other activity for which there is a continuing need for cash to carry out the activity, the program income shall be disbursed for that activity before additional draws are made from the letter of credit to finance the same activity.

(2) If the program income is not derived from a revolving fund or any other activity for which there is a continuing need for cash, the program income shall be disbursed for any other approved activity, subject to the limitations of § 570.506(c), prior to making any further draws from the letter of credit.

(c) Pursuant to U.S. Department of the Treasury regulations cited in paragraph (a) of this section, the timing and amount of cash disbursements by a recipient to a financial institution for the purpose of financing the rehabilitation of privately owned properties shall be as close as is administratively feasible to the date of, and amounts needed for, individual rehabilitation loan or grant transactions.

2. By revising § 570.504 heading and text to read as follows:

§ 570.504 Restrictions on fund commitment and expenditure.

When the letter of credit method of payment is used, a recipient's letter of credit will normally be issued (or amended if previously issued) in the full amount of all grant funds approved in the grant agreement, except for amounts deducted pursuant to § 570.802, amounts reserved and withheld pursuant to § 570.702, and amounts voluntarily budgeted by the recipient for repayment of urban renewal loans. However, the obligation or utilization of funds shall be subject to any restriction imposed as a result of conditional approvals pursuant to § 570.306(e) for entitlement grants or § 570.402(d)(5)(iii) for discretionary grants.

3. By revising paragraph (c) and adding a new paragraph (e) to § 570.506 to read as follows:

§ 570.506 Program income.

* * * * *

(c) All other program income earned during any period under which the recipient is assisted under this Part including proceeds from the disposition of real property, payments of principal and interest on rehabilitation loans, and interest earned on revolving funds, shall be retained by the recipient and used in accordance with the provisions for cash withdrawals under § 570.503(b) for activities with respect to which the unconditional obligation and utilization of funds made available under this Part have been approved. If the use of such income so materially extends or expands the location, size or scope of the activity from that previously unconditionally approved as to constitute a new or different activity, the provisions of §570.305 or § 570.402(f), regarding entitlement and discretionary grant program amendments, shall apply. Receipts derived from the operation of public works and facilities, the construction of which was assisted under this Part (e.g., admission fees paid by persons using recreational facilities constructed with grant funds), and which will be used to pay operating and maintenance costs of such public works and facilities, do not constitute program income.

* * * * *

(e) The disposition of program income received subsequent to the closeout of a grant shall be governed by the provisions of § 570.512(c).

4. By revising paragraph (b) of § 570.509 to read as follows:

§ 570.509 Audit.

* * * * *

(b) The recipient financial management systems shall provide for audits to be made by the recipient or at his direction, in accordance with audit guidelines prescribed by HUD. The recipient will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years. In accordance with § 570.512(g), HUD may determine that a final audit of the recipient's discretionary grant program is not required. Audit reports shall be used in conjunction with the performance review procedures of § 570.909. Payment for the audit may be made from community development block grant funds but the responsibility for such payment rests with the recipient.

5. By adding a new paragraph (d) to § 570.510 to read as follows:

§ 570.510 Retention of records.

* * * * *

(d) Records pertaining to each real property acquisition shall be retained for three years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with paragraph (c) of this section, whichever is later.

6. By revising § 570.512 heading and adding text, which had previously been reserved, to read as follows:

§ 570.512 Discretionary grant closeouts.

(a) *Applicability.* The policies and procedures contained herein apply to the closeout of discretionary grants made pursuant to § 570.104, including general purpose funds for metropolitan and nonmetropolitan areas, urgent needs funds and Secretary's discretionary funds.

(b) *Timing of closeout.* HUD will advise the recipient to initiate closeout procedures when HUD determines, in consultation with the recipient, that there are no impediments to closeout and that the following programmatic requirements have been met or will be shortly:

(1) All costs to be paid with discretionary grant funds have been incurred, with the exception of (i) closeout costs such as payment for the final audit; and/or (ii) unsettled third-party claims against the recipient. Costs are incurred when goods and services are received and contract work is performed. With respect to activities (such as rehabilitation of privately owned properties) which are carried out by means of revolving loan accounts, loan guarantee accounts, or similar mechanisms, costs shall be considered as incurred at the time funds for such activities are drawn from the recipient's letter of credit and initially used for the purposes described in the approved Community Development Program.

(2) Other responsibilities of the recipient under the grant agreement, applicable law and regulations appear to have been carried out satisfactorily, or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance, such as a good faith effort by the recipient to achieve its housing assistance plan goals for the grant period.

(3) The recipient has submitted a grantee performance report. If a performance report was previously submitted with a subsequent discretionary grant application, as required by § 570.400(h) of this Part, it shall be updated and resubmitted upon completion of the activities carried out with the discretionary grant.

(c) *Program Income.* Subject to the requirements of paragraphs (d) and (e) of this section, program income received subsequent to grant closeout may be treated by the recipient as miscellaneous revenue provided the recipient has no other discretionary or entitlement grant program under this Part which is active at the time the first grant is closed out. If the recipient has another such grant program, the program income received subsequent to the discretionary grant closeout shall be treated as program income of the active grant program.

(d) *Disposition of tangible personal property.* The recipient shall account for any tangible personal property acquired with grant funds in accordance with Attachment N of Federal Management Circular 74-7, "Property Management Standards."

(e) *Disposition of real property.* Proceeds derived after the discretionary grant closeout from the disposition of real property acquired with grant funds shall be subject to the program income requirements of paragraph (c) of this section, *Provided*, that where such income may be treated as miscellaneous revenue pursuant to paragraph (c), it shall be used by the recipient for community development activities eligible under § 570.200 to further the general purposes and objectives of the Act. The use of income subject to this proviso is not governed by any other requirements of this Part.

(f) *Status of housing assistance plan after closeout.* After closeout of a discretionary grant requiring a housing assistance plan, the housing assistance plan will remain in effect until one of the following occurs:

(1) The recipient submits, and HUD approves, a revised housing assistance plan.

(2) Another unit of general local government with overlapping jurisdiction over the same territory (e.g., an urban county, a county discretionary applicant, or any other such applicant) submits, and HUD approves, a housing assistance plan covering the territory of the original housing assistance plan.

(3) Three years elapse since the date of approval of the current housing assistance plan.

(4) The city requests and the Area Office agrees that the housing assistance plan be cancelled or withdrawn.

(g) *Audit.* Upon notification from HUD to initiate closeout procedures, the recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with HUD Handbook IG 6505.2, "Audit Guide and Standards for Community Development Block Grant Recipients," § 570.509 of this Part, and any other audit requirements of HUD hereafter in effect. HUD may determine that, due to the nature of the recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, HUD will notify the recipient that HUD will perform necessary reviews of documentation and activities to determine that claimed costs are valid program expenses and that the

recipient has met its other responsibilities under the grant agreement.

(h) *Certificate of completion and final cost.* Upon resolution of any findings of the final audit, or if the final audit is waived, after HUD has performed the review of documentation described in paragraph (g) of this section, the recipient shall prepare a certificate of completion and final cost, in a form prescribed by HUD, and submit it to the appropriate HUD Office.

(i) *Refund of excess grant funds.* Recipients shall refund to HUD any cash advanced in excess of the final grant amount, as shown on the certificate of completion approved by HUD.

6. By revising paragraph (d) of § 570.602 to read as follows:

§ 570.602 Relocation and acquisition.

* * * * *

(d) The recipient may provide relocation payments and assistance (1) in connection with displacement not subject to § 570.602(a), and/or (2) at levels above those established under the Uniform Act in connection with displacement subject to § 570.602(a). Unless such payments and assistance are made pursuant to State or local law, the recipient shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displaced persons.

7. By revising § 570.606 to read as follows:

§ 570.606 Architectural Barriers Act of 1968.

The design of any facility constructed with funds made available under this Part shall comply with the requirements of the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped," Number A-117.1R-1971, (as modified (41 CFR 101-19.603)), issued pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151.

8. By revising paragraph (b)(3) of § 570.607 to read as follows:

§ 570.607 Activities for which other Federal funds must be sought.

* * * * *

(b) * * *

(3) no written response from the Federal, State or local agency, if any, within a 45-day period from the date of application or inquiry which states that funds can be made available within 90 days from the date of the response.

§ 570.610 [Amended]

9. By amending § 570.610 by adding after "Part 15" the following phrase, "and 40 CFR Part 61)."

10. By adding a new § 570.611 to read as follows:

§ 570.611 Lead-Based Paint Poisoning Prevention Act.

The recipient must comply with the provisions of the Lead-Based Paint Poisoning Prevention Act (84 Stat 2080; 42 USC 4841 (3)) and the regulations thereunder (24 CFR Part 35) when assistance under this Part is used directly or indirectly by the recipient for the construction, rehabilitation, or modernization of residential structures.

Issued at Washington, D.C., November 19, 1976.

WARREN H. BUTLER,
Acting Assistant Secretary for Community Planning and Development.

[FR Doc.76-35046 Filed 11-29-76;8:45 am]

federal register

TUESDAY, NOVEMBER 30, 1976

PART V:

FEDERAL COMMUNICATIONS COMMISSION

■

EMERGENCY BROADCAST SYSTEM (EBS)

Revision of Regulations

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1053]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Emergency Broadcast System (EBS) Revision of Regulation

Adopted: November 16, 1976.

Released: November 24, 1976.

In the matter of Revision of Parts 1 and 73 of the Commission's Rules to update and clarify the rules governing the Emergency Broadcast System (EBS).

1. Over the past several years, the following developments have occurred which necessitate a complete and thorough updating of the Emergency Broadcast System (EBS) rules contained in Subpart G (Part 73) and related portions of Parts 1 and 73. First, Working Groups I and IV of the Broadcast Services Subcommittee of the National Industry Advisory Committee (NIAC) [1], hereinafter referred to as NIAC Subcommittee, recommended certain changes in the EBS rules. Second, the recent introduction of the new two-tone Attention Signal mandates further changes in the EBS rules. Finally, evolution of the EBS at the local level for use in connection with day-to-day emergencies calls for procedural changes in the EBS rules.

2. The following discussion summarizes the rationale underlying these changes:

(a) The concept of "Alternate Stations" and "Alternate Relay Stations" is outmoded and should be deleted from the rules. In the past, alternate stations were required to go off the air during a National emergency. These stations were not permitted to return to the air unless the key EBS stations were unable to perform, at which time the alternate stations would "take over" and broadcast emergency programming. The NIAC Subcommittee recommends deletion of the alternate station concept to allow as many stations as possible to remain on the air broadcasting emergency programming for their listeners. Implementation of this recommendation requires revision of present § 73.916 (new § 73.913), 73.917 (new § 73.914), 73.918 (new § 73.915), 73.922 (new § 73.916) and 73.933.

(b) A new class of EBS station has been added under new § 73.917. The State Relay Network, Section 73.923 (new § 73.919) requires an origination point. Therefore, a new category, "Originating Primary Relay Station" has been added to the rules to define a station which has been acting in this capacity in practice. This station is intended as the entry point to the State level EBS.

(c) EBS Programming priorities have been changed. The NIAC Subcommittee recommends that local level programming be given a higher priority than state level programming for the reason that local level emergency information is of more concern and has greater relevance to listening audiences than state level emergency information. This change is reflected in § 73.925 (new § 73.922).

(d) The NIAC Subcommittee reports that AT&T is no longer able to reconfigure all the networks for National level EBS activation, since other common carriers have become involved in network feeds through the use of satellites. Therefore, all sections of the EBS rules referring specifically to "AT&T" have been revised with new references to "participating communications common carriers".

(e) The NIAC Subcommittee states that § 73.927 places an undue burden on the communications common carriers to determine which broadcast stations do or do not hold an EBS Authorization. For common carriers to remain apprised of those stations with or without EBS Authorizations is manifestly unrealistic. Therefore, § 73.927 has been revised accordingly, by deleting that requirement.

(f) Our adoption (FCC 75-930) of the new two-tone Attention Signal requires revision of § 73.932. Formerly, the carrier-break Attention Signal required EBS monitoring equipment to be located at the transmitter control point. Elimination of the carrier-break has removed the need for EBS monitoring equipment at this location (see FCC News release 60102, January 21, 1976). The revision of § 73.932 reflects this fact and permits the positioning of the monitoring equipment either at the transmitter control point or at the studio location where programming is accomplished. By the same token, § 73.932, as amended herein, specifies the location of equipment used to transmit the two-tone Attention Signal and places the responsibility on the licensee to ensure that EBS equipment is functioning properly. Finally, § 73.932 provides for station operation without equipment, which is defective, pending its repair or replacement for a period not in excess of 60 days without further authority of the Commission.

(g) From paragraph (f) above, it follows that § 73.961 must be revised to allow EBS Tests to be logged either in the station operating log or in the station program log.

(h) In light of the changes indicated in paragraphs (f) and (g) above, other sections of the rules require revision. Specifically, § 1.549 of Part 1 has been revised to accommodate station requests for extensions of the 60 day authority, permitted by revised § 73.932, to operate without EBS equipment which has become defective. Also, §§ 73.112, 73.113, 73.114, 73.282, 73.283, 73.284, 73.582, 73.583, 73.584, 73.670, 73.671, and 73.672 of Part 73 have been revised to show that receipt and transmission of the Weekly EBS Tests may be logged consistently in the station program log or consistently in the station operating log.

(i) With regard to the EBS Tests, the NIAC Subcommittee recommends that paragraph (c) of § 73.961 be revised to require a monthly test, as opposed to a weekly test. This recommendation is premised on benefit of the listening public, in that transmitting the EBS test once a week is akin to "crying wolf too often". In addition, the month-long interval would give broadcasters an opportunity to test individual Detailed Operational EBS Plans at the local level without the burden of performing the extra Weekly Test. We concur in the NIAC Subcommittee's view that the Weekly Tests could become a burden if conducted in addition to tests of Detailed EBS Operational Plans developed voluntarily at the state and local levels. Hence, § 73.961 has been amended to retain the Weekly Test, but allowing testing of state and local Detailed EBS Operational Plans to be conducted in lieu of the Weekly Test.

(j) Sections 73.931, 73.935, 73.936, and 73.937 have been editorially revised to clarify the role of the EBS in day-to-day emergencies. These changes are needed to meet the Commission's commitment to expand the versatility of the EBS for use during day-to-day emergencies at the state and local level, as already contemplated in our News Release of January 16, 1976, entitled "Emergency Broadcast System Expanded To Serve Communities' Total Emergency Needs".

3. The Office of Telecommunications Policy (OTP) informally recommended editorial changes concerning National level EBS operation. These recommended changes have been incorporated into the new rules. Adoption of these changes is desirable in order to clarify the meaning of existing rules and to make them uniform as to usage and terminology.

4. The above rule revisions will require parallel changes in the EBS Checklists. Rather than three types of Checklists, there will now be two—one for participating stations and one for non-participating stations. The new Checklists will be published shortly after adoption of the new EBS rules and distributed to all broadcast stations.

5. Authority for these rule revisions is found in Sections 1, 4(i) and (o), and 303(r) of the Communictions Act of 1934, as amended. Because these amendments herein ordered impose no new substantive requirements, reflect or clarify existing policy, or are basically procedural or editorial in nature, the prior notice provisions of the Administrative Procedure Act (5 U.S.C. 553) are inapplicable.

6. Accordingly, *it is ordered*, That effective February 1, 1977, Subpart G (Part 73) and related portions of Parts 1 and

[1] The National Industry Advisory Committee (NIAC) was organized in 1958 to advise and assist the Federal Communications Commission and other appropriate authorities. NIAC's function is to study and submit recommendations for emergency communications policies, plans, systems, and procedures, for all FCC licensed and regulated communications in order to provide continued emergency communications services under conditions of crisis or war.

73 of the Commission's Rules are amended as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

I. Parts 1 and 73 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 1.549 the headnote and text are amended to read as follows:

§ 1.549 Requests for extension of authority to operate without required monitors, indicating instruments, and EBS Attention Signal devices.

Requests for extension of authority to operate without required monitors, transmission system indicating instruments, or devices for off-the-air monitoring and generating of the EBS Attention Signal should be made by informal application to the Engineer in Charge of the radio district in which the station is operating. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the defective equipment is out of service.

2. In § 73.112, new subparagraph (5) is added to paragraph (b) to read as follows:

§ 73.112 Program log.

* * * * *

(b) * * *

(5) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

* * * * *

3. In § 73.113 sub-subparagraph (v) of subparagraph (a) (1) is amended to read as follows:

§ 73.113 Operating log.

(a) * * *

(1) * * *

(v) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station program log.

* * * * *

4. In § 73.114, new sub-subparagraph (vii) is added to subparagraph (a) (2) to read as follows:

§ 73.114 Maintenance log.

(a) * * *

(2) * * *

(vii) Devices for monitoring for or generating the EBS Attention Signal.

* * * * *

5. In § 73.282, new subparagraph (5) is added to paragraph (b) to read as follows:

§ 73.282 Program log.

* * * * *

(b) * * *

(5) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

* * * * *

6. In § 73.283, subparagraph (2) of paragraph (a) is amended to read as follows:

§ 73.283 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station program log.

* * * * *

7. In § 73.284, new sub-subparagraph (v) is added to subparagraph (a) (6) to read as follows:

§ 73.284 Maintenance log.

(a) * * *

(6) * * *

(v) Devices for monitoring for or generating the EBS Attention Signal.

* * * * *

8. In § 73.582, new subparagraph (3) is added to paragraph (a) to read as follows:

§ 73.582 Program log.

(a) * * *

(3) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

* * * * *

9. In § 73.583 subparagraph (2) of paragraph (a) is amended to read as follows:

§ 73.583 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the Appropriate station EBS checklist, unless such entries are consistently made in the station program log.

* * * * *

10. In § 73.584, new sub-subparagraph (v) is added to subparagraph (a) (6) to read as follows:

§ 73.584 Maintenance log.

(a) * * *

(6) * * *

(v) Devices for monitoring for or generating the EBS Attention Signal.

* * * * *

11. In § 73.670, new subparagraph (5) is added to paragraph (b) to read as follows:

§ 73.670 Program log.

* * * * *

(b) * * *

(5) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

* * * * *

12. In § 73.671, subparagraph (2) of paragraph (a) is amended to read as follows:

§ 73.671 Operating log.

(a) * * *

(2) A notation of tests of the Emergency Broadcast System procedures pursuant to the requirements of subpart G of this Part and the appropriate station EBS checklist, unless such entries are consistently made in the station program log.

* * * * *

13. In § 73.672, new sub-paragraph (v) is added to paragraph (a) (6) to read as follows:

§ 73.672 Maintenance log.

(a) * * *

(6) * * *

(v) Devices for monitoring for or generating the EBS Attention Signal.

* * * * *

14. Part 73 is amended as follows:

a. Subpart G is revised in its entirety to read as follows:

Subpart G—Emergency Broadcast System

SCOPE AND OBJECTIVES

DEFINITIONS

PARTICIPATION

EMERGENCY ACTIONS

DAY-TO-DAY EMERGENCY OPERATIONS

EBS ATTENTION SIGNAL EQUIPMENT

TESTS

AUTHORITY: Secs. 1, 4 (i) and (o), and 303 (r), Communications Act of 1934 as amended.

Subpart G—Emergency Broadcast System

SCOPE AND OBJECTIVES

§ 73.901 Scope of subpart.

This subpart contains rules and regulations providing for an Emergency Broadcast System (EBS). It applies to all broadcast stations under FCC jurisdiction, and is issued under authority of Sections 1, 4 (i), (o), and 303(r) of the Communications Act of 1934, as amended.

§ 73.902 Objectives of subpart.

The objective of this subpart is to provide a means for the development and implementation of Emergency Broadcast System planning and operation at the National, State, and local levels. Provision is made for operation of participating broadcast stations and other non-government industry entities on a voluntary, organized basis during emergency situations for the purpose of providing the President and the Federal government, as well as heads of State and local government, or their designated representatives, with a means of communicating with the general public. Participation in the EBS at the State and Operational (Local) Area levels is at the discretion of broadcast station management.

DEFINITIONS

§ 73.903 Emergency Broadcast System (EBS).

The EBS is composed of AM, FM and TV broadcast stations and non-government industry entities operating on a voluntary, organized basis during emergencies at National, State or Operational (Local) Area levels.

§ 73.904 Licensee.

The term "Licensee" as used in this subpart means the holder of a broadcast station license granted or continued in force under authority of the Communications Act of 1934, as amended. Such licensees include any AM, FM, or TV station holding a valid license, program test authorization, or other authorization permitting regular broadcast operation.

§ 73.905 Emergency Action Notification (EAN).

The Emergency Action Notification (EAN) is the notice to all licensees and regulated services of the FCC, participating non-government industry entities, and to the general public, of the activation of the EBS. The EAN is distributed in accordance with § 73.931.

§ 73.906 Attention Signal.

The attention signal to be used by AM, FM, and TV broadcast stations to actuate muted receivers for inter-station receipt of emergency cueing announcements and broadcasts involves the use of two audio tones in the following arrangement:

(a) *Tone frequencies.*—The two audio tones shall have fundamental frequencies of 853 and 960 Hertz and shall not vary over ±0.5 Hertz.

(b) *Harmonic distortion.*—The total harmonic distortion of each of the audio tones shall not exceed 5%.

(c) *Minimum level of modulation.*—Each of the two tones shall be calibrated separately to modulate the transmitter at no less than 40%. These two calibrated modulations levels shall have values that are within at least 1 dB of each other.

(d) *Time period for transmission of tones.*—The two tones with the characteristics specified above shall automatically modulate the transmitter simultaneously at the resulting level for an automatic time period of not less than 20 seconds nor longer than 25 seconds.

§ 73.907 Emergency Action Termination.

The Emergency Action Termination is the notice to all licensees and regulated services of the FCC, participating non-government industry entities and to the general public of the termination of the EBS at the National level. This termination is distributed in the same manner as the dissemination of the EAN at the National level in accordance with § 73.931.

§ 73.908 EBS Checklist.

The EBS Checklist states in summary form the actions to be taken by station personnel upon receipt of the Emergency Action Notification, Termination or Test Messages. Two EBS Checklists are available: one for participating stations and the other for non-participating stations. A copy of the appropriate Checklist should be located at normal duty positions where it shall be immediately available to broadcast station staff responsible for: (a) authenticating Emergency Action Notifications, Terminations, and Tests received; and (b) initiating appropriate EBS actions.

§ 73.909 Standard Operating Procedures (SOP's).

The SOP's contain detailed operational instructions which are used for activating, terminating and testing the National level EBS. They are issued by the FCC to spesified control points of the national Radio and Television Broadcast Networks (ABC, CBS, MBS, NBC, NPR, UPI-Audio, ABC-TV, CBS-TV, NBC-TV, and PBS), participating Communications Common Carriers, the Associated Press (AP) and the United Press International (UPI).

(a) *SOP-1, EBS activation and termination procedures.* This SOP contains the detailed operational authentication procedures for activation, operation, and termination of the EBS in response to an actual National emergency situation.

(b) *SOP-2, EBS test transmissions.* This SOP contains the detailed operational and authentication procedures for testing the EBS at the National level.

(c) *SOP-3, EBS backup procedures.* This SOP contains the detailed operational and authentication procedures to be used in event the procedures in SOP-1 cannot function.

§ 73.910 Authenticator Word Lists.

These lists are issued every six months by the FCC and are used in conjunction with procedures contained in the EBS Checklist and SOP's for tests or actual National emergency situations.

(a) *EBS Authenticator List—Red Envelope.* This document is used for authentication purposes in conjunction with the procedures contained in EBS Checklists, SOP-1, SOP-2, and SOP-3. It is issued to all broadcast stations and specified control points (National Radio and TV Broadcast Networks, participating communications common carriers, AP and UPI).

(b) *EBS Authenticator List (Voice)—White Envelope.* This document is used for caller identification purposes in conjunction with the procedures in SOP-3 and is issued to the above specified control points.

§ 73.911 Basic Emergency Broadcast System Plan.

The Basic EBS Plan contains guidance to all non-government entities for the distribution of emergency information and instructions covering a broad range of emergency contingencies posing a threat to the safety of life or property.

§ 73.912 NIAC Order.

This is a service order previously filed with participating communications common carriers providing for program origination reconfiguration of the major Radio and Television Networks voluntarily participating in the National level EBS. Participating networks are:

(a) American Broadcasting Company (ABC and ABC–TV).
(b) Columbia Broadcasting System (CBS and CBS–TV).
(c) Intermountain Network (IMN).
(d) Mutual Broadcasting System (MBS).
(e) National Broadcasting Company (NBC and NBC–TV).
(f) National Public Radio (NPR).
(g) Public Broadcasting Service (PBS).
(h) United Press International Audio (UPI-Audio).

NIAC Orders must meet White House requirements and will be activated only in accordance with the FCC Rules and Regulations.

§ 73.913 Emergency Broadcast System Authorization.

(a) This authorization is issued by the FCC to licensees of broadcast stations to permit operation on a voluntary, organized basis during a National emergency consistent with the provisions of this subpart of the rules and regulations. This authorization will remain in effect during the period of the initial license and subsequent renewals unless returned by the holder or suspended, modified or withdrawn by the Commission.

(b) An EBS Authorization is not required in order to participate on a voluntary, organized basis in State and Operational (Local) Area Emergency Broadcast System operations as set forth in § 73.935.

§ 73.914 Primary Station (Primary).

A Primary Station broadcasts or rebroadcasts a common emergency program for the duration of the activation of the EBS at the National, State, or Operational (Local) Area Level. The EBS transmissions of such stations are intended for direct public reception as well as inter-station programming.

§ 73.915 Primary Relay Station (Pri Relay).

A Primary Relay Station (an integral part of the State Relay Network) is a broadcast station responsible for the relay of National level and State level common emergency programming into the Operational (Local) Area levels.

§ 73.916 Common Program Control Station (CPCS).

This is a Primary Station in an Operational (Local) Area which preferably has special communication links with appropriate authorities (e.g., National Weather Service, Civil Defense, local or State government authorities, etc.) as specified in the State EBS Operational Plan. A Primary CPCS Station is responsible for coordinating the carriage of a common emergency program for its area. If it is unable to carry out this function, other Primary Stations in the Operational (Local) Area will be assigned the responsibility as indicated in the State EBS Operational Plan.

§ 73.917 Originating Primary Relay Station (Orig Pri Relay).

An Originating Primary Relay Station is a station as defined in § 73.915 that acts as the originating station source of a common program from the State capital or State emergency operating center for the State Relay Network, and may be programmed directly by the Governor or a designated representative.

§ 73.918 Non-participating Station (Non-EBS).

This is a broadcast station which has elected not to participate in the National level EBS and does not hold an EBS authorization. Upon activation of the EBS at the National level such stations are required to remove their carriers from the air and monitor for the Emergency Action Termination in accordance with the instructions in the EBS Checklist for Non-Participating Stations.

§ 73.919 State Relay Network.

A State Relay Network is a relay network, composed of Primary Relay Stations and leased common carrier communications facilities and any other available communication facilities, for disseminating statewide emergency programming originated by the Governor or a designated representative.

§ 73.920 Operational (Local) Area.

This is a geographical area which encompasses a number of contiguous communities as shown in the State EBS Operational Plan.

§ 73.921 State Emergency Broadcast System Operational Plan.

This plan contains the necessary guidance for the voluntary coordination between appropriate authorities (e.g. National Weather Service, Civil Defense, local or State government, etc.) and the broadcast industry to communicate with the general public during a State or local emergency situation. Additional procedural guides, SOP's and other implementing instructions should be developed at the State and local levels to insure effective operation of the EBS at the State and Operational (Local) Area levels.

§ 73.922 Emergency Broadcast System programming priorities.

(a) Program priorities for EBS are as follows:

Priority One—Presidential Messages
Priority Two—Operational (Local) Area Programming
Priority Three—State Programming
Priority Four—National Programming and News

(b) Participating stations that remain on the air during a National emergency situation must carry Presidential Messages "live" at the time of transmission. Activation of the National level EBS will preempt operation of the Operational (Local) Area or State level EBS.

(c) During a National emergency the Radio and Television (aural) Broadcast Network program distribution facilities shall be reserved exclusively for distribution of Presidential Messages and National Programming and News. National Programming and News which is not broadcast at the time of original transmission shall be recorded locally by the CPCS for broadcast at the earliest opportunity consistent with Operational (Local) Area requirements.

PARTICIPATION

§ 73.926 Participation in the Emergency Broadcast System.

(a) The FCC will send to new licensees an EBS authorization and a letter requesting their voluntary participation in the EBS. Stations are requested to accept or decline this authorization within 30 days of receipt. Should the request be declined, the EBS Authorization should be returned to FCC. In either event, an appropriate EBS Checklist and EBS station designation will be forwarded to the station manager.

(b) An existing licensee who is not already a participant and desires to participate voluntarily in the National level EBS must submit a written request to the FCC. The FCC may then issue an EBS Authorization.

(c) Any station may withdraw from EBS participation by giving 30 days written notice and by returning its EBS Authorization to the FCC.

(d) Any station that is denied participation in the National level EBS for any reason may apply to the Commission for review of the staff denial in accordance with § 1.115 of this chapter.

(e) Any AM, FM, or TV broadcast station licensee may, at the discretion of management, voluntarily participate in the State level and Operational (Local) Area level EBS in accordance with the provisions of the State EBS Operational Plan. An EBS Authorization is not required.

§ 73.927 Participation by communications common carriers.

(a) Communication common carriers which have facilities available in place may, without charge, connect an independent broadcast station to networks operated by ABC, CBS, IMN, MBS, NBC, NPR, or PBS for the duration of the activation of the National level EBS; provided that the station has in service a local channel from the station's studio or transmitter directly to the broadcast source or a broadcast connection point.

(b) During the activation of the National level EBS, communications common carriers which have facilities in place may, without charge, connect an originating source associated with an appropriate NIAC Order from the nearest Exchange to a selected Test Center and then to the Radio and Television (aural) Broadcast Networks for the duration of the emergency; provided that:

(1) The originating source has in service a local channel from the originating point to the nearest Exchange.

(2) A NIAC Order covering this service is requested by the White House.

(c) Upon receipt of the Emergency Action Termination the communications common carriers shall:

(1) Disconnect the participating independent station.

(2) Disconnect the origination source.

(3) Restore the networks to their original configurations.

(d) During Closed Circuit Tests of the National level EBS using NIAC Orders, communications common carriers which have facilities in place may, without charge, connect an originating source associated with an appropriate NIAC Order from the nearest Exchange to a selected Test Center, and then to the Radio Networks. No participating independent station may be connected during the test unless authorized by the FCC. Upon termination of tests the Radio Networks shall be restored to their original configuration.

(e) Every such carrier rendering any such free service shall make and file, in duplicate, with the FCC, on or before the 31st day of July and on or before the 31st day of January of each year, reports covering the periods of 6 months ending on the 30th day of June and the 31st day of December respectively, next prior to said dates. These reports shall show in detail what free service was rendered pursuant to this rule and the charges in dollars which would have accrued to the carrier for such services rendered if charges therefore had been collected at the published tariff rates.

EMERGENCY ACTIONS

§ 73.931 Dissemination of Emergency Action Notification.

(a) National Level. The Emergency Action Notification (EAN) will be released at this level upon request of the White House. The EAN message is disseminated from the origination point on a dedicated teletypewriter network to control points of the Radio and TV Broadcast Networks (ABC, CBS, MBS, NBC, NPR, UPI-Audio, ABC–TV, CBS–TV, NBC–TV and PBS), participating Communications Common Carriers, AP and UPI. The EAN is then further disseminated as follows by:

(1) The internal alerting facilities of the Radio and Television Broadcast Networks to all affiliates.

(2) The AP and UPI Radio Wire Teletype Networks to all subscribers (AM, FM, TV broadcast and other stations).

(3) Off-the-air monitoring of AM, FM, and TV broadcast stations and other licensees and regulated services.

Receipt of the EAN via any one of the above arrangements is sufficient to begin emergency actions set forth in § 73.933.

(b) State Level. The dissemination arrangements for the EAN at this level originate from State and Federal government authorities to the Originating Primary Relay Station. The management of this station may, at its discretion, activate the EBS at this level under the provisions of § 73.935(a). The EBS will be activated in accordance with § 73.931(a)(3) and the State EBS Operational Plan.

(c) Operational (Local) Area Level. The dissemination arrangements for the EAN at this level originate from Operational (Local) Area authorities to the Primary Station designated as the CPCS for the area. The management of this Primary Station may, at its discretion, activate the EBS at this level under the provisions of § 73.935(a). The EBS will be activated in accordance with § 73.931(a)(3) and the State EBS Operational Plan.

(d) Prior to commencing routine operation or originating any emissions under program test, equipment test, experimental, or other authorizations or for any other purpose, licensees or permittees shall first ascertain whether the EBS has been activated by one or all of the following methods:

(1) Monitor the radio and TV network facilities.

(2) Check the Radio Press Wire Service (AP and UPI).

(3) Monitor the Primary CPCS Station and/or the Primary Relay Station for your Operational (Local) Area.

If so, operation shall be in accordance with this subpart of the rules.

§ 73.932 Radio monitoring and Attention Signal transmission requirements.

(a) Monitoring Requirement. To insure effective off-the-air signal monitoring (§ 73.931(a)(3)) all broadcast station licensees must install and operate, during their hours of broadcast operation, equipment capable of receiving the Attention Signal and emergency programming transmitted by other broadcast stations. This equipment must be maintained in operative condition, including arrangements for human listening watch or automatic alarm devices. This equipment must be installed in the broadcast station, either at the transmitter control point and/or studio location, in such a way that it enables the broadcast station staff, at normal duty locations, to be alerted instantaneously upon the receipt of the attention signal and to immediately monitor the emergency programming. For situations where broadcast stations are co-owned and co-located (e.g., an AM and FM licensed to the same entity at the same location) with a combined studio facility, only one receiver is required if installed in the combined studio facility. The off-the-air signal monitoring assignment of each broadcast station is specified in the State EBS Operational Plan.

(b) Transmission Requirement. All broadcast licensees, except noncommercial educational FM Broadcast Stations of 10 Watts or less, must install, operate, and maintain equipment capable of generating the Attention Signal (§ 73.906) to modulate the transmitter so that the signal may be broadcast to other broadcast stations. This signal is used to alert other broadcast stations to the fact that the EBS is being activated at the National, State or local level. It is also used during the Weekly Tests involving the transmission and reception of the Attention Signal and Test Script in accordance with § 73.961(c). This equipment must be installed in the broadcast station either at the transmitter control point and/or studio location in such a way that it enables the broadcast station staff at normal duty locations to initiate the two-tone transmission. For situations where broadcast stations are co-owned and co-located (e.g., an AM and FM licensed to the same entity at the same location) with a combined studio facility, only one generator is required if installed in the combined studio facility.

(c) The licensee has the responsibility to insure that the equipment used for off-the-air signal monitoring and generating the EBS Attention Signal is in functioning condition during all times the station is in operaton, and to determine the cause of any failure to receive the Weekly Transmission Tests as described in paragraph (c) of § 73.961.

(d) In the event that the equipment for receiving the Attention Signal and emergency programming transmitted by other broadcast stations, or the equipment for generating the Attention Signal becomes defective, the station may operate without the defective equipment pending its repair or replacement for a period not in excess of 60 days without further authority of the Commission provided that:

(1) Appropriate entries shall be made in the station operating or program log, indicating reasons why Weekly Test Transmissions were not received or conducted and;

(2) Appropriate entries shall be made in the maintenance log of the station showing the date and time the equipment was removed and restored to service.

(e) If conditions beyond the control of the licensee prevent the restoration of the defective equipment to service within the above allowed period, informal request in accordance with Section 1.549 of this chapter may be filed with the Engineer in Charge of the radio district in which the station is operating for such additional time as may be required to complete repairs of the defective equipment.

§ 73.933 Emergency Broadcast System operation during a National Level emergency.

(a) An EBS Checklist will be posted at normal duty positions where it shall be immediately available to broadcast station personnel responsible for EBS actions. This Checklist summarizes the procedures to be followed upon receipt of a National level Emergency Action Notification or Termination Message in accordance with arrangements described in § 73.931(a).

(b) Immediately upon receipt of an EAN Message all licensees will proceed as follows:

(1) Monitor the radio and TV network facilities for further instructions from the network control point.

(2) Check the Radio Press Wire Service (AP and UPI). Verify the authenticity of message with current EBS Authenticator List (Red Envelope).

(3) Monitor your EBS monitoring assignment (See State EBS Operational

Plan) for the receipt of any further instructions.

(4) Discontinue normal programming and follow the transmission procedures set forth in the appropriate EBS Checklist.

(i) Primary CPCS, Originating Primary Relay, Primary Relay, and Primary stations follow the transmission procedures and make the announcements under the National Level Instructions of the EBS Checklist for Participating Stations.

(ii) Non-participating stations follow the transmission procedures and make the announcements under the National Level Instructions of the EBS Checklist for Non-Participating Stations. Following the announcement, non-participating stations are required to remove their carriers from the air and monitor for the Emergency Action Termination.

(5) Upon completion of the above transmission procedures:

(i) Participating stations will begin broadcast of a common emergency program. All stations shall carry the common emergency program until receipt of the Emergency Action Termination Message. Programming priorities are set forth in § 73.922. Feeds will be provided by one or more of the following:

(*a*) Common Program Control Stations.

(*b*) Radio and Television Broadcast Networks.

(*c*) Originating Primary Relay and Primary Relay Stations in the State Relay Network.

(ii) Should it become apparent that the primary CPCS Station or Primary Relay Station of an Operational (Local) Area may not be able to provide an appropriate emergency program feed, other Primary Stations of the area may elect to assume the duties of providing a program feed. This should be done in an organized manner as designated in the State EBS Operational Plans.

(6) The Standby Script shall be used until program material is available. The text of the Standby Script is contained in the EBS Checklist for Participating Stations.

(7) TV broadcast stations shall display an appropriate EBS slide and then transmit all announcements visually and aurally in the manner described in § 73.675(b) of this Part.

(8) A Station which broadcasts primarily in a language other than English shall broadcast in such foreign language following the broadcast in English.

(9) Broadcast Stations in the International Broadcast Service will cease broadcasting immediately upon receipt of an Emergency Action Notification and will maintain radio silence. However, under certain conditions they may be issued appropriate emergency authorization by the FCC with concurrence of the Director, Office of Telecommunications Policy, in which event they will transmit only Federal government broadcasts or communications. The station's carrier must be removed from the air during periods of no broadcasts or communications transmissions.

(10) Stations may broadcast their call letters during an EBS activation. State and Operational (Local) Area identifications shall also be given.

(11) All stations operating and identified with a particular Operational (Local) Area will broadcast a common emergency program until receipt of the Emergency Action Termination.

(12) Broadcast stations holding an EBS Authorization are specifically exempt from complying with § 73.52 (pertaining to maintenance of operating power) while operating under this subpart of the rules.

(c) Upon receipt of an Emergency Action Termination Message all stations will follow the termination procedures set forth in the EBS Checklists.

(d) Stations originating emergency communications under this Section shall be deemed to have conferred rebroadcast authority, as required by Section 325(a) of the Communications Act of 1934, as amended, and § 73.1207, on other participating stations.

DAY-TO-DAY EMERGENCY OPERATIONS

§ 73.935 Day-to-day emergencies posing a threat to the safety of life and property; State Level and Operational (Local) Area Level Emergency Action Notification.

(a) State Level or Operational (Local) Area Level. The EBS may be activated at this level by AM, FM, and TV broadcast stations, at management's discretion, in connection with day-to-day emergency situations posing a threat to the safety of life and property. Examples of emergency situations which may warrant either an immediate or delayed response by the licensee are: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, and civil disorders.

(b) Stations originating emergency communications under this Section shall be deemed to have conferred rebroadcast authority, as required by Section 325(a) of the Communications Act of 1934, as amended, and § 73.1207 of this Part, on other participating stations.

§ 73.936 Emergency Broadcast System operation during a State Level emergency.

(a) An EBS Checklist will be posted at normal duty positions where it shall be immediately available to broadcast station personnel responsible for EBS action.

(b) Operations will be conducted in accordance with the provisions of the State EBS Operational Plan.

(c) An EBS Authorization is not required for a broadcast station to participate in the operation of the State level EBS.

(d) Immediately upon receipt of a State level Emergency Action Notification message all licensees which are voluntarily participating, may, at the discretion of management, proceed as follows:

(1) Monitor the State Relay Network (Primary Relay Stations) for receipt of any further instructions from the Originating Primary Relay Station.

(2) Monitor the Primary Stations designated as the CPCS for your Operational (Local) Area for receipt of any further instructions.

(3) All licensees participating in the State level EBS shall discontinue normal programming and follow the transmission procedures set forth in the appropriate EBS Checklist and State EBS Operational Plan (§ 73.921) under the State and Local Level Instructions. Stations broadcasting primarily in a foreign language shall repeat all announcements in such foreign language following the broadcast in English. TV broadcast stations shall display an appropriate EBS slide and then transmit all announcements visually and aurally in the manner described in § 73.675(b).

(4) Upon completion of the above transmission procedures, resume normal programming until receipt of the cue from the CPCS for your Operational (Local) Area, or Primary Relay Station of the State EBS Network. At that time begin broadcasting the State level common emergency program received from one of the following sources:

(i) Common Program Control Station for your Operational (Local) Area.

(ii) Any Primary Relay Station of the State Relay Network.*

(5) All licensees may resume normal broadcast operations upon conclusion of the State level EBS broadcast.

§ 73.937 Emergency Broadcast System operation during an Operational (Local) Area Level emergency.

(a) An EBS Checklist will be posted at normal duty positions where it shall be immediately available to broadcast station personnel responsible for EBS actions.

(b) Operations will be conducted in accordance with the provisions of the State EBS Operational Plan.

(c) An EBS Authorization is not required for a broadcast station to participate in the operation of the local level EBS.

(d) Immediately upon receipt of an Operational (Local) Area level Emergency Action Notification all licensees which are voluntarily participating, may, at the discretion of management, proceed as follows:

(1) Monitor the Primary Station designated as the CPCS for your Operational (Local) Area for the receipt of any further instructions.

(2) Monitor the Primary Relay Station for your Operational (Local) Area for receipt of any further instructions.

(3) All licensees participating in the Operational (Local) Area level EBS shall discontinue normal programming and follow the transmission procedures set forth in the appropriate EBS Checklist and State EBS Operational Plan (§ 73.921) under the State and Local Level Instructions. Stations broadcasting primarily in a foreign language shall repeat all announcements in such foreign language following the broadcast in English. TV broadcast stations shall display an appropriate EBS slide and then

transmit all announcements visually and aurally in the manner described in § 74.675(b) of this Part.

(4) Upon completion of the above transmission procedures, resume normal programming until receipt of the cue from the CPCS for your Operational (Local) Area. At that time begin broadcasting the common emergency program received from one of the following sources for your Operational (Local) Area:

(i) Common Program Control Station.

(ii) Primary Relay Station.

(5) All licensees may resume normal broadcast operations upon conclusion of the Operational (Local) Area level EBS broadcast.

EBS ATTENTION SIGNAL EQUIPMENT

§ 73.940 Encoder devices.

An encoder device shall be used by broadcast stations for the generation of the two-tone Attention Signal. Only noncommercial educational FM broadcast stations of 10 watts or less are exempt from the requirement of installing the encoder device. The encoder device shall comply with the following requirements:

(a) *Tone Frequencies.* The two audio signals of the encoder shall have fundamental frequencies of 853 and 960 Hertz. The frequency of each tone shall not vary more than ±0.5 Hertz.

(b) *Harmonic Distortion.* Total harmonic distortion of each of the audio tones shall not exceed 5 percent as measured at the output terminals of the encoder.

(c) *Minimum Level of Output.* The encoder shall have an output level capability of at least +8 dBM into a 600 ohm load impedance at each audio tone. (The output level of each tone shall be calibrated individually.) A non-locking switch (or switches) shall be provided in the encoder to permit individual activation of the two tones for calibration of associated systems.

(d) *Time Period for Transmission of Tones.* The encoder shall have timing circuitry that will automatically allow for the generation of the two tones simultaneously for a period of not less than 20 seconds nor longer than 25 seconds.

(e) *Operating Temperature.* Encoders shall have the ability to operate with the above specifications of paragraphs (a), (b), (c), and (d) of this section within at least an ambient temperature range of from 0 to +50° C.

(f) *Operating Humidity.* Encoders shall have the ability to operate with the above specifications of paragraphs (a), (b), (c), and (d) of this section in a range of relative humidity of up to 95 percent.

(g) *Primary Supply Voltage Variation.* The encoder shall be capable of operation within the tolerances specified in this section during a variation in primary supply voltage of 85 percent to 115 percent of the rated value.

(h) *Testing Encoder Units.* Encoders not covered by the provision of § 73.943 shall be tested in the presence of a minimum RF field of 10 V/m at a frequency in the AM broadcast band and in the presence of a minimum of RF field of .5 V/m at a frequency in either the FM or TV broadcast bands to simulate actual working conditions. At least the parameters specified in paragraphs (a), (b), and (d) of this section shall be tested in the RF fields as specified.

(i) *Indicator Device.* The encoder shall be provided with a visual and/or aural indicator which clearly shows that the device is activated.

(j) *Switch Guard.* The switch used for initiating the automatic generation of the simultaneous tones shall be protected in a manner which will prevent accidental operation. This includes switching devices used in a remote control fashion.

§ 73.941 Decoder devices.

Decoder devices shall have detection and activation circuitry that will demute a broadcast receiver only upon the simultaneous detection of the two audio tones of 853 and 960 Hertz.

(a) For the purpose of preventing false responses, decoder devices, designed to utilize the two tones for broadcast receiver demuting, shall contain circuitry designed to meet the following specifications and thereupon be certified by the Commission.

(1) Time Delay. A time delay of a minimum of 8 seconds but not more than 16 seconds of tone reception shall be incorporated into the activation or demuting process to insure that the tones will be audible for a period of from 4 seconds to 17 seconds.

(2) Operation Bandwidth. The decoder circuitry shall not respond to tones which vary more than ±5 Hz from each of the frequencies, 853 Hertz and 960 Hertz.

(b) Reset Ability. The decoder shall have a switching device which, when operated manually, resets the associated broadcast reeciver to a muted state.

(c) Operating Temperature. Decoders shall have the ability to operate with the above specifications of (a) and (b) of this section within at least an ambient temperature range from 0 to +50°C.

§ 73.942 Acceptability of EBS Attention Signal equipment.

(a) An encoder device used for generating the EBS Attention Signal must be type accepted by following the procedures set forth in Subpart J of Part 2 of the Rules and Regulations. The data and information submitted shall show capability of the equipment to meet the requirements of § 73.940.

(b) A decoder device used for the detection of the EBS Attention Signal shall be certified following the applicable procedures set forth in Subpart J, Part 2 and Subpart B of Part 15 of the Rules and Regulations. This requirement shall also apply to combinations which include a receiver subject to certification and an EBS Attention Signal decoder which is an integral part of said receiver. The data and information submitted shall show capability of the equipment to meet the requirements of § 73.941.

§ 73.943 Individual construction of encoders and decoders.

(a) A station licensee who constructs decoders and encoders for use at his station and not for sale need not submit the fees otherwise required with certification and type acceptance applications.

(b) The provisions of § 73.942 (a) and (b) shall apply to encoders and decoders contructed by individual station licensees.

TESTS

§ 73.961 Tests of the Emergency Broadcast System procedures.

Tests of the EBS procedures will be made at regular intervals as indicated below. Appropriate entries shall be made consistently in the station operating log or consistently in the station program log on EBS Tests received and transmitted by broadcast stations.

(a) Weekly "500" Net Test Transmissions. Test transmissions of the National level interconnection facilities will be conducted on a random basis once each week. The tests will originate on an alternate basis from one of two origination points over a dedicated government teletypewriter network to the control points of the Radio and Television Broadcast Networks, participating communications common carriers, AP and UPI. A dedicated automatic telephone network will be used for confirmation purposes between the origination points and AP and UPI. These tests will be in accordance with procedures set forth in EBS SOP–2 which is furnished to the non-government entities concerned.

(b) Periodic AP and UPI Test Transmissions. AP and UPI will separately conduct test transmissions to AM, FM, and TV broadcast stations, on their Radio Wire Teletype Network, a maximum of twice a month on a random basis at times of their choice. These tests will be conducted in accordance with procedures set forth in EBS SOP–2 which is furnished to the non-government entities concerned and the EBS Checklist furnished to all broadcast stations.

(c) Weekly Transmission Tests of the Attention Signal and Test Script. Except as provided in paragraph (d) of this Section, these tests shall be conducted by all AM, FM and TV broadcast stations a minimum of once a week at random days and times between the hours of 8:30 a.m. and local sunset. These tests will be conducted in accordance with procedures set forth in the EBS Checklist furnished to all broadcast stations.

(d) Tests of implementing procedures developed at the State and local levels may be conducted on a day-to-day basis as indicated in State EBS Operational Plans. Coordinated tests of EBS operational procedures for an entire State or Operational (Local) Area may be conducted in lieu of the Weekly Transmission Tests of the Attention Signal and Test Script required in paragraph (c) of this section.

(e) Stations originating emergency communications under this section shall be deemed to have conferred rebroadcast

authority, as required by Section 325(a) of the Communications Act of 1934, as amended, and § 73.1207 of this Part.

§ 73.962 Closed Circuit Tests of approved National Level interconnecting systems and facilities of the Emergency Broadcast System.

(a) Tests of approved National level interconnecting systems and facilities of non-government entities voluntarily participating in the EBS will be conducted on a random or scheduled basis not more than once a month and not less than once every 3 months only after FCC approval. Time of test will be selected by both White House and National Industry Advisory Committee (NIAC) representatives in coordination with the Defense Commissioner, FCC. Unless a random Closed Circuit Test has been selected, the FCC will notify the Networks, participating communications common carriers and Wire Services of the selected time window, four working days (holidays excluded) prior to the test.

(b) The details of these Closed Circuit Tests procedures are contained in the EBS Checklists issued to all broadcast stations and in SOP–2 issued by the FCC to those non-Government entities concerned.

(c) The radio networks, participating communications common carriers, AP and UPI will receive notification of closed circuit tests by a Closed Circuit Test Activation Message, followed by a NIAC Order Request Message.

(d) The National level EBS will be tested on a closed circuit basis. These test broadcasts will originate from a point selected by the White House with program feed circuitry connected to the Telephone Company Toll Test Center at points indicated by individual NIAC Orders. Participating communications common carriers will interconnect, as required, the facilities of the Radio Broadcast Networks, ABC, CBS, MBS, NBC, NPR, UPI-Audio and the Intermountain (IMN) Radio Broadcast Network as authorized by the NIAC Order associated with the Closed Circuit Test. The audio networks associated with the video networks of ABC–TV, CBS–TV, NBC–TV, and PBS shall not be utilized during closed circuit tests. The telephone companies are not authorized to add any of the independent stations participating in the EBS unless authorized by the FCC. Authentication will be provided to the Telephone Company Toll Test Center or other program entry location responsible for the particular NIAC Order to be used as set forth in SOP–2. Authentication used in the Closed Circuit Test Messages will be the test words printed on the outside of the EBS Authenticator List (Red Envelope).

(e) Closed Circuit Test procedures for Radio Network affiliates and AP and UPI subscribers are as follows:

(1) Notification of a Closed Circuit Test will be received in accordance with procedures set forth in § 73.931(a) (1) and (2) and the EBS Checklist.

(2) Immediately monitor your radio network (ABC, CBS, IMN, MBS, NBC, NPR and UPI-Audio) and check your AP and UPI Radio Wire Teletype Network machine for the receipt of the Closed Circuit Test Activation Message. Verify authenticity using the test words printed on the outside cover of the current issue of the EBS Authenticator List (Red Envelope). Television networks do not participate in the Closed Circuit Tests.

(3) Continue to monitor your radio network for talkup, and the Closed Circuit Test Program.

(4) Enter the time of receipt of the Closed Circuit Test consistently in your station operating log or consistently in your program log.

(5) The Closed Circuit Test will terminate on the following aural Closed Cue as it appears in the text of the test program:

This concludes the Closed Circuit Test of the Emergency Broadcast System

(6) Following the Closing Cue as indicated in paragraph (e)(5) of this section AP and UPI subscribers only will receive a "Closed Circuit Test Termination Message". Record time of receipt of this message as indicated in paragraph (e)(4) of this section.

(f) The Federal Communications Commission may request a report of a Closed Circuit Test as deemed appropriate in a format prescribed by the Commission.

[FR Doc.76–35188 Filed 11–29–76;8:45 am]

federal register

TUESDAY, NOVEMBER 30, 1976

PART VI:

COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

■

PRIVACY ACT OF 1974

Systems of Records

COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice that the systems of records identified in notices published in the Federal Register at 40 FR 33179, 42307, and 41 FR 49897, continue in effect. The notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

Dated at Washington, D.C., on November 15, 1976.

James E. Ritchie,
Executive Director.

CRNPG—1

System name: Members and past members of the Commission—CRNPG

System location:

Commission on the Review of the National Policy Toward Gambling
2000 M Street, NW., Room 3302
Washington, D.C. 20036

Categories of individuals covered by the system: Members and past members of the Commission.

Categories of records in the system: Contains biographical information and correspondence between the individuals and the Commission staff.

Authority for maintenance of the system: Organized Crime Control Act of 1970, PL 91-452, Section 804.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of the Commission's members, past and present. Used by the Commission's staff. See Appendix.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file folders.

Retrievability: Information is retrieved by name.

Safeguards: Information is contained in unlocked file drawer.

Retention and disposal: Information is retained during the CRNPG's existence and then stored with the National Archives.

System manager(s) and address:

Executive Director
Commission on the Review of the National Policy Toward Gambling
2000 M Street, NW., Room 3302
Washington, D.C. 20036

Notification procedure: Address inquiries to the Executive Director.

Record access procedures: Address inquiries to the Executive Director.

Contesting record procedures: Address inquiries to the Executive Director.

Record source categories: Individual to whom the record pertains.

CRNPG—2

System name: Personnel Records—CRNPG

System location:

Commission on the Review of the National Policy Toward Gambling
2000 M Street, NW., Room 3302
Washington, D.C. 20036

Categories of individuals covered by the system: Individuals employed by CRNPG.

Categories of records in the system: Contains copies of official personnel records, payroll information, time and attendance records, consultants' employment files.

Authority for maintenance of the system: Organized Crime Control Act of 1970, PL 91-452, Section 804.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of CRNPG personnel and their employment records. Used by the Executive Director, Associate Director and the Deputy for Management, Budget and Administration. See Appendix.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file folders.

Retrievability: Information is retrieved by name.

Safeguards: Information is contained in locked file drawer.

Retention and disposal: Information is retained during the CRNPG's existence and then stored with the National Archives.

System manager(s) and address:

Executive Director
Commission on the Review of the National Policy Toward Gambling
2000 M Street, NW., Room 3302
Washington, D.C. 20036

Notification procedure: Address inquiries to the Executive Director.

Record access procedures: Address inquiries to the Executive Director.

Contesting record procedures: Address inquiries to the Executive Director.

Record source categories: Individual to whom the record pertains.

CRNPG—3

System name: Payroll Records—Commission on the Review of the National Policy Toward Gambling.

System location: General Services Administration, Region 3 Office; copies held by the Commission on the Review of the National Policy Toward Gambling. GSA holds records for the Commission on the Review of the National Policy Toward Gambling under contract.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers, comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms; overtime requests; leave data; retirement records. Records are used by the Commission on the Review of the National Policy Toward Gambling and GSA employees to maintain adequate payroll information for Commission on the Review of the National Policy Toward Gambling employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also Public Law 91-452, Part D, Sec. 804-808 of the Organized Crime Control Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of Treasury Form W-2 and tax statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the General Services Administration, Agency Liaison Office, 18th & F St., NW., Washington, D.C. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Commission on the Review of the National Policy Toward Gambling.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agreement with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: James E. Ritchie, Executive Director, Commission on the Review of the National Policy Toward Gambling, 2000 M Street, NW., Washington, D.C. 20036.

Notification procedure: Refer to Commission on the Review of the National Policy Toward Gambling access regulations contained in Title I of the Code of Federal Regulations, Part 410.

Record access procedures: Refer to Commission on the Review of the National Policy Toward Gambling access regulations contained in Title I of the Code of Federal Regulations, Part 410.

Contesting record procedures: Refer to Commission on the Review of the National Policy Toward Gambling access regulations contained in Title I of the Code of Federal Regulations, Part 410.

Record source categories: The subject individual; the Commission on the Review of the National Policy Toward Gambling.

APPENDIX—Commission on the Review of the National Policy Toward Gambling

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.76-34294 Filed 11-16-76;4:27 pm]

Advance Orders are now being Accepted
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CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1976)

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[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]

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