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federal register

TUESDAY, DECEMBER 7, 1976

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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
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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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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 591—ALLOWANCES AND DIFFERENTIALS

Cost of Living Allowance and Post Differential—Nonforeign Areas

Correction

In FR Doc. 76-34219 appearing at page 51579 in the FEDERAL REGISTER of Tuesday, November 23, 1976, the following correction should be made: On page 51582, first column, in Appendix B in the table, the first entry "American Samoa * * *" the effective date should read "June 8, 1975".

(NOTE.—This document is being reprinted entirely without change from the issue of Thursday, December 2, 1976.)

Title 7—Agriculture

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Blackfly

MISCELLANEOUS AMENDMENTS

• *Purpose.* To extend the Citrus Blackfly Quarantine to include the State of Florida and to make miscellaneous amendments.•

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), (1) the Citrus Blackfly Quarantine and Regulations are amended by adding the State of Florida to the quarantine, adding leaves of Surinam cherry and jaboticaba to the list of articles regulated because of the citrus blackfly, providing criteria for termination of temporary designations of regulated areas and suppressive or generally infested areas, providing procedures for the withdrawal of certificates or permits and cancellation of compliance agreements, and making various other minor changes; and (2) the citrus blackfly emergency regulations (7 CFR 331.2) are revoked.

Statement of considerations. On April 13, 1976, a notice was published in the FEDERAL REGISTER (41 FR 15422) of a public hearing and proposed rulemaking proceeding to determine whether to amend the citrus blackfly quarantine and regulations (7 CFR 301.86, 301.86-1 et seq.) by adding Florida as a State quarantined because of the citrus blackfly, and by designating a portion of Broward County as a regulated area. It was also proposed to regulate the movement therefrom of specified articles, and, if it were determined to add the State of Florida to the quarantine, to revoke the citrus blackfly emergency regulations (7 CFR 331.2, 41 FR 8943).

Interested persons were given an opportunity to submit written data, views, and arguments, and a public hearing was held on May 18, 1976, with respect to these proposals. Comments in favor of quarantining the State of Florida were received from State regulatory officials of citrus-producing States and from interested organizations. No comments opposing the proposal or any action taken by this document were received or presented at the hearing or otherwise.

After due consideration of all relevant matters, including those presented at the hearing, or otherwise, pursuant to the notice, it has been determined that it is necessary to quarantine the State of Florida in order to prevent the spread of the citrus blackfly. Areas regulated because of the citrus blackfly appear in § 301.86-2a which is being amended in a separate document. Under the circumstances, the citrus blackfly emergency regulations are superseded and are no longer needed; and, therefore, are hereby revoked.

At the time the citrus blackfly emergency regulations were established in Florida on March 2, 1976, leaves of Surinam cherry and jaboticaba were determined to be hosts of the citrus blackfly and were included in the list of regulated articles in the emergency regulations. The Deputy Administrator has determined that it is necessary to regulate the movement with respect to all quarantined States of the leaves of Surinam cherry and jaboticaba to prevent the spread of the citrus blackfly. Accordingly, the citrus blackfly quarantine is amended to add these species of leaves to the list of articles regulated because of the citrus blackfly.

Also, the quarantine and regulations are amended to provide the criteria and procedures referred to above and to make various other minor changes.

Accordingly, the Citrus Blackfly Quarantine and Regulations (7 CFR 301.86 et seq.) are amended as follows:

1. In § 301.86, paragraphs (a) and (b) (1) are revised to read as follows:

§ 301.86 Quarantine; restriction on interstate movement of specified regulated areas.

(a) *Notice of quarantine.* (1) Pursuant to the provisions of section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), the Secretary of Agriculture heretofore determined, after public hearing, that it is necessary to quarantine the State of Texas in order to prevent the spread of an infestation of the citrus blackfly, a dangerous insect injurious to citrus trees and not heretofore widely prevalent or distributed within and throughout the United States and accordingly quarantined said State.

(2) Pursuant to the said provisions and after public hearing the Secretary has now determined that it is necessary also to quarantine the State of Florida to prevent the spread of the citrus blackfly. Under the authority of said provisions, the Secretary hereby quarantines the State of Florida, and continues in effect the quarantine of the State of Texas, with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

* * * * *

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* * * *

(1) Leaves, attached or unattached, of black sapote, cherimoya, citrus, coffee, jaboticaba, Japanese persimmon, mango, myrtle, pear, persimmon, quince, Surinam cherry, and sweet-sop.

* * * * *

§ 301.86-1 [Amended]

2. In § 301.86-1, paragraph (s) is amended by changing " 'Fumigation Procedures Manual' " to read " 'Plant Protection and Quarantine Treatment Manual' " and by changing in footnote 1 "Hyattsville, Maryland 20782" to read "Washington, D.C. 20250."

3. In § 301.86-2(a), the word "list" is changed to read "designate".

4. In § 301.86-2 paragraphs (b) and (c) are revised to read as follows:

§ 301.86-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

* * * * *

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and may designate the regulated area or portions thereof as a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for designating such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the inter-

state movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.86–2a if a basis then exists for their designation.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section. The Deputy Administrator or an inspector shall terminate the designation provided for under paragraph (b) of this section of any premises designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section, and notice thereof shall be given to the owner or person in possession of the premises.

* * * * *

5. In § 301.86–4, paragraph (f) is amended to read as follows:

§ 301.86–4 Issuance and cancellation of certificates and permits.

* * * * *

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the Deputy Administrator or an inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. As soon as possible after such withdrawal, the holder of the certificate or permit shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present his views thereon, and if there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

6. In § 301.86–5, paragraph (b) is amended to read as follows:

§ 301.86–5 Compliance agreements, and cancellation thereof.

* * * * *

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds that such other party has failed to comply with the conditions of the agreement. As soon as possible after such cancellation, such party shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present views thereon, and if there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 301.86–8 [Amended]

7. In § 301.86–8 the word "Federal" is added after "section 105 of the."

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, 38 FR 19141.)

The foregoing amendments impose restrictions that are necessary in order to prevent the interstate dissemination of the citrus blackfly, provide for the relieving of restrictions, and make minor changes that do not impose additional requirements on any person.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice of rulemaking and other public procedures with respect to the said quarantine and regulations are impracticable 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.

Effective date. The foregoing quarantine and regulations shall become effective December 7, 1976. The Citrus Blackfly Emergency Regulations (7 CFR 331.2), are revoked effective December 7, 1976. However, said emergency regulations shall be considered as remaining in effect with respect to any violation thereof that occurred, and any liability that was incurred and any right that accrued under said regulations, prior to said date.

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.

Done at Washington, D.C., this 1st day of December 1976.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76–35858 Filed 12–6–76;8:45 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Blackfly Regulated Area

FLORIDA

• *Purpose.* To add Florida to the areas regulated because of the citrus blackfly.•

This document amends the supplemental regulation which lists regulated areas for purposes of the Federal Citrus Blackfly Quarantine by adding to the generally infested regulated area parts of the following previously nonregulated counties: Broward, Dade, and Palm Beach Counties in Florida; and by changing generally infested regulated area in Cameron County, Texas, to suppressive. The entire county of Cameron is now suppressive.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.86–2 of the Citrus Blackfly Quarantine regulations (7 CFR 301.86–2), the supplemental regulation designating the regulated areas, 7 CFR 301.86–2a, is hereby amended to read as follows:

§ 301.86–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as citrus blackfly regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

FLORIDA

(1) *Generally infested area.*

Broward County. That portion of the county bounded by a line beginning at a point where the Palm Beach-Broward County line intersects the Atlantic Ocean, thence west along the county line to Levee L–36, thence south along said Levee to its intersection with Levee L–35A, thence southwest along Levee L–35A to its intersection with State Highway 84, thence west along State Highway 84 to State Highway 25 (U.S. 27), thence south along State Highway 25 to the Dade-Broward County line, thence east along said county line to the Atlantic Ocean, thence north along the Atlantic coastline to the point of beginning.

Dade County. That portion of the county bounded by a line beginning at a point where the Broward-Dade County line intersects the Atlantic Ocean, and thence west along said county line to State Highway 25 (U.S. 27), thence south and southeast along said highway to its intersection with State Highway 25A, thence east along Highway 25A to its end, thence continuing east along an imaginary line extending from the end of Highway 25A to the Atlantic Ocean, thence north along the Atlantic coastline to the point of beginning.

Palm Beach County. That portion of the county bounded by a line beginning at a point where the north line of T. 44 S. intersects the Atlantic Ocean, thence west along said line to its intersection with State Road 80 (U.S. 98), thence west along State Road 80 to its intersection with Levee L–40, thence south along Levee L–40 around the Loxahatchee National Wildlife Refuge to its intersection with Levee L–39, thence south along Levee L–39 to its intersection with the Palm Beach-Broward County line, thence east along said county line to the Atlantic Ocean, thence north along the Atlantic coastline to the point of beginning.

(2) *Suppressive area.* None

TEXAS

(1) *Generally infested area.* None
(2) *Suppressive area.*

Cameron County. The entire County.
Hidalgo County. The entire County.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141, 7 CFR 301.86–2, 39 FR 9653.)

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the citrus blackfly has been found or there is reason to believe it is present in the civil divisions and parts of civil divisions listed above as regulated areas, or that it is necessary to regulate such areas because of their proximity to citrus blackfly infestation or their inseparability for quarantine enforcement purposes from citrus blackfly infested localities. Further, he has determined that the areas designated as suppressive and generally infested areas are eligible for such designation under § 301.86–1, as amended.

The Deputy Administrator has also determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, has adopted and is enforcing a

quarantine or regulation which imposes restrictions on intrastate movement of the regulated articles which are substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the citrus blackfly. Therefore, such civil divisions and parts of civil divisions listed above are designated as citrus blackfly regulated areas.

This document imposes restrictions that are necessary in order to prevent the spread of the citrus blackfly and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this revision are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective December 7, 1976.

Done at Washington, D.C., this 1st day of December 1976.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-35859 Filed 12-6-76;8:45 am]

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 left hand column of page 51583, under the heading "Peanuts" is corrected to read as follows:

§ 401.103 Application for insurance.

(a) * * *

(CLOSING DATES)

* * * * *	
TEXAS	
Atascosa, Frio, and Wilson Counties	March 10
All other Texas counties	April 25
All other States	April 30
* * * * *	

Dated: December 1, 1976.

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

[FR Doc.76-35851 Filed 12-6-76;8:45 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 12]

PART 722—COTTON

Subpart—Acreage Allotments for the 1966 and Succeeding Crops of Extra Long Staple Cotton

MISCELLANEOUS AMENDMENTS

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of this amendment are to:

1. Delete the provisions which restrict the release or transfer by natural disaster of the extra long staple cotton allotment for farms owned by the Federal Government.

2. Provide that the State ASC Committee shall set and publicize the dates for transfer, release, and reapportionment.

3. Provide that a late-filed transfer, release, and request for reapportionment acreage may be accepted if the State ASC Committee determines that the producer was prevented from filing for reasons beyond his control.

Since farmers and local State and county ASC committees need to know the provisions of the program for the 1977 crop as soon as possible, it is hereby found that compliance with the notice, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest. Accordingly, this amendment shall become effective on December 7, 1976.

The Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton, of Part 722, Subchapter B of Chapter VII, Title 7 (31 FR 6247, 13530, 32 FR 5416, 33 FR 8427, 16066, 16435, 34 FR 5808, 37 FR 9202, 11965, 24428, 38 FR 5880, 41 FR 36193) is amended as follows:

1. Section 722.513 is amended by deleting paragraph (a)(2), redesignating paragraph (a)(3) as (a)(2), and revising paragraph (b)(7) to read as follows:

§ 722.513 Release and reapportionment of ELS cotton allotments.

* * * * *

(b) * * *

(7) *Closing dates.* The State ASC committee shall establish and publicize the closing dates for the entire State or for areas consisting of one or more counties in the State taking into consideration the normal planting dates for the State. The State ASC Committee may authorize either a late-filed release or a request for reapportionment upon a finding that the producer was prevented from filing for reasons beyond his control.

* * * * *

2. Paragraph (d)(1) of § 722.518 is revised to read as follows:

§ 722.518 Transfer of farm ELS cotton acreage affected by a natural disaster.

* * * * *

(d) * * *

(1) All or part of the farm allotment for the farm from which the acreage is to be transferred could not be timely planted or replanted because of the natural disaster.

* * * * *

3. Paragraph (b) of § 722.528 is revised to read as follows:

§ 722.528 Records of transfer.

* * * * *

(b) *When records to be filed.* Records of transfers shall be filed during the period beginning on the date original notices of acreage allotments are mailed to farm operators and ending on the dates set by the State ASC committee in paragraph (b)(7) of § 722.513. The State ASC committee may authorize a late-filed record of transfer upon a finding that the producer was prevented from filing for reasons beyond his control.

* * * * *

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended (7 U.S.C. 1344, 1347, 1375).)

Effective date: December 7, 1976.

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

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

[FR Doc.76-35759 Filed 12-6-76;8:45 am]

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

[Lemon Reg. 68, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period November 28–December 4, 1976. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(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 an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 68 (41 FR 52432). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* Paragraph (b) (1) of § 910.368 (Lemon Regulation 68) (41 FR 52432) is hereby amended to read as follows: "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 230,000 cartons."

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

Dated: December 2, 1976.

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

[FR Doc.76-35855 Filed 12-6-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8963]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Lafayette United Corporation, et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleading; § 13.15 Business status, advantages or connection; § 13.15–30 Connections or arrangements with others; § 13.15–225 Personnel or staff; § 13.15–250 Qualifications and abilities; § 13.50 Dealer or seller assistance; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; § 13.85–5 Accreditation of correspondence courses, etc.; § 13.85–65 States; § 13.105 Individual's special selection or situation; § 13.115 Jobs and employment service; § 13.143 Opportunities; § 13.175 Quality of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Contracting for sale in any form binding on buyer prior to end of specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–55 Refunds, rebates and/or credits. Subpart—Enforcing dealings or payments wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records; § 13.1051–20 Adequate. Subpart—Failing to provide foreign language translations: § 13.1052 Failing to provide foreign language translations. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 Connections and arrangements with others; § 13.1500 Official connections; § 13.1520 Personnel or staff. Goods: § 13.1608 Dealer or seller assistance; § 13.1610 Demand for or business opportunities; § 13.1615 Earnings and profits; § 13.1663 Individual's special selection or situation; § 13.1670 Jobs and employment; § 13.1697 Opportunities in product or service; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1886 Quality, grade or type; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 Earnings and profits; § 13.1995 Job guarantee and employment; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts. Subpart—Threatening suits, not in good faith: § 13.2264 Delinquent debt collection.

In the Matter of Lafayette United Corporation, a Delaware Corporation; Lafayette Academy, Inc., a Delaware Corporation; Lafayette Motivation Media, Inc., a Delaware Corportion; and Stuart Bandman, Individually and as an Officer, Chairman of the Board of Directors and as a Principal Stockholder of Lafayette United Corporation

Consent order requiring a North Providence, R.I., correspondence school, among other things, to cease misrepresenting their authority to award high school equivalency diplomas; misrepresenting employment opportunities, industry demand, job placement services; misrepresenting the titles or qualifications of their sales personnel; the importance of English in training and employment; and the imminency of legal action in delinquent debt collection. Further, respondents are required to make written disclosures (in Spanish, if applicable) regarding drop-out and job placement rates, starting salaries, names of firms employing graduates, and customers' rights to cancellation and refunds. Additionally, respondents must provide a $200,000 restitution fund, institute a good-faith search for persons eligible for refunds, and to make proper refunds to those identified.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

I

It is ordered, That respondents Lafayette United Corporation, Lafayette Academy, Inc., and Lafayette Motivation Media, Inc., corporations and their successors and assigns and their officers, and Stuart Bandman, individually and as an Officer, Chairman of the Board of Directors of Lafayette United Corporation, and respondents' agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division, franchisee, licensee or other device, in connection with the creating, advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction for the positions of Nursing Assistant/Aide, Medical Receptionist/Office Assistant, and Insurance Claims Adjuster/Investigator or any other course for any position in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Representing, orally, in writing or in any other manner, directly or by implication, that:

(a) Respondents will award a High School Equivalency diploma to those who complete their course of home study instruction.

(b) No examination is required by the state or any other governmental or political subdivision or body prior to the awarding of a High School Equivalency diploma.

2. Failing to disclose in advertising materials, brochures, application forms, sales contracts, and similar documents that the completion of respondents' course of home study instruction is not recognized or accepted as sufficient education or training to qualify such persons to be awarded a High School Equivalency diploma without further education, testing, or other legal requirements as required by the state or states, if such is the case; further failing to disclose clearly and conspicuously therein such additional requirements as are imposed by the state prior to the awarding of such High School Equivalency diploma by the state or states.

3. Representing orally, in writing or in any other manner, directly or by implication, that:

[1] Copies of the Complaint, Decision and Order and Appendices filed with the original document.

(a) Persons who complete any of respondents' courses of home study instruction can, as a result of that training alone, meet all prerequisites for available job openings.

(b) Purchasers who complete courses of home study instruction offered by respondents are qualified on the basis of that training alone, for employment in those positions for which they were purportedly trained by respondents; or misrepresenting, orally or in writing, the significance or importance of any course of instruction in qualifying any person for employment in a particular field of endeavor.

(c) Graduates of any course of instruction offered by the respondents are assured of placement in the positions for which they have been trained; or misrepresenting, orally or in writing, the ease with which graduates of any course will attain employment, or the effectiveness of any course of training or instruction in preparing or qualifying any graduate for employment.

(d) There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for graduates of any course of instruction offered by respondents, or otherwise representing, orally or in writing, that opportunities for employment of any size, figure or number are available to such persons, except to the extent that the above claims conform with and are substantiated by the information set forth in Paragraph 10(b) of this order.

Provided, however, That where respondents offer a new course of home study instruction or respondents open a residential school or any new residential school location, or offer from any such residential school or residential school location a new course of study, respondents shall cease and desist making the representations aforementioned in this subparagraph 3(d) with respect to the new course or new school unless the respondents in each and every instance:

(1) Until the passage of a base period to be determined pursuant to Paragraph 10(b) of Part I of this order, after the establishment of a new school location by respondents in any metropolitan area or county, whichever is larger, where they did not previously operate a school, and after the introduction by respondents of any new course of instruction at any school or location, shall:

(A) Have in good faith conducted a statistically valid survey which establishes the validity of any such representation at all times when the representation is made, and

(B) Have disclosed in immediate and conspicuous conjunction with any such representation, that: "All representations of potential employment demand or opportunities for graduates of this school (course) are merely estimates. This school (course) has not been in operation long enough to indicate what, if any, actual employment may result upon graduation."

(2) After the passage of a base period to be determined pursuant to paragraph 10(b) of Part I of this order, and until two years after the establishment of a new school location by respondents in any metropolitan area or county, whichever is larger, where they did not previously operate a school, and after the introduction by respondents of any new course of instruction at any school or location, shall:

(A) Make any such representations in the form and manner provided in Paragraph 10(b) of Part I of this order, and

(B) Disclose in immediate and conspicuous conjunction with any such representation, that: "This school (course) has not been in operation long enough to indicate what, if any, actual employment may result upon graduation."

For purposes of subparagraph (3)(d) and Paragraph 10 of this order, "new course" shall be defined as any course of study which has substantially different course content and occupational objectives from any course previously offered by respondents.

4. Representing, orally, or in writing, directly or by implication that delinquent accounts of current enrollees or former enrollees in any course of instruction offered by respondents will be referred to an attorney for institution of legal action or other legal steps if payment is not received, unless respondents intend to do so; or using any subterfuge or deceptive scheme or device in connection with the collection of outstanding tuition amounts or other fees due from such enrollees or former enrollees in any of respondents' courses of instruction.

5. Representing, orally, in writing or in any other manner, directly, or by implication that any person engaged in connection with the promotion, offering for sale, sale, distribution or other use of any course of instruction offered by the respondents, is a trained admissions counselor or vocational counselor, unless such person is so trained; or misrepresenting, orally or in writing, the training, experience, title, qualifications or status of any person engaged in connection with the promotion, offering for sale, sale, distribution or other use of any course of instruction, or the import or meaning of any advice given by or any other statement made by any such person.

6. Representing, orally, or in writing, directly or by implication that any aptitude test rendered by respondents to prospective purchasers of any course of instruction determines whether or not a person is qualified for employment in any field for which respondents' training is designed to meet, unless the same is true; or misrepresenting, orally or in writing, the meaning, purpose, benefit, significance or use of any examination or test or its results.

7. Representing, orally, in writing or in any other manner, directly, or by implication, that proficiency in the English language is not important for completion of any course of instruction offered by respondents; or representing orally, in writing or any other manner, directly, or by implication, that proficiency in the English language is not important for the placement of graduates of any course of instruction offered by respondents in positions for which respondents' courses of instruction are intended to prepare them; and failing to disclose in all advertisements and sales presentations written or spoken either in English or a language other than English, in immediate and conspicuous conjunction therewith, that proficiency in the English language is important for the completion of any course of instruction offered by respondents and is important for the placement of people in positions for which courses of instruction are offered by respondents.

8. Failing to keep adequate records which may be inspected by Commission staff members upon reasonable notice:

(a) Which disclose the facts upon which any placement percentages or claims, or other representations of the type described in paragraphs 3 (a) and (d) and paragraph 10 of this order are based; and

(b) From which the validity of any placement percentages or claims or other representations of the type described in paragraphs 3 (a) and (d) and paragraph 10 of this order can be determined.

9. Using, orally, in writing or in any other manner, at any time, statistical data or numerical estimates derived from any source whatsoever, respecting present or future occupational demand or the growth of employment in the vocational fields for which any course of instruction offered by respondents is designed to provide training.

10. Failing to send by certified mail, return receipt requested, to each person that shall contract with respondents for the sale of any course of instruction, a notice which shall disclose the following information and none other:

(a) The title "Important Information" printed in bold face type across the top of the form;

(b) Paragraphs providing the following information in the format prescribed in Appendix A hereto and for a base period described in Appendix B hereto:

(1) Information regarding postgraduate employment of graduates as required by Appendix A including, as therein more fully set forth, the total number of graduates and the total number of graduates who responded to questionnaire, the total number of graduates who so responded to questionnaire and sought employment in the field described by the relevant course title, total number of such persons who obtained employment in the field so described and the percentage of graduates who are known to respondents to have obtained employment in the field so described.

(2) A list of firms or employers which are currently hiring graduates of respondents' courses in the positions for which such graduates have been trained, and the number of such graduates hired, as to the same graduates used to compute the placement percentage in (b)(1) above or, in the alternative, a statement in the form set forth in Appendix A hereto that any applicant desiring to ob-

tain a schedule containing the names and addresses of employers may obtain the same from respondents; *Provided, however*, That if respondents so agree in the notice to provide such schedule of employers then, and in such event, the following provisions will apply: (i) Respondents shall at all times maintain and have available such list of employers to be so provided to its applicants, and (ii) upon request of any applicant for such schedule of employers, such schedule of employers shall forthwith be furnished, by certified mail, by respondents to such applicant.

(3) The salary range of respondents' graduates as to the same graduates used to compute the placement percentage in (b)(1) above.

(4) The number and percentage of enrollees who have failed to complete their course of instruction, such number and percentage to be computed separately for each course of instruction offered by respondents, and if respondents should at any time operate one or more residential schools, then such percentage to be computed separately for each course of instruction offered by respondents at each such residential school, location or facility.

(c) An explanation of the cancellation procedure provided in this order, namely:

(i) That any contract or other agreement may be cancelled for any reason until midnight of the twelfth (12th) day after mailing to the customer, via the U.S. mails, of this notice; and

(ii) If in accordance with the provisions of subparagraph (b)(2) above, the notice shall provide the applicant with the right to request a schedule of employers and if within the aforesaid twelve (12) day period any such applicant shall so request such a schedule of employers then, and in such event, any contract or other agreement may be cancelled by such applicant for any reason until midnight of the third (3rd) business day after receipt by such customer of such schedule of employers.

(d) A detachable form which the person may use as a notice of cancellation, which indicates the proper address for accomplishing any such cancellation.

This notice shall be sent by respondents no sooner than the next day after the person shall have contracted for the sale of any course of instruction; respondents, during such period provided for in subparagraph (c) above, shall not initiate contact with such person other than that required by this paragraph and except that during such period respondents may send, by mail, the written forms which are required for processing a student loan under the Federal Insured Student Loan Program.

Provided, however, That subparagraph (b) above shall be inapplicable to any newly established residential school that respondents may establish in any metropolitan area or county, whichever is larger, where they did not previously operate a residential school, or to any home study course newly introduced by respondents, until such time as the new school or course has been in operation for the base period to be established pursuant to subparagraph (b) above. The following statement shall be included in such notice during such period: "All representations of potential employment or salaries are merely estimates. This school has not been in operation (course has not been offered) long enough to indicate what, if any, actual employment or salary may result upon graduation from this school (course)."

After such time as the new residential school or course has been in operation for the base period to be established pursuant to subparagraph (b) above, and until two years after the establishment of a new residential school location in any metropolitan area or county, whichever is larger, where they did not previously operate a school, or the introduction of any new course by respondents, the following statement shall be included in such notice: "This school has not been in operation (course has not been offered) long enough to indicate what, if any, actual employment or salary may result upon graduation from this school (course)."

Provided further, That the notice specified by paragraph 10 of this order shall be printed or otherwise set forth legibly in the Spanish language in each instance where respondents make sales presentations and/or conduct contract negotiations in Spanish with any person incident to the offering for sale and sale of any course of instruction to any such person.

Notwithstanding anything to the contrary set forth in subparagraph 10(b) hereof, the following provisions shall apply:

(a) The notice provided for in this paragraph 10 shall not be required to contain the information set forth in subparagraph (b) hereof until the later of (i) nine (9) months after this order shall have become final, or (ii) fifteen (15) months after the date on which the Agreement Containing Order to Cease and Desist shall have been signed by respondents and counsel for the Federal Trade Commission;

(b) The notice provided for in this Paragraph 10 shall not be required to contain the information provided for in subparagraphs (b)(1), (b)(2) and (b)(3) if respondents do not represent orally, in writing or in any other manner, directly or by implication, that there is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for graduates of any course of instruction offered by respondents or that opportunities for employment of any size, figure or number are available to such persons.

11. Contracting for any sale of any course of instruction in the form of a sales contract or other agreement which shall become binding prior to the end of the twelfth day after the date of mailing to the customer of the form of notice provided for in paragraph 10 of this order. Upon cancellation of any said sales contract or other agreement within the period provided for herein, the respondents are obligated to refund, promptly to any person exercising the cancellation right, all monies paid or remitted up until the notice of cancellation.

Provided, further, That respondents shall not contract for the sale of any course of instruction in the form of any type of binding sales contract or other agreement to any Spanish speaking person who cannot read and write English proficiently, unless the sales contract or other agreement is itself set forth in the Spanish language.

II

1. *It is further ordered*, That:

(a) Respondents herein deliver, by certified or registered mail, a copy of this decision and order to each of their present and future franchisees, licensees, employees, salesmen, agents, solicitors or independent contractors who promotes, offers for sale, sells or distributes any course of instruction offered by respondents, and to any other such person who does the same;

(b) Respondents herein provide each person so described in paragraph (a) above with a form returnable to the respondents clearly stating his intention to be bound by and to conform his business practices to the requirements of this order; retain said statement during the period said person is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request;

(c) If such party as described in paragraph (a) above will not agree to so file the notice set forth in paragraph (b) above with the respondents and be bound by the provisions of the order, the respondents shall not use or engage or continue the use or engagement of, such party to promote, offer for sale, sell or distribute any course of instruction included in this order;

(d) Respondents herein inform the persons described in paragraph (a) above that the respondents are obligated by this order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the deceptive acts or practices prohibited by this order;

(e) Respondents herein institute a program of continuing surveillance adequate to reveal whether the business practices of each said person described in paragraph (a) above conform to the requirements of this order;

(f) Respondents herein discontinue dealing with or terminate the use or engagement of any person described in paragraph (a) above, as revealed by the aforesaid program of surveillance, who continues on his own any act or practice prohibited by this order.

2. *It is further ordered*, That respondents herein present to each interested applicant or prospective student or to any other person, at the home or place of business of any such person, immediately prior to the commencement of any meeting or interview during which the purchase of or enrollment in any course of instruction offered by the respondents herein is discussed or solicited, either directly or indirectly, except a meeting

or interview which respondents or their representatives attend pursuant to an appointment or arrangement made in advance with such person, a 5" X 7" card containing only the following language:

YOU WILL BE TALKING TO A SALES REPRESENTATIVE

3. *It is further ordered*, That respondents Lafayette United Corporation, Lafayette Academy, Inc., Lafayette Motivation Media, Inc. and Stuart Bandman shall forthwith distribute a copy of this order to each of their operating divisions.

4. *It is further ordered*, That the respondents Lafayette United Corporation, Lafayette Academy, Inc., Lafayette Motivation Media, Inc. and Stuart Bandman shall notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of which may affect compliance obligations arising out of this order.

5. *It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

III

It is further ordered, That:

1. Respondents shall submit to the Commission, within five (5) days after the date this order is served on respondents (hereinafter "date of service"), a notarized affidavit, executed by the President of respondent Lafayette Academy, Inc., to the effect that respondents have made or have caused to be made a good faith search of documents that pertain to purchasers of respondents' Nursing Assistant/Aide, Medical Receptionist/Office Assistant, and Insurance Claims Adjuster/Investigator courses of intruction, and that respondents, to the best of their knowledge, have previously or simultaneously with said affidavit submitted to the Commission the names of all purchasers of such courses covered by this Agreement.

2. Respondents or their designee shall make an inquiry in writing on the one hundred and twentieth (120th) day after the date of service, in the language, manner and form shown in Appendices C and D, via certified mail with return receipt requested and with a self-addressed, postage prepaid envelope, to the most current home address known to respondents of each former purchaser of one of such courses who appears on a list of such purchaaers to be supplied to respondents by the Commission within sixty (60) days after the date of service.

With respect to each purchaser whose mailed inquiry is returned undelivered or whose aforesaid return receipt card is not returned, respondents or their designee shall have a duty to mail on the one hundred and forty-fifth (145th) day after the date of service the same inquiry via first class mail to such purchaser's most current business address that is known to respondents and, if none, then to such purchaser's most current home address known to respondents.

4. On the two hundred and seventieth (270th) day after the date of service, respondents shall pay a refund, by check or otherwise, in an amount derived in accordance with Part III of this order, to each "eligible class member" determined in accordance with Part III of this order.

5. "Eligible class member" means only those persons who:

(a) Signed their enrollment contracts during the period of time from February 1, 1969 to June 30, 1972 in respondents' aforementioned courses; and either

(b) (1) Completed the course for which he or she enrolled; and

(2) Sought employment in the field described by the relevant course title, or decided, for reasons related to the sufficiency or quality of the training, or job demand, not to seek employment in the field described by the relevant course title; and

(3) After completion of respondents' course did not obtain employment in the field described by the relevant course title; or

(c) Decided, for reasons related to the sufficiency or quality of the training, or job demand, not to complete the course.

6. Each refund shall be accompanied by a letter in the language, manner and form shown in Appendix E; and a notice in the language, matter and form shown in Appendix F shall sent via first class mail, with the sender's return address on the face of the envelope, to the last known home address of all persons whose returned questionnaire show them to be ineligible for a refund under Part III of this order.

7. Respondents shall make pro rata refund payments to each eligible class member based upon the proportion that total tuitions paid by or for all such members bear to the total amount available for refunds as provided in Part III of this order. In no event shall any member receive an amount greater than the tuition paid by or for such member.

8. Respondents shall ultimately provide a sum of no greater than Two Hundred Thousand Dollars ($200,000) solely to carry out its obligations to provide refunds. No charges against this amount shall be made for administrative costs (i.e., the cost necessarily incurred in carrying out the provisions of this Part III), which costs shall be absorbed by the corporate respondents.

9. Respondents shall file, within one hundred and eighty (180) days after the date of service, under Rule 3.61(d) of the Commission's Rules of Practice, a written request for advice as to whether respondents' determination of who is an eligible class member complies with the terms of this order provision; and respondents shall submit simultaneously with their request all Appendix D questionnaires they have received as of the date aid request for advice is filed. The Commission shall render its advice to respondents and return all Appendix D questionnaires to respondents within two hundred and forty (240) days after the date of service.

10. Respondents or their designee shall deliver, by first class mail, a refund check to each eligible class member or his legal representative.

11. Respondents shall, on the three hundredth (300th) day after the date of service, file with the Commission a report in writing setting forth the manner and form in which they have complied with Part III of this order. This report shall contain a listing of the names, addresses, and refund amounts of those eligible class members whose refund checks were returned by the United States Postal Service. The Federal Trade Commission shall have one year from the date of receipt of this report to locate such eligible class members. Upon notification by the Federal Trade Commission that eligible members whose checks were not delivered have been located, the respondents shall then mail, by certified mail, such refund check to said eligible class member at the address provided by the Federal Trade Commission.

12. Respondents shall maintain records and documents for two (2) years after the filing of the report referred to in Paragraph 11 of Part III of this order, which demonstrate that respondents have complied with Part III of this order.

13. If any duty required to be performed on a certain day under Part III of this order falls upon a non-business day, the respondents herein shall perform such duty on the next following business day.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission October 26, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-35915 Filed 12-6-76;8:45 am]

[Docket 9071]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Service Corporation International

Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates and/or credits. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 Connections and arrangements with others.

Subpart—Misrepresenting oneself and goods—Goods: § 13.1675 Law or legal requirements; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—misrepresenting oneself and goods—Prices: § 13.1780 Combination sales; § 13.1795 Coverage or extras. Subpart—Misrepresenting oneself and goods—Services: § 13.1835 Cost. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1863 Limitations of product; § 13.1882 Prices; § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase of deal: § 13.2063 Scientific or other relevant facts. Subpart—Selling below cost: § 13.2180 Selling below cost.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Service Corporation International, a corporation.

Consent order requiring a Houston, Texas, funeral home chain, among other things to cease misrepresenting the prices of services obtained from third parties; failing to disclose the availability and price of immediate cremation services; misrepresenting the qualities or properties of caskets; and misrepresenting the legal requirements and characteristics of caskets. Further, respondent is required to locate and make proper refunds to customers overcharged during a prescribed time period; and to maintain appropriate records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

Definitions.—The term "alternative container" means, with respect to each of respondent's funeral homes owned on May 26, 1976, any receptacle or enclosure, made of any material, which is of sufficient strength and retentiveness to hold and transport human remains, and which is made available to customers at a price that does not exceed 60% of the retail price charged for the lowest line casket regularly offered by that funeral home as of May 26, 1976; *provided,* That commencing July 1, 1977, and thereafter annually, the maximum prices for alternative containers that are initially established pursuant to this Order shall be adjusted to reflect changes in the Bureau of Labor Statistics' Consumer Price Index subsequent to April, 1976; *Provided further,* That with respect to each of respondent's funeral homes that is acquired after May 26, 1976, (1) Respondent shall establish a maximum price for alternative containers at a price not exceeding the mean maximum price for alternative containers chargeable in respondent's funeral homes as of the date of acquisition, and (2) A maximum price established pursuant to (1) shall be adjusted to reflect changes in the Consumer Price Index subsequent to the date of acquisition as provided above.

[1] Copies of the Complaint and Decision and Order filed with the original document.

The term "casket" means a rigid container which is designated for the encasement and burial of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric.

The term "customer" means the person making arrangements for the care and disposition of the body of a deceased person.

The term "discount" means, with regard to the sale of a particular item, a price adjustment, commission or allowance which is openly and regularly made available by third parties to respondent's funeral homes and to other similarly situated funeral homes and which would not regularly be made available to customers who sought to order that item directly from such third parties; *Provided,* That a price adjustment, commission or allowance made available on the basis of prompt payment shall be considered a "discount" even if such an adjustment, commission or allowance would regularly be made available to customers.

The term "effective date of this Order" means the date on which this Order becomes a final Order.

The term "funeral home" means an establishment primarily engaged in preparing the dead for final disposition and conducting funeral services.

The term "funeral services" means funerals in which the funeral home provides the customary services, necessary facilities and equipment, a casket and other selected merchandise.

The term "immediate cremation service" means the removal and disposition by cremation of the remains without embalming, viewing (except for purposes of identification) or visitation and without any pre-cremation service with the body present, which service is arranged by the funeral home.

The term "item" refers to both merchandise and services.

The term "mark-up" means the excess of the amount charged by respondent to a customer of one of respondent's funeral homes for crematory or cemetery services, pallbearers, public transportation, clergy honoraria, musicians or singers, nurses, gratuities, flowers, or obituary notices over the net amount actually advanced, paid, or owed by respondent to the third party, when such items were furnished by the third party, and when the charges for such items were listed or described as "cash advances," "accommodations," or words of similar import on the contract, final bill, or other written evidence of agreement or obligation submitted to the customer by the funeral home; *provided* That it shall not be considered a mark-up when one of respondent's funeral homes charges a customer an amount for an item which exceeds the total amount of the additional or marginal costs to respondent and its subsidiaries for such item when the amount charged to the customer is a fixed and consistent amount for the entire item not exceeding $20 and when the item consists of services rendered in whole or in part by employees of respondent or any of its subsidiaries while on duty and thereby earning other compensation from respondent or any of its subsidiaries that is not included in the additional or marginal cost described above; *provided further,* That any excess attributable to a discount shall not be considered a mark-up.

The term "prescribed time period" means the five year period immediately preceding the effective date of this Order or, with respect to any funeral home acquired by respondent or any subsidiary thereof during that five year period, the period beginning with the date of acquisition of such funeral home and ending on the effective date of this Order.

The term "public transportation" means nonlimousine (including as "limousines" hearses, flower cars and other funeral vehicles) transportation by common carriers for hire which is regulated by federal or state regulatory agencies.

The term "respondent's funeral homes" refers to funeral homes owned or hereafter acquired and owned by respondent or a subsidiary thereof and located in the United States.

I

It is ordered, That Service Corporation International, a corporation, and its officers, representatives, agents and employees, its successors and assigns, directly or through any corporation, subsidiary, or other device in connection with the sale or offering for sale of funeral services and funeral merchandise by and through its funeral homes, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

A. When one of respondent's funeral homes arranges with a third party (including one of respondent's subsidiaries) on behalf of a customer for items to be furnished by such third party and not by the funeral home itself:

1. Charging of the customer by the funeral home for items listed or described as "cash advances," "accommodation" or words of similar import on the contract, final bill or other written evidence of agreement or obligation submitted to the customer by the funeral home, more than the amount actually advanced, paid or owed by the funeral home to such third party on behalf of the customer for such items;

2. Misrepresenting to the customer in any other respect the actual amount advanced, paid, or owed by the funeral home to such third party on behalf of the customer for items represented by the funeral home as having been furnished to the customer by such third party;

3. Listing or describing items to be furnished by the funeral home itself (or any of its employees while on duty) as "cash advances," "accommodations" or words of similar import on the contract, final bill or other written evidence of agreement or obligation submitted to the customer by the funeral home;

4. Charging of the customer by the funeral home for the following items, when furnished by such third party and not by the funeral home itself, more than the amount advanced, paid or owed by the funeral home to such third party for such items:

a. Cemetery or crematory charges,
b. Pallbearers,
c. Public Transportation,
d. Clergy Honoraria,
e. Musicians or singers,
f. Nurses,
g. Gratuities,
h. Flowers,
i. Obituary notices.

Provided, That paragraphs A(1)–(4) shall not require any of respondent's funeral homes to pass on to a customer any discount received by the funeral home if the fact that the funeral home does or may receive such discounts is disclosed to the customer in writing before the customer becomes legally obligated to pay for the funeral arrangements.

B. (1) Requiring customers of respondent's funeral homes who express interest in an immediate cremation service to purchase a casket for such a service, and failing to make available to such customers an alternative container; and (2) Failing to affirmatively disclose, at the time the arrangements are made and before agreement, the availability and price of an immediate cremation service and of an alternative container to customers who (i) express interest in an immediate cremation service, (ii) inquire as to the least expensive means of disposition available at the funeral home, or (iii) inquire as to the full range of options respecting disposition of the deceased unless such customer affirmatively expresses an interest in any merchandise or service inconsistent with an immediate cremation service or with the use of an alternative container either at the time of making the inquiry or after the alternative of cremation is presented. *Provided*, That where one of respondent's funeral homes complies with the foregoing requirements, any of respondent's funeral homes located within 2 miles of such complying funeral home need not comply with the foregoing requirements if it (i) informs each customer who expresses an interest in an immediate cremation service of the availability and price of such a service at the complying funeral home, and (ii) if it has already received the body of the deceased, offers to arrange for the transfer of the remains to the complying funeral home at no extra charge to the customer for the transfer.

C. Suggesting to customers, directly or by implication, that purchase of a casket for cremation is required by state law or by crematory rule, if such is not the case.

D. Misrepresenting, by statements or suggestions, directly or by implication, the extent to which any casket, including a sealer casket, will be airtight or watertight or will prevent natural processes of decomposition or provide long-term preservation of human remains; *provided*, That this paragraph shall not prevent respondent's funeral homes from accurately describing, displaying or otherwise making available to customers the written warranty or claims of the manufacturer or supplier of such casket, to the extent that such may be required for compliance with Federal Trade Commission regulations or other applicable laws.

E. Furnishing embalming, or other services or merchandise in connection with readying deceased bodies for burial without obtaining prior written or oral authorization therefore; *provided*, that furnishing embalming or other services or merchandise to avoid irreparable deterioration of the remains or offensive odor (after having made a good faith effort to obtain permission) or to satisfy the requirements of applicable laws and regulations shall not be regarded as a violation of this Order.

II

It is further ordered, A. That respondent shall obtain from its funeral home managers or such other persons as would reasonably be expected to be most knowledgeable of the billing practices of respondent's funeral homes a separate statement for each such funeral home which shall indicate whether during the prescribed time period the funeral home had any policy or practice of charging a mark-up, and if so, the time period during which any such policy was in effect or any such practice was utilized and the type(s) of items which were the subject of such policies or practices. For purposes of Part II of this Order, a mark-up that is determined (based upon a consideration of other comparable transactions) to be attributable to an estimation error (including discrepancies attributable solely to a consistent practice of rounding off) shall not be considered to be the result of a policy or practice of charging a mark-up.

B. That respondent shall cause a firm of independent certified public accountants to perform a statistical evaluation of the accuracy of the information compiled pursuant to paragraph II(A), which evaluation shall be based on sufficient sampling(s) of respondent's documentation (including but not limited to customer contracts and funeral bills, invoices of cash advance vendors, regular and special checks paid to such vendors, "add-on and delete" forms, computer summaries of income from or expenses for individual cash advance items, if available, and computer summaries of amounts paid to specific vendors of cash advance items, if available) for funerals contracted for during the prescribed time period to permit said accountants to conclude, with a 98 percent confidence factor, that the information compiled pursuant to paragraph II(A) and the information obtained as a result of the sampling(s) made by said accountants in performing the statistical evaluation have identified not less, than 98 percent of all funerals contracted for during the prescribed time period which involved the purchase of an item which was in fact the subject of a policy or practice of charging a mark-up.

C. That respondent shall thereafter examine its files and thereby identify each customer of its funeral homes who contracted for a funeral during the prescribed time period and purchased an item which was the subject of a policy or practice of charging a mark-up; *provided*, That respondent shall not be required to examine its files for any funeral home for which the information compiled pursuant to paragraphs II(A) and II(B) does not disclose a policy or practice of charging any mark-ups; *provided further*, That with respect to each of respondent's funeral homes for which the information compiled pursuant to paragraphs II(A) and II(B) discloses a policy or practice of charging a mark-up, respondent shall be required to examine only the documentation relating to the type(s) of items disclosed in said information as having been the subject of such a policy or practice, and, for each such type(s) of item, shall be required to examine such documentation only for the time period during which said information discloses that such type of item was the subject of such a policy or practice.

D. That respondent shall cause a letter to be sent within four (4) months of the effective date of this Order, by first class mail, to each customer identified pursuant to paragraph II(C), which customer as of that date has paid or caused to be paid a bill or bills in which total mark-ups in excess of $10.00 were included; said letter shall advise the customer of his right to a refund as set forth below, the approximate date when such a refund will be made, and the need to inform respondent of any future change of residence or address where such refund can be delivered; *provided*, That with respect to customers entitled to a refund under this Part of this Order whose letters are returned to respondent undelivered, respondent's obligation to make refunds to such customers shall terminate six (6) months after the effective date of this Order.

E. That respondent cause a revised bill to be sent within four (4) months of the effective date of this Order, by first class mail, to each customer identified in paragraph II(C), which customer as of that date has not yet paid or caused to be paid the bill or bills in which a mark-up was included, deducting the amount of the mark-up from the amount owed respondent by the customer.

F. That six (6) months after the effective date of this Order, respondent prepare a list of all the customers to whom letters were sent pursuant to paragraph II(D) who have paid or caused to be paid a bill or bills in which total mark-ups in excess of $10.00 were included and whose letters have not at that time been returned to respondent undelivered. The amount of refund due each such customer shall be the total of:

(1) The amount of the mark-ups paid or caused to be paid by the customer; plus

(2) A fractional share of the total amount of mark-ups paid or caused to be paid by customers whose letters sent pursuant to paragraph II(D) were returned to respondent undelivered, and a fractional share of the total amount of mark-

ups of $10.00 or less paid or caused to be paid by the customers identified pursuant to paragraph II(C); the numerator of each such fractional share to equal the mark-ups paid or caused to be paid by the customer, and the denominator to equal the total amount of mark-ups paid by the customers whose letters were not returned to respondent undelivered.

G. That within ten (10) days following the completion of the list described in paragraph II(F), respondent shall cause to be mailed to each customer on that list a check in an amount computed in accordance with paragraph II(F). Such payments shall complete respondent's obligations with respect to restitution under this Order.

III

It is further ordered, That respondent transmit copies of this Order to all of respondent's funeral homes and notify, orally and in writing, all affected employees of the requirements of this Order.

IV

It is further ordered, That respondent shall, within 60 days after the service upon it of this Order, file with the Commission a report in writing setting forth in detail the manner in which respondent is complying and intends to comply with this Order.

V

It is further ordered, That for a period of not less than three (3) years after the effective date of this Order, respondent maintain records which are adequate to disclose respondent's compliance with this Order, such records to be furnished by respondent to the Federal Trade Commission upon request after reasonable notice.

VI

It is further ordered, That respondent notify the Federal Trade Commission at least thirty days prior to any proposed change in Service Corporation International such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in corporate organization which may affect compliance obligations arising out of this Order.

VII

It is further ordered, That respondent notify the Federal Trade Commission by the 10th day of each month as to the acquisition or sale of any funeral homes, occurring in the immediately preceding month.

VIII

It is further ordered, That in the event the Federal Trade Commission promulgates a Trade Regulation Rule regarding funeral industry practices:

A. Each provision of Paragraphs A(4), B and E of Part I of this Order that deals with a practice with respect to which there is no requirement or prohibition in the Rule shall be automatically deleted from this Order on the date the Rule is promulgated, and after the Rule is promulgated, each court order or Commission amendment that deletes from the Rule a requirement or prohibition with respect to a practice dealt with in Paragraphs A(4), B and E of Part I of this Order shall, on the date such order or amendment becomes effective, cause to be automatically deleted from this Order the provision dealing with the practice with respect to which there is no requirement or prohibition in the Rule;

B. Each provision of Part I of this Order that deals with a practice for which there are differing requirements or prohibitions in the Rule shall be automatically superseded and replaced by such differing requirements or prohibitions on the date the Rule becomes effective, and after the Rule becomes effective, each amendment to a requirement or prohibition of the Rule dealing with a practice dealt with in Part I of this Order shall, on the date the amendment becomes effective, cause an identical amendment to be made to Part I of this Order;

Provided, That if the Trade Regulation Rule proceeding regarding funeral industry practices that was commenced on August 28, 1975 is concluded by the Federal Trade Commission without the adoption of the Rule in any form, or if said proceeding is not concluded but the Rule is not promulgated in any form within five (5) years after the effective date of this Order, or if the Rule is promulgated in some form but for any reason does not become effective within seven (7) years after the effective date of this Order, the provisions of Paragraphs A(4), B and E of Part I shall, on the date the Rule proceeding is concluded or at the close of the applicable time period, be automatically deleted from this Order; *Provided further,* That no exception or limitation to respondent's obligation to comply with any Trade Regulation Rule hereafter made effective shall be implied from this Order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission October 12, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-35916 Filed 12-6-76;8:45 am]

[Docket C-2847]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Shinyei Company, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 Composition; § 13.1185–90 Wool Products Labeling Act; § 13.1200 Content; § 13.1212 Formal regulatory and statutory requirements; § 13.1212–90 Wool Products Labeling Act; § 13.1320 Scientific or other relevant facts. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 Composition; § 13.1590–90 Wool Products Labeling Act; § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623–90 Wool Products Labeling Act; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition; § 13.1845–80 Wool Products Labeling Act; § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; § 13.1852–80 Wool Products Labeling Act; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68.)

In the Matter of Shinyei Company, Inc., a Corporation, and Exx-Calibre Gentlemen's Apparel, Inc., a Corporation, and Yoshijiro Ochiai, individually and as an Officer of Said Corporations, and Peter Held, Individually and as an Officer of Exx-Calibre Gentlemen's Apparel, Inc.

Consent order requiring a New York City importer and distributer of fabrics and wearing apparel, among other things to cease violating the Wool Products Labeling Act by mislabeling products as to their wool and fiber content, and failing to firmly affix identification tags. Further, respondents are required to mail a copy of this order to affected customers, notifying them that the products they purchased had been mislabeled.

The order to cease and desist, including further order requiring report of compliance therewith, is as follow:[1]

ORDER

It is ordered, That respondents Shinyei Company, Inc., a corporation, Exx-Calibre Gentlemen's Apparel, Inc., a corporation, their successors and assigns, and their officers, and Yoshijiro Ochiai, individually and as an officer of said corporations, and Peter Held, individually and as an officer of respondent Exx-Calibre Gentlemen's Apparel, Inc., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction, or importing for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products.

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondent Exx-Calibre Gentlemen's Apparel, Inc., mail a copy of this order, by registered mail, to each of its customers that purchased the wool products which gave rise to this complaint.

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[1] Copies of the Complaint and Decision and Order filed with the original document.

It is further ordered, That the individual respondents named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of their present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondents' current business address and a description of the business or employment in which they are engaged as well as a description of their duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission October 21, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-35917 Filed 12-6-76;8:45 am]

[Docket 8850-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Warner-Lambert Co.

Subpart—Acquiring corporate stock or assets: § 13.5 Acquiring corporate stock or assets.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18.)

In the Matter of Warner-Lambert Company, a Corporation

Opinion and Order requiring a Morris Plains, N.J., major industrial corporation and a leading manufacturer and seller of drugs, to partially divest itself of particular assets whose retention would substantially lessen competition in drug manufacturing submarkets relating to thyroid preparations, cough medications, serum albumin and tetanus immune globulin; and to furnish the necessary assistance to enable respective purchasers to become effective competitors in these submarkets. Additionally, the order bans further acquisitions by respondent in the particular product areas for ten years without prior F.T.C. approval.

The Final Order, including further order requiring report of compliance therewith, is as follows:[1]

FINAL ORDER

This matter having been heard by the Commission upon the appeal of complaint counsel from the initial decision; the Commission having vacated the initial decision and granted, in part, the appeal to the extent set forth in the Opinion of the Commission and its Findings of Fact and Conclusions of Law; each party, pursuant to the Commission's Order of April 27, 1976, having submitted a proposed form of order and supporting and reply memoranda; and the Commission having determined that an order requiring partial divestiture of certain assets of respondent Warner-Lambert Company (hereinafter "Warner-Lambert") and Parke, Davis & Co. (hereinafter "Parke, Davis") is appropriate for the reasons stated in the accompanying opinion,

1. *It is ordered,* That respondent, Warner-Lambert, a corporation, and its successors and assigns, within twelve (12) months from the effective date of this Order, shall enter into an agreement with a Purchaser approved by the Commission whereby the said Purchaser shall acquire such assets, tangible and intangible, as will enable it to become an effective marketer of the Thyroid Preparations presently being manufactured and sold by Parke, Davis; namely "Thyroid Strong" and "U.S.P. Thyroid." In furtherance of the requirements of this provision,

A. Warner-Lambert shall sell to the Purchaser all inventories of Thyroid Strong and U.S.P. Thyroid on hand at the date the transaction with the Purchaser is closed.

B. Warner-Lambert shall grant to the Purchaser, in perpetuity, all of its rights to the trade name "Thyroid Strong."

C. Warner-Lambert shall agree to assist the Purchaser in becoming an effective and competitive manufacturer of Thyroid Strong and U.S.P. Thyroid comparable in quality to the products presently being manufactured by Parke, Davis, and in furtherance of this requirement shall

(1) Provide the Purchaser with Parke, Davis' formulations, specifications, and manufacturing procedures, including Parke, Davis' quality control standards and methods relating to Thyroid Strong and U.S.P. Thyroid;

(2) Provide the Purchaser with all of Parke, Davis' scientific and research data relating to Thyroid Strong and U.S.P. Thyroid;

(3) Provide the Purchaser, at reasonable cost, with the assistance of such technical and production personnel as may reasonably be necessary in establishing or expanding the Purchaser's facility for the production of Thyroid Strong and U.S.P. Thyroid; and

(4) Use its best efforts to assist the Purchaser in obtaining raw materials required to manufacture Thyroid Strong and U.S.P. Thyroid of acceptable quality.

D. Warner-Lambert shall assist the Purchaser in becoming an effective marketer of Thyroid Strong and U.S.P. Thyroid by providing it with all relevant Parke, Davis customer lists, sales and promotional materials, market research materials, and sales training material and devices relating thereto.

E. As an interim measure, and for not more than three (3) years, pending the establishment or expansion of the Purchaser's manufacturing capability, Warner-Lambert shall agree to supply the Purchaser with adequate quantities of Parke, Davis-manufactured Thyroid Strong and U.S.P. Thyroid. At the Purchaser's option, Warner-Lambert will sell Thyroid Preparation tablets to the Purchaser in bulk or finished package form. Warner-Lambert shall be required to sell the Purchaser such products up to the maximum quantity that Warner-Lambert is capable of manufacturing on the Parke, Davis equipment now used for such products without further capital investment in new machinery and without incurring extraordinary operating expenses above those arising in the normal course of business. Warner-Lambert shall grant the Purchaser the right to state on the label of all Thyroid Preparation packages containing products manufactured by Parke, Davis that such products were "Manufactured by Parke, Davis for Distribution by [Purchaser]."

F. Warner-Lambert shall, at the option of the Purchaser, agree with the Purchaser not to engage in the distribution and sale of Thyroid Strong and U.S.P. Thyroid within the United States for a period of up to three (3) years.

2. *It is ordered,* That Warner-Lambert and its successors and assigns, within twelve (12) months from the effective date of this Order, shall enter into agreements with Purchasers approved by the Commission whereby the said Purchasers shall acquire such assets, tangible and intangible, as will enable them to become effective marketers of one or more of the following Warner-Lambert and Parke, Davis Cough Remedies, and as will result in all of the following products being marketed by parties other than Warner-Lambert and Parke, Davis: Smith Bros. Cough Drops; Throat Discs; Ambenyl Expectorant; Cosanyl; Cosanyl DM; and Nilcol.

In furtherance of the requirements of this provision,

A. Warner-Lambert shall sell to the Purchasers all inventories of these products on hand at the dates the transactions with the Purchasers are closed.

B. Warner-Lambert shall grant to the Purchasers, in perpetuity, all of its rights to all trademarks, trademark reg-

[1] Copies of the Complaint, Initial Decision, Order, Opinion of the Commission, Findings of Facts and Conclusions of Law, Final Order and Opinion Accompanying Final Order filed with the original document.

istrations and trade names pertaining to the above-specified Cough Remedies and shall transfer to the Purchasers all approved New Drug Applications relating thereto.

C. Warner-Lambert shall agree to assist the Purchasers in becoming effective and competitive manufacturers of each of the above-specified Cough Remedies comparable in quality to the products presently being manufactured by Warner-Lambert and Parke, Davis, and in furtherance of this requirement shall

(1) Provide the Purchasers with all of the Warner-Lambert and Parke, Davis formulations, specifications and manufacturing procedures, including quality control standards and methods relating to the above-specified Cough Remedies;

(2) Provide the Purchasers with all of Warner-Lambert's and Parke, Davis' scientific and research data relating to the above-specified Cough Remedies;

(3) Provide the Purchasers, at reasonable cost, with the assistance of such technical and production personnel as may reasonably be necessary in establishing or expanding the Purchasers' facilities for the production of the above-specified Cough Remedies; and

(4) Use its best efforts to assist the Purchasers in obtaining raw materials required to manufacture the above-specified Cough Remedies of acceptable quality.

D. Warner-Lambert shall assist the Purchasers in becoming effective marketers of the above-specified Cough Remedies by providing them with all relevant Parke, Davis and Warner-Lambert customer lists, sales and promotional materials, market research materials and sales training material and devices relating thereto.

E. As an interim measure, and for not more than three (3) years, pending the establishment of the manufacturing capabilities of the Purchasers, Warner-Lambert shall agree to supply the Purchasers with adequate quantities of the above-specified Cough Remedies. At the Purchasers' option, Warner-Lambert will sell such products to the Purchasers in bulk or in finished dosage form. Warner-Lambert shall be required to sell the Purchasers such products up to the maximum quantity that Warner-Lambert or Parke, Davis is capable of manufacturing on the existing equipment now used for such products without further capital investment in new machinery and without incurring extraordinary operating expenses above those arising in the normal course of business.

3. *It is ordered*, That Warner-Lambert and its successors and assigns, within twelve (12) months from the effective date of this Order, shall enter into an agreement with a Purchaser approved by the Commission whereby the said Purchaser shall be enabled to become an effective marketer of Normal Serum Albumin (hereinafter "NSA") and Tetanus Immune Globulin (hereinafter "TIG") in competition with Parke, Davis and other companies presently engaged in the marketing of said blood fractions. In furtherance of the requirements of this provision,

A. Warner-Lambert shall, at reasonable compensation from the Purchaser, manufacture on a toll conversion basis, NSA and TIG from plasma supplied by the Purchaser, for a period of up to five (5) years; *Provided, however*, That Warner-Lambert shall not be required to fractionate for the Purchaser in excess of the Purchaser's domestic requirements of NSA and TIG, or in excess of forty percent (40 percent) of the present capacity of the Parke, Davis fractionation facility as operated without further capital investment in new machinery and without incurring extraordinary operating expenses above those arising in the normal course of business. Warner-Lambert shall use its best efforts to assist the Purchaser in procuring adequate supplies of plasma for toll conversion pursuant to this provision.

B. Subject to regulations of the Food and Drug Administration's Bureau of Biologicals, NSA and TIG provided by Warner-Lambert to the Purchaser shall be labeled "Manufactured by Parke, Davis for Distribution by [Purchaser]."

C. At the Purchaser's option, Warner-Lambert shall, at reasonable cost, provide the Purchaser with the assistance of marketing personnel for the development of promotional, advertising and sales training material for NSA and TIG.

D. At the Purchaser's option, to be exercised within five (5) years, Warner-Lambert shall, at reasonable compensation from the Purchaser, assist the Purchaser in establishing or expanding an existing facility for fractionation of NSA and TIG from plasma. In furtherance of this requirement, Warner-Lambert shall do the following:

(1) Warner-Lambert shall make available to the Purchaser Parke, Davis' know-how relating to the manufacture of NSA and TIG, including technical advice and assistance on plant location and design, procurement of plasma, quality control standards and methods, and such other information and advice as deemed appropriate by the parties.

(2) Warner-Lambert shall make available to the Purchaser all Parke, Davis scientific data and information pertaining to NSA and TIG, including all internal research of Parke, Davis and all material relating to its establishment license and product licenses for NSA and TIG.

(3) If Purchaser does not hold an establishment license from the Bureau of Biologicals of the Food and Drug Administration, Warner-Lambert shall use its best efforts to assist Purchaser in acquiring such a license, including technical assistance in the construction of a fractionation facility. Warner-Lambert shall also use its best efforts to assist Purchaser in acquiring from the Bureau of Biologicals product licenses for NSA and TIG, if Purchaser does not already hold such product licenses.

4. *It is further ordered*, That for a period of ten (10) years from the effective date of this Order, Warner-Lambert, and its successors and assigns, shall not merge with or acquire, directly or indirectly, through subsidiaries or in any manner, any company or product line accounting for domestic sales in any of the three product areas referred to in paragraphs 1, 2, or 3 of this Order, without prior notice to, and approval by, the Commission.

5. *It is further ordered*, That Warner-Lambert, and its successors and assigns, shall, within thirty (30) days after the effective date of this Order, and every ninety (90) days thereafter until it has fully complied with the provisions of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with this Order. All compliance reports shall include, among other things that are from time to time required, (a) the steps taken to enter the required agreements; and (b) copies of all documents, reports, memoranda, communications and correspondence concerning or relating thereto.

6. *It is further ordered*, That until all of the transactions required by this Order are accomplished, Warner-Lambert, and its successors and assigns, shall not take any action which diminishes the value of the products and other assets, tangible and intangible, that are subject to this Order or which in any way impairs Warner-Lambert's ability to comply with the requirements of this Order.

7. *It is further ordered*, That Warner-Lambert notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

Commissioner Dole did not participate by reason of absence.

The Final Order was issued by the Commission October 5, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-35918 Filed 12-6-76;8:45 am]

SUBCHAPTER G—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

PART 702—PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Request of National Retail Hardware Association for Advisory Opinion

By letter dated September 13, 1976 counsel for the National Retail Hardware Association (NRHA) requested an advisory opinion on whether a microfiche reader system would satisfy the Commission's Rule on Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702, implementing section 102(b)(1)(A) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2302(b)(1)(A). Specifically, NRHA requested an advisory

opinion on whether the proposed microfiche system would satisfy 16 CFR 702.3 (a) (1) (ii). That provision permits a retailer to satisfy the Rule by maintaining a binder "or [other] similar system * * *" giving "convenient access to * * * warranties." 16 CFR 702.1(g).

The microfiche system proposed by NRHA would reproduce warranties on microfiche cards. A microfiche reading machine, or viewer, displays on its viewing screen the warranty from the greatly reduced photographs on the card. To operate the viewer, the consumer must place the appropriate part of the card over the viewer lens.

The Commission has determined that the system proposed by NRHA would satisfy its Rule on Pre-Sale Availability so long as the conditions set forth in the letter below are met. These conditions will ensure that consumers have the "convenient access" to warranty information required by the Rule. This opinion reflects the Commission's continued recognition of the need for flexibility in the administration of the Act and Rules so long as the goals of the Act and the Rules are satisfied.

The full text of the Commission's opinion is as follows:

This is in response to your request for an advisory opinion concerning compliance with the Commission's Rule on Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702. Specifically you ask whether a microfiche reader system would satisfy Part 702.3(a) (1) (ii), which requires a retailer to maintain a binder "or [other] similar system * * *" giving consumers "convenient access to * * * warranties", 16 CFR 702.1(g).

Under the system you propose, warranties on consumer products would be reproduced on microfiche cards. A microfiche "reading" machine, or viewer, would display on its viewing screen the warranty from the greatly reduced photographs on the card. To examine a particular warranty a consumer need only place the appropriate part of the card over the viewer lens.

The Commission has carefully considered the matters set forth in your letter. It is the Commission's conclusion that the pre-sale availability system you propose would satisfy the Commission's Rule if:

(1) The warranties appear on separate microfiche cards which contain all warranties for a given product class, and only that product class (e.g., vacuum cleaners), and which do not contain any other product information; in addition, these cards must be properly indexed for consumer use;

(2) Simple, complete instructions for use of the system are posted on each microfiche viewer; and

(3) Personnel in each selling establishment familiar with the operation of the system are available to assist consumers should the need arise.

These conditions must be met to ensure that consumers have "convenient access" to warranties, unhindered by non-warranty information or lack of familiarity with the operation of microfiche systems.

By direction of the Commission dated November 10, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-35850 Filed 12-6-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13028]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority

Section 17(b) of the Securities Exchange Act of 1934 (the "Act") [1] requires that the Commission, prior to conducting any examination of a registered clearing agency, registered transfer agent or registered municipal securities dealer, give notice to the appropriate regulatory agency and consult with it concerning the feasibility and desirability of coordinating such examination with examinations conducted by such appropriate regulatory agency with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such clearing agency, transfer agent, or municipal securities dealer.

Therefore, the Commission has delegated authority to perform that function to the Director of the Division of Market Regulation. The Commission finds, in accordance with the Administrative Procedure Act, that such action relates solely to agency organization, procedure or practice and that notice and public procedure are not necessary with respect thereto.

Pursuant to the Securities Exchange Act of 1934 and particularly sections 4 and 17 thereunder, § 200.30-3 is amended by adding a new paragraph (a)(24) thereto as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(24) Pursuant to section 17(b) of the Act (15 U.S.C. 78q(b)), prior to any examination of a registered clearing agency, registered transfer agent, or registered municipal securities dealer whose appropriate regulatory agency is not the Commission, to notify and consult with the appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 1, 1976.

[FR Doc.76-35974 Filed 12-6-76;8:45 am]

[Release Nos. 33-5777; 34-13035]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Amendments to Instructions to Registration Forms and Annual and Periodic Reports

The Securities and Exchange Commission announced today that it has withdrawn its proposal to amend Forms 10-K (17 CFR 249.310) and 10-Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 (the "1934 Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)), (See Proposed Rules Section of this issue), page 53488, which was published for comment in Securities Act Release No. 5715 (June 2, 1976), 41 FR 23983, and has adopted a modified version of the proposal in the form of amendments to the instructions to Forms S-7 (17 CFR 239.26) and S-16 (17 CFR 239.27) under the Securities Act of 1933 (the "1933 Act") (15 U.S.C. 77a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) and Forms 10-K and 10-Q under the Securities Exchange Act of 1934.

The amendments to Forms 10-K and 10-Q [1] published for comment in Securities Act Release No. 5715 (June 2, 1976), 41 FR 23983, would have provided a space on the facing sheet of each form which a registrant, at its option, could use to indicate its intention to file a registration statement on either Form S-7, Form S-9 (17 CFR 239.22) or Form S-16, on or before the date of its next filing on either Form 10-K or Form 10-Q. Compliance with the proposed notice provision was expected to enable the staff to review promptly the annual, quarterly, and current reports filed by registrants under the 1934 Act, and, in most cases, thereby to expedite its reiew of registration statements on Forms S-7, S-9 or S-16, when filed.

In view of the adverse comments received on this proposal (See File No. S7-638), the Commission has determined to withdraw it and to adopt instead a modified version of the proposal in the form of amendments to the instructions to Forms 10-K and 10-Q under the 1934 Act and Forms S-7 and S-16 under the 1933 Act.[2]

AMENDMENTS TO FORMS S-7 AND S-16

The amendments to Forms S-7 and S-16, adopted today, add instructions to the forms requesting registrants to notify the Commission's staff of their intention to file a registration statement on either form,[3] by letter addressed to the Branch Chief in the Division of Corporation Finance who regularly reviews the registrant's filings, as far in advance of the expected time of filing as is practicable.

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[1] 15 U.S.C. 78q(b), as amended by Pub. L. No. 94-29 (June 4, 1975).

[1] Forms 10-K and 10-Q are used for annual and quarterly reports, respectively, filed under the 1934 Act.

[2] Form S-7 and Form S-16 are registration forms under the 1933 Act which may be used for the registration of securities of issuers which have filed periodic reports under the 1934 Act for three or more years and which meet certain other conditions. See Securities Act Release No. 5728 (July 26, 1976) 41 FR 32539, for a proposal to modify the conditions as to the use of Forms S-7 and S-16.

[3] In Securities Act Release No. 5728 (July 26, 1976) 41 FR 32539, the Commission published for comment a proposal to rescind Form S-9 (17 CFR 239.22) under the Securities Act of 1933. Pending final action on that proposal, the Commission is not requesting advance notice of intent to file registration statements on Form S-9.

This instruction is intended to remind registrants of the staff's desire for such advance notice at the time the registration process is initiated. Providing such advance notice would be optional with the registrant and compliance with the instruction requesting pre-filing notice would not be a condition to use of Form S–7 or S–16. However, receipt of such advance notice would enable the staff promptly to review registrant's 1934 Act reports, to the extent staff time is available, and thereby, in many cases, to expedite processing of the registration statement when filed.

AMENDMENTS TO FORMS 10–K AND 10–Q

The amendments to the instructions to Forms 10–K and 10–Q adopted today add an instruction requesting that registrants, who, at the time of filing an annual or quarterly report on Form 10–K or Form 10–Q, intend to file a registration statement on either Form S–7 or S–16 in the near future, provide the staff with notice of such intention in the transmittal letter accompanying the report on Form 10–K or 10–Q (with a copy under separate cover to the Branch Chief in the Division of Corporation Finance who regularly reviews the registrant's filings). This new instruction is intended to serve as a periodic reminder of the staff's desire for advance notice of filings on Form S–7 or S–16 and would operate in the same manner as the new instructions to Forms S–7 and S–16 described above. Compliance with the new instructions will be optional on the part of registrants and will not be a condition to use of Form S–7 or S–16.

OTHER MATTERS

The Commission also wishes to take this opportunity to request registrants to provide advance notice to the staff of any special considerations regarding the registration statement (e.g., whether confidential treatment will be requested as to any material required to be filed, whether there are any new or unusual matters of material importance regarding the registrant, etc.).

Such information also will assist the staff in the processing of registration statements and compliance with the instruction requesting this information is optional on the part of registrants.

DISCLOSURE OF PRE-FILING NOTICES

The Commission has been advised by its Office of the General Counsel that, in its opinion, the information contained in such pre-filing notice letters would be exempt from disclosure under the Freedom of Information Act for a reasonable period of time after the contemplated filing date, or until the registration statement is filed, whichever occurs earlier, assuming that the information is submitted in confidence or is to be confidential at the instance of the registrant and such indication is made in the pre-filing notice letter.

STATUTORY AUTHORITY FOR AMENDMENTS

The amendments to the Instructions to Forms S–7 and S–16 are adopted pursuant to the Securities Act of 1933, particularly sections 6, 7, 10 and 19(a) (15 U.S.C. 77f, 77g, 77j, 77s) thereof. The amendments to the Instructions to Forms 10–K and 10–Q are adopted pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d) and 23(a) (15 U.S.C. 78m, 78o(d), 78(w)) thereof.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the effect that the amendments would have on competition and has concluded that such amendments would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of that Act.

Inasmuch as the amendments consist solely of requests for communications with the staff, compliance with which is optional on the part of registrants, and the substance of which has already been the subject of public comment, the Commission finds that, for good cause, further notice and opportunity for public comment on the amendments under the Administrative Procedure Act of 1946 (5 U.S.C. 553) are unnecessary. Accordingly, the amendments are adopted effective December 8, 1976.

The text of the amendments is set forth below.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 2, 1976.

TEXT OF AMENDMENTS

I. Form S–7 (17 CFR 239.26) is amended to add the following general instruction:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers to be offered for cash.

GENERAL INSTRUCTIONS

* * * * *

H. *Notice of intention to file the Registration Statement.* The registrant is requested to advise the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings, by letter, of its intention to file a registration statement on Form S–7 as soon as possible prior to the actual filing thereof, and to indicate a contemplated filing date for the registration statement. Such pre-filing notice is intended to assist the Commission's staff in its processing of registration statements and is optional on the part of the registrant. Providing such pre-filing notice to the staff is not a condition to the use of Form S–7.

* * * * *

II. Form S–16 (17 CFR 239.27) is amended to add the following general instruction:

§ 239.27 Form S–16, optional form for registration of certain offerings of outstanding securities and for offerings to holders of certain convertible securities or for offerings to holders of certain outstanding warrants.

GENERAL INSTRUCTIONS

* * * * *

D. *Notice of intention to file the Registration Statement.* The registrant is requested to advise the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings, by letter, of its intention to file a registration statement on Form S–16 as soon as possible prior to the actual filing thereof, and to indicate a contemplated filing date for the registration statement. Such pre-filing notice is intended to assist the Commission's staff in its processing of registration and is optional on the part of the registrant. Providing such pre-filing notice to the staff is not a condition to the use of Form S–16.

* * * * *

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 85; Secs. 205, 209, 48 Stat. 906, 908; Sec. 8 Stat. 685; Sec. 1, 79 Stat. 1051 (15 U.S.C. 77f, 77g, 77j, 77s(a)).)

III. Form 10–K (17 CFR 249.310) is amended to add the following general instruction:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

GENERAL INSTRUCTIONS

* * * * *

I. *Notice of intention to file a Registration Statement on Form S–7 or Form S–16.* If, at the time of filing its annual report on Form 10–K, the registrant intends to file, in the near future, a registration statement on either Form S–7 or Form S–16 under the Securities Act of 1933, the registrant is requested to advise the staff of such intention in the transmittal letter accompanying the report on Form 10–K (with a copy under separate cover to the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings), and to indicate a contemplated filing date for the registration statement. Such pre-filing notice is intended to assist the Commission's staff in its processing of registration statements and is optional on the part of the registrant. Providing such pre-filing notice to the staff is not a condition to the use of Form S–7 or Form S–16.

IV. Form 10–Q (17 CFR 249.308a) is amended to add the following general instruction:

§ 249.308a Form 10–Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

GENERAL INSTRUCTIONS

* * * * *

O. *Notice of intention to file a Registration Statement on Form S–7 or Form S–16.* If, at the time of filing its quarterly report on Form 10–Q, registrant intends to file, in the near future, a registration statement on either Form S–7 or Form S–16 under the Securities Act of 1933, registrant is requested to advise the staff of such intention in the transmittal letter accompanying the report on Form 10–Q (with a copy under separate cover to the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings), and to indicate a contemplated filing date for the registration statement. Such pre-filing notice is intended to assist the Commission's staff in its processing of registration statements and is optional on the part of the registrant. Providing such prefiling notice to the staff is not a condition to the use of Form S–7 and Form S–16.

* * * * *

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570–574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155 (15 U.S.C. 78m, 78o(d), 78w(a)).)

[FR Doc.76–35975 Filed 12–6–76;8:45 am]

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

General Regulations Under the Commodity Exchange Act; Adoption of Rules

Correction

In FR Doc. 76-34934 appearing on page 51808 in the issue for Wednesday, November 24, 1976, in the second column of page 51812, eight lines from the bottom, the date now reading "December 30, 1976" should read "December 27, 1976".

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTIONS REPORTS

Revision

Paragraph (a) of § 345.2 is revised as follows:

§ 345.2 **Employers' contributions.**

* * * * *

(a) Except as provided in paragraph (b) of this section, every employer shall pay a contribution equal to the following percentages of the amount of compensation paid to any employee for employment on and after July 1, 1939:

(1) July 1, 1939 through Dec. 31, 1947	3
(2) Jan. 1, 1948 through Dec. 31, 1955	½
(3) Jan. 1, 1956 through Dec. 31, 1956	1½
(4) Jan. 1, 1957 through Dec. 31, 1957	2
(5) Jan. 1, 1958 through Dec. 31, 1958	2½
(6) Jan. 1, 1959 through May 31, 1959	3
(7) June 1, 1959 through Dec. 31, 1961	3¾
(8) Jan. 1, 1962 through Dec. 31, 1975	4
(9) Jan. 1, 1976 through Dec. 31, 1976	5½
(10) Jan. 1, 1977 through Dec. 31, 1977	8
(11) Each succeeding calendar year, the applicable percentage specified in § 345.1.	

* * * * *

By authority of the Board.

Dated: November 30, 1976.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.76-35911 Filed 12-6-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket Nos. 76F-0333, 76F-0334]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES AND PAPER AND PAPERBOARD

The Food and Drug Administration is amending the food additive regulations regarding adhesives to provide for the safe use of bis(trichloromethyl)sulfone as a preservative in adhesives intended for food-contact use and as a preservative in coatings for use on paper and paperboard intended for use in contact with dry food; effective December 7, 1976; objections by January 6, 1977.

Notices were published in the FEDERAL REGISTER of September 3, 1976 (41 FR 37388) that petitions (FAP 6B3160 and FAP 6B3161) had been filed by Stauffer Chemical Co., Westport, CT 06880, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) and § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2571) be amended to provide for the safe use of bis(trichloromethyl)sulfone as a component of adhesives intended for food-contact use; and as a component of paper and paperboard intended for use in contact with dry food, respectively.

The Commissioner of Food and Drugs, having evaluated data in the petitions and other relevant material, concludes that §§ 121.2520 and 121.2571 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) 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 121 is amended in Subpart F as follows:

1. In § 121.2520 by adding a new item in paragraph (c)(5); to read as follows:

§ 121.2520 **Adhesives.**

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
Bis(trichloromethyl) sulfone C.A. Registry No. 3064708.	For use as a preservative only.
* * *	* * *

* * * * *

2. In § 121.2571 by adding a new item in paragraph (b)(2), to read as follows:

§ 121.2571 **Components of paper and paperboard in contact with dry food.**

* * * * *

(b) * * *

(2) * * *

Lists of substances	*Limitations*
* * *	* * *
Bis(trichloromethyl) sulfocone C.A. Registry No. 3064708.	For use only as a preservative in coatings.

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 6, 1977, 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 regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. 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 regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective December 7, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35823 Filed 12-6-76;8:45 am]

[Docket No. 76F-0452]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SANITIZING SOLUTIONS

The Food and Drug Administration is amending the food additive regulations to provide for the safe use of sodium dodecylbenzenesulfonate as a component of sanitizing solutions; effective December 7, 1976; objections by January 6, 1977.

Notice was given by publication in the FEDERAL REGISTER of March 20, 1974 (39 FR 10460) that a food additive petition (FAP 4H2967) had been filed by Oakite Products, Inc., 50 Valley Rd., Berkeley Heights, NJ 07922, proposing that § 121.2547 (21 CFR 121.2547) be amended to provide for the safe use of sodium dodecylbenzenesulfonate as a component of sanitizing solutions intended for use on food-processing equipment and utensils and on glass bottles and other glass containers intended for holding milk.

The Commissioner, having evaluated data in the petition and other relevant material, is amending the regulation as set forth below to provide for use of the additive as proposed by the petitioner.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) 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 121 is amended in § 121.2547 by adding new paragraphs (b)(21) and (c)(16) to read as follows:

§ 121.2547 **Sanitizing solutions.**

* * * * *

(b) * * *

(21) An aqueous solution containing sodium dodecylbenzenesulfonate. In ad-

dition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk.

(c) * * *

(16) Solution identified in paragraph (b)(21) of this section shall provide not more than 430 parts per million and not less than 25 parts per million of sodium dodecylbenzenesulfonate.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 6, 1977, 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 regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. 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 regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective December 7, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35822 Filed 12-6-76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0428]

PART 460—ANTIBIOTIC DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

Rifampin Discs

The Food and Drug Administration is amending the antibiotic drug regulations to provide for certification of rifampin discs, effective December 7, 1976.

The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), regarding approval of the antibiotic drug rifampin discs, concludes that data supplied by the manufacturer concerning the subject antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) 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 460 is amended as follows:

1. In § 460.6 by adding new paragraphs (a)(12) and (13) and (b)(13, by alphabetically inserting a new item in the table in paragraph (c)(3), by alhpabetically inserting a new item in the table in paragraph (d), and by revising the fourth sentence in paragraph (e)(1)(ii) to read as follows:

§ 460.6 Tests and methods of assay for potency of antibiotic susceptibility discs.

(a) * * *

* * * * *

(12) *Medium L:*

Agar agar	[1] 15
Distilled water, q.s	[2] 1,000.0

[1] Grams. [2] Milliliters.

(13) *Medium M:*

Beef, infusion from	[1] 300
Acid hydrolysate of casein	[1] 17.5
Soluble starch	[1] 1.5
Agar	[1] 15
Distilled water, q.s	[2] 1,000.0

pH 7.4 after sterilization.

[1] Grams. [2] Milliliters.

(b) * * *

* * * * *

(13) *Suspension 13. Escherichia coli* (ATCC 29214)[1] is maintained and grown on medium M. Wash the organisms from an agar slant, incubated for 24 hours at 37° C, with 3 milliliters or sterilized U.S.P. saline T.S. onto the surface of a Roux bottle containing 250 milliliters of medium M. Spread the suspension of organisms over the entire agar surface with the aid of sterile glass beads. Incubate for 24 hours at 37° C and then wash the resulting growth from the agar surface with 50 milliliters of sterilized U.S.P. saline T.S. Store the suspension in the refrigerator and use for 2 weeks.

(c) * * *

(3) * * *

[1] Available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

Antibiotic	Volume of suspension added to each 100 ml of seed agar used for test	Suspension number	Medium	
			Base layer	Seed layer
* * *	*	*	*	*
Rifampin discs for use in culture media	0.5	13	A	L
* * *	*	*	*	*

(d) * * *

Antibiotic	Solvent	Standard curve (antibiotic concentration per disc)
* * *	*	*
Rifampin discs for use in culture media.	Methyl alcohol.	12.5, 25, 50 μg.
* * *	*	*

(e) * * *

(1) * * *

(ii) * * * Incubate the plates overnight at 32° C to 35° C, except if it is rifampin discs for use in culture media, the incubation temperature is 37° C.

* * * * *

2. By adding new § 460.16 to read as follows:

§ 460.16 Rifampin discs for use in culture media.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Rifampin discs for use in culture media are paper discs intended for impregnation of culture media in the susceptibility testing of mycobacteria. They conform to all requirements and to all procedures prescribed by § 460.1(a) for antibiotic susceptibility discs, except that each disc shall contain 25 micrograms of rifampin activity.

(2) *Packaging.* It shall be packaged in accordance with the requirements of § 460.1(b).

(3) *Labeling.* In addition to complying with the requirements of § 460.1(c), the labeling shall also bear information indicating that the discs are for use in culture media for the susceptibility testing of mycobacteria and not for use in susceptibility tests of other microorganisms as described in § 460.1(c)(2).

(4) *Requests for certification; samples.* Requests for certification shall comply with § 460.1(d), except an accurately representative sample of the batch shall consist of one disc for each 5,000 in the batch, but in no case less than 100 discs collected by taking single discs at such intervals throughout the entire time of manufacturing the batch that the quantities manufactured during the intervals are approximately equal.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 460.6.

Since the conditions prerequisite to providing for certification of the subject antibiotic drug have been complied with and since the matter is noncontroversial, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date: This regulation shall be effective December 7, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35821 Filed 12-6-76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Thenium Closylate Tablets; Change of Sponsor

The Food and Drug Administration approves a supplemental new animal drug application (15–182V) filed by Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27790, providing for the change in sponsor from Cooper U.S.A., Inc., to the parent company, Burroughs Wellcome Co. The approval is effective on December 7, 1976.

The Commissioner of Food and Drugs is amending § 520.2362 (21 CFR 520.2362) to reflect this approval.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 520.2362 Thenium closylate tablets is amended in paragraph (c) by deleting Sponsor No. 011492 and inserting in its place No. 000081.

§ 520.2362 [Amended]

Effective date. This amendment shall be effective on December 7, 1976.

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

Dated: November 29, 1976.

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

[FR Doc.76–35739 Filed 12–6–76;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N–0110]

PART 701—COSMETIC LABELING

Designation of Ingredients; Judicial Stay of Effective Date

The Food and Drug Administration is notifying interested persons that the United States Court of Appeals for the District of Columbia Circuit has stayed the November 30, 1976 effective date for complying with the requirement in § 701.3 (21 CFR 701.3) that cosmetic labels bear a declaration of ingredients.

The Commissioner of Food and Drugs issued a regulation, published in the FEDERAL REGISTER of October 17, 1973 (38 FR 28912), requiring the declaration of ingredients on cosmetic labels; amendments to the regulation were published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8918). In the FEDERAL REGISTER of May 30, 1975 (40 FR 23458), the Commissioner established the following effective dates for complying with the regulation as amended: "All labeling for cosmetic products ordered after May 31, 1976 and all cosmetic product packages labeled after November 30, 1976 shall comply with the requirements of § 701.3."

The Independent Cosmetic Manufacturers and Distributors (ICMAD) challenged the regulation in lawsuits brought in the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia (*ICMAD* v. *Department of Health, Education, and Welfare*, Civil Action No. 75–1845; *ICMAD* v. *Mathews*, Civil Action No. 76–1007). The lawsuit in the District Court was dismissed on jurisdictional grounds. The Court of Appeals has pending before it the appeal from the District Court dismissal and the lawsuit initiated in the Court of Appeals. The Court of Appeals denied two earlier motions by ICMAD to stay the regulation pending judicial review. On November 9, 1976, ICMAD filed a motion with the Court of Appeals to stay the effective date of the regulation on the grounds that oral argument on the merits of the lawsuits had been rescheduled, at the request of the government, to a date that was after the final effective date of the regulation. Counsel for the government had earlier sought a 2-week postponement of oral argument, originally scheduled for October 27, 1976, on the basis that counsel had a physical injury requiring hospitalization. The Court of Appeals granted the motion to postpone oral argument, which was rescheduled "in the normal course of business" for December 14, 1976.

On November 24, 1976, the Court of Appeals granted the motion by ICMAD for a stay "of effective date" of the regulation until further order of the Court.

The ICMAD motion for a stay related to the final effective date for complying with the regulation, i.e., the November 30, 1976 effective date for labeling packages. The stay granted by the Court, therefore, applies only to the November 30, 1976 effective date.

The regulation went into effect on May 31, 1976 with respect to labeling ordered after that date. This effective date has not been stayed. Thus, cosmetic ingredients must continue to be declared, in the manner required by § 701.3, in all cosmetic labeling ordered hereafter, as has been the case for all labeling ordered since May 31, 1976. The November 30, 1976 effective date would have applied to packages labeled after that date. Because of the stay, labels not complying with § 701.3 that were ordered before May 31, 1976 may continue to be applied to cosmetic packages after November 30, 1976 until the stay is ended.

In accordance with the Commissioner's advice stated in the FEDERAL REGISTER of March 3, 1975, labeled packages in inventory bearing labeling ordered before May 31, 1976 may be used up at any time hereafter, whether or not the packages comply with § 701.3. This is not affected by the stay of the effective date for labeling packages.

Thus, in summary, the effective date of November 30, 1976, for complying with the requirements of § 701.3 for all cosmetic product packages labeled after that date has been stayed, but the effective date of May 31, 1976, for complying with § 701.3 for ordering labeling remains in effect.

The regulation is issued under the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and the Federal Food, Drug, and Cosmetic Act (sec. 7101(e), 52 Stat. 1055–1056 as amended (21 U.S.C. 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15 1976 (41 FR 24262)).

Dated: December 2, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–35929 Filed 12–2–76;2:55 pm]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Excluded Non-Narcotic Substances

The Drug Enforcement Administration has received an application, submitted pursuant to § 1308.21 of Title 21, Code of Federal Regulations (CFR), requesting that a certain marketed product which contains a non-narcotic controlled substance, and which may under the Federal Food, Drug, and Cosmetic Act be lawfully sold over-the-counter without a prescription, be excluded from any schedule of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801–966) under the authority of section 201(g)(1) of such Act (21 U.S.C. 811(g)(1)).

Upon examination of the application, and after evaluating the product relative thereto, the Acting Deputy Administrator of the Drug Enforcement Administration hereby finds: (1) That the above-referred product contains a non-narcotic controlled substance and (2) that the Food and Drug Administration has confirmed that such product may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over-the-counter without a prescription.

Therefore, under the authority vested in the Attorney General by section 201(g)(1) of the Act (21 U.S.C. 811(g)(1)) and delegated to the Acting Deputy Administrator of the Drug Enforcement Administration by Department of Justice regulations (28 CFR Part 0), the Acting Deputy Administrator pursuant to said authority and in accordance with 21 CFR 1308.21, hereby orders that 21 CFR 1308.22 be amended by adding the following:

§ 1308.22 Excluded substances.

* * * * *

Excluded nonnarcotic over-the-counter substances

Trade name or designation	Dosage form	Composition	Potency (milligrams)	Manufacturer or distributor
*	*	*	*	*
TEP	Tablet	Phenobarbital 8 Theophylline 130 Ephedrine hydrochloride 24		Towne, Paulsen & Co., Inc.
*	*	*	*	*

Effective date: This order is effective December 7, 1976. Any person interested may file written comments on or objections to the order on or before January 7, 1977. If any such comments or objections raise significant issues regarding any finding of fact or conclusions of law upon which the order is based, the Acting Deputy Administrator shall immediately suspend the effectiveness of his order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Acting Deputy Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: November 30, 1976.

WILLIAM J. OLIVANTI,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-35963 Filed 12-6-76;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Presorting Requirements for Mail Sent At Library Rate of Postage

In the July 12, 1976, FEDERAL REGISTER (41 FR 28478), as amended and corrected on October 20, 1976, (41 FR 46295), and October 28, 1976, (41 FR 47236), there appeared the final regulations of the Postal Service implementing the changes in the mail classification schedule that were approved by the Governors of the Postal Service on June 12, 1976. Section 135.263 of those regulations, which, as published, dealt only with the use of the ZIP code on special fourth class and library rate materials, inadvertently failed to carry forward the preexisting presort requirements for mailings consisting of 1,000 or more items mailed at the library rate of postage.

Prior to adoption of the mail classification implementing regulations on July 12, 1976, the presort requirements for 1,000 or more library rate items were in section 135.216 of the Postal Service Manual. It is the purpose of this document, then, to restore to 135.263 of present regulations the matter contained in former 135.216, which was inadvertently omitted. In addition, the requirement that special fourth class rate and library rate mail use ZIP codes, presently in 135.263, is omitted as unnecessary, since this requirement is already contained in 135.7 of the Postal Service Manual.

Accordingly, the Postal Service hereby adopts the following revision of the Postal Service Manual, effective immediately.

PART 135—FOURTH CLASS

In 135.2 revise .263 to read as follows:

135.2 Classification.

* * * * *

.26 Fourth-class library rate.

* * * * *

.263 When 5,000 or more identical pieces are mailed at the rates provided in 135.14 during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions contained in 134.432, and 134.436 a(2), b(2), c(2), d(2), and e(2). When 1,000 or more but less than 5,000 identical pieces are mailed at these rates during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions in 134.432, and 134.436 b(2), c(2), d(2), and e(2).

A Post Office Services (Domestic) transmittal letter making this change in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. This change will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401, 3623.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-35852 Filed 12-6-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 670-76]

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs

Correction

In FR Doc. 76-35130 appearing at page 52669 in the issue for Wednesday, December 1, 1976, the effective date appearing in the third column of page 52672 should have read "Effective date: January 3, 1977."

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2399]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

• The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).•

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
New Hampshire	Merrimack	Hill, town of	Nov. 29, 1976, emergency	Feb. 7, 1975	380214
Oklahoma	Hughes	Holdenville, city of	do	July 2, 1976	400244
Do.	McCurtain	Wright City, city of	do	Jan. 10, 1975	400100
Pennsylvania	Crawford	Centerville, borough of	do	Mar. 28, 1974	420347
Do.	Chester	Pennsbury, township of	Sept. 29, 1972, emergency; Dec. 28, 1976, regular.	May 4, 1973 July 2, 1976	420285B
Texas	Franklin	Mount Vernon, city of	Nov. 29, 1976, emergency	July 23, 1976	480821
Washington	Kittitas	Roslyn, city of	do		530289
*	*	*	*	*	*
Iowa	Madison and Warren	Bevington, city of	Nov. 30, 1976, emergency		190273
Michigan	Allegan	Douglas, village of	do	Sept. 26, 1975	260549
*	*	*	*	*	*
Colorado	Summit	Frisco, town of	Dec. 2, 1976, emergency		080245
Illinois	La Salle	North Utica, village of	do	Mar. 21, 1975 Jan. 23, 1976	170822A
Indiana	Floyd	Unincorporated areas	do		1804 2
Pennsylvania	Pike	Blooming Grove, township of	do	Nov. 8, 1974	421962

[1] New.

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

Issued: November 26, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35745 Filed 12-6-76;8:45 am]

[Docket No. FI-2400]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

• The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.). •

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
Arkansas	Miller	Texarkana, city of	Sept. 1, 1972, emergency; Dec. 31, 1976, regular; Jan. 15, 1977, suspended.	May 24, 1974 Oct. 10, 1975	050137A
Delaware	New Castle	Elsmere, town of	Oct. 2, 1974, emergency; Dec. 31, 1976, regular; Jan. 15, 1977, suspended.	Jan. 31, 1975	100023
Florida	Nassau	Fernandina Beach, city of	Aug. 16, 1974, emergency; Jan. 14, 1977, regular; Jan. 15, 1977, suspended.	Aug. 16, 1974 Feb. 27, 1976	120172A
Pennsylvania	Bucks	Chalfont, borough of	Feb. 25, 1972, emergency; Dec. 28, 1976, regular; Jan. 15, 1977, suspended.	Mar. 16, 1973	420184
Do.	Dauphin	Middletown, borough of	Oct. 13, 1972, emergency; Dec. 28, 1976, regular; Jan. 15, 1977, suspended.	Feb. 20, 1973	420388
Do.	Northampton	Palmer, township of	Oct. 22, 1971, emergency; Dec. 28, 1976, regular; Jan. 15, 1977, suspended.	Apr. 20, 1973	420738
Do.	Chester	Pennsbury, township of	Sept. 29, 1972, emergency; Dec. 28, 1976, regular; Jan. 15, 1977, suspended.	May 4, 1973 July 2, 1976	420285A
Do.	Lycoming	Porter, township of	Mar. 9, 1973, emergency; Jan. 14, 1977, regular; Jan. 15, 1977, suspended.	May 3, 1974 July 9, 1976	420656A
Do.	Luzerne	Shickshinny, borough of	Dec. 15, 1972, emergency; Jan. 14, 1977, regular; Jan. 15, 1977, suspended.	Mar. 30, 1973 May 14, 1976	420626A
Do.	Monroe	Stroudsburg, borough of	Aug. 25, 1972, emergency; Dec. 31, 1976, regular; Jan. 15, 1977, suspended.	June 21, 1974 June 11, 1976	420694A

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

Issued: November 26, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-35746 Filed 12-6-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7444]

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

Net Operating Loss Carryback and Carryforward for Financial Institutions and Banks for Cooperatives and Reserves for Loss On Loans of Small Business Investment Companies and Business Development Corporations

By notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 6, 1972 (37 FR 9280), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to conform the regulations under sections 166 and 172 of the Internal Revenue Code of 1954 to the amendments made by section 431 (b) and (c) of the Tax Reform Act of 1969 and to provide regulations under sections 585 and 586 of the Code as added by section 431(a) of the Tax Reform Act of 1969. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, so much of the amendment to the regulations as proposed that conforms the regulations under sections 166 and 172 of the Code to the amendments made by section 431 (b) and (c) of the Tax Reform Act of 1969, and that provides regulations under section 586 of the Code is adopted by this document, subject to the changes set forth below.

The amendment to § 1.166–4 adds a new paragraph (d) which provides cross references to special rules with respect to additions to reserves for bad debts that are applicable to financial institutions.

The amendment to § 1.172–4(a)(1) provides that a net operating loss sustained in a taxable year beginning after December 31, 1975, by a taxpayer to which section 585, 586, or 593 applies or a net operating loss sustained in a taxable year beginning after December 31, 1969, by a taxpayer which is a Bank for Cooperatives shall be carried back to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

Section 586 provides generally that a small business investment company operating under the Small Business Investment Act of 1958 or a business development corporation described in section 586(a)(2) shall determine its reasonable addition to a reserve for losses on loans under an experience method based upon a 6-year moving average of the taxpayer's own experience. Where a small business investment company or business development corporation is in existence for less than 10 years, it is permitted to borrow the experience of the industry as determined by the Commissioner.

The formula provided in § 1.586–2(b) as proposed by which a small business investment company must determine its reasonable addition to a reserve if it wishes to use the industry-wide average was geared to calendar year taxpayers. The formula as it pertains to small business investment companies has been changed to correspond to the taxable year used by most small business investment companies—a fiscal year ending on March 31.

Subdivision (ii)(c) of § 1.586–2(c)(2) as proposed has been changed to eliminate the requirement that a loan be representative of the taxpayer's ordinary portfolio of outstanding customer loans and to substitute in lieu thereof the requirement that a loan not be entered into or acquired for the primary purpose of enlarging the taxpayer's otherwise available bad debt deduction.

ADOPTION OF AMENDMENT TO THE REGULATIONS

By notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 6, 1972 (37 FR 9280), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to conform the regulations under sections 166 and 172 of the Internal Revenue Code of 1954 to the amendments made by section 431 (b) and (c) of the Tax Reform Act of 1969 and to provide regulations under sections 585 and 586 of the Code as added by section 431(a) of the Tax Reform Act of 1969. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, so much of the amendment to the regulations as proposed that conforms the regulations under sections 166 and 172 of the Code to the amendments made by section 431 (b) and (c) of the Tax Reform Act of 1969 and that provides regulations under section 586 of the Code is adopted, subject to the changes set forth below:

PARAGRAPH 1. The last sentence of § 1.586–1(a) as set forth in paragraph 5 of the appendix to the notice of proposed rulemaking is deleted.

PAR. 2. Section 1.586–2 as set forth in paragraph 5 of the appendix to the notice of proposed rulemaking is changed as:

1. The fifth sentence of paragraph (a) is deleted.

2. Paragraph (b) is revised.

3. Subdivision (ii) of paragraph (c)(2) is revised.

The revised provisions read as set forth below.

PAR. 3. Section 1.586–3 as set forth in paragraph 5 of the appendix to the notice proposed rulemaking is deleted.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved:

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.166 is amended by redesignating paragraph (g) as paragraph (h), by adding new paragraph (g) immediately after paragraph (f) thereof, by adding subparagraph (4) to paragraph (h) immediately after subparagraph (3) thereof, and by revising the historical note. As amended, these redesignated, added, and revised provisions read as follows:

§ 1.166 Statutory provisions; bad debts.

SEC. 166. *Bad debts.* * * *

(g) *Reserve for certain guaranteed debt obligations*—(1) *Allowance of deduction.* In the case of a taxpayer who is a dealer in property, in lieu of any deduction under subsection (a), there shall be allowed (in the discretion of the Secretary or his delegate) for any taxable year ending after October 21, 1965, a deduction—

(A) For a reasonable addition to a reserve for bad debts which may arise out of his liability as a guarantor, endorser, or indemnitor of debt obligations arising out of the sale by him of real property or tangible personal property (including related services) in the ordinary course of his trade or business; and

(B) For the amount of any reduction in the suspense account required by paragraph (4)(B)(i).

(2) *Deduction disallowed in other cases.* Except as provided in paragraph (1), no deduction shall be allowed to a taxpayer for any addition to a reserve for bad debts which may arise out of his liability as guarantor, endorser, or indemnitor of debt obligations.

(3) *Opening balance.* The opening balance of a reserve described in paragraph (1)(A) for the first taxable year ending after October 21, 1965, for which a taxpayer maintains such reserve shall, under regulations prescribed by the Secretary or his delegate, be determined as if the taxpayer had maintained such reserve for the preceding taxable years.

(4) *Suspense account*—(A) *Requirement.* Except as provided by subparagraph (C), each taxpayer who maintains a reserve described in paragraph (1)(A) shall, for purposes of this subsection and section 81, establish and maintain a suspense account. The initial balance of such account shall be equal to the opening balance described in paragraph (3).

(B) *Adjustments.* At the close of each taxable year the suspense account shall be—

(i) Reduced by the excess of the suspense account at the beginning of the year over the reserve described in paragraph (1)(A) (after making the addition for such year provided in such paragraph), or

(ii) Increased (but not to an amount greater than the initial balance of the suspense account) by the excess of the reserve described in paragraph (1)(A) (after making the addition for such year provided in such paragraph) over the suspense account at the beginning of such year.

(C) *Limitations.* Subparagraphs (A) and (B) shall not apply in the case of the taxpayer who maintained for his last taxable year ending before October 22, 1965, a reserve for bad debts under subsection (c) which included debt obligations described in paragraph (1)(A).

(D) *Section 381 acquisitions.* The application of this paragraph in any acquisition to which section 381(a) applies shall be determined under regulations prescribed by the Secretary or his delegate.

(h) *Cross references.* (1) [For] disallowance of deduction for worthlessness of debts owed by political parties and similar organizations, see section 271.

(2) For special rule for banks with respect to worthless securities, see section 582.

(3) For special rule for bad debt reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see section 593.

(4) For special rule for bad debts reserves of banks, small business investment companies, etc., see sections 585 and 586.

[Sec. 166 as amended by sec. 8, Technical Amendments Act of 1958 (72 Stat. 1608); by sec. 1(a), Act of November 2, 1966 (Pub. L. 89-722, 80 Stat. 1151); sec. 431(c), Tax Reform Act 1969 (83 Stat. 619)]

PAR. 2. Paragraph (d) of § 1.166-4 is amended to read as follows:

§ 1.166-4 Reserve for bad debts.

* * * * *

(d) *Special rules applicable to financial institutions.*—(1) For special rules for the addition to the bad debt reserves of certain banks, see §§ 1.585-1 through 1.585-3.

(2) For special rules for the addition to the bad debt reserves of small business investment companies and business development corporations, see §§ 1.586-1 and 1.586-2.

(3) For special rules for the addition to the bad debts reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see §§ 1.593-1 through 1.593-11.

PAR. 3. Section 1.172 is amended by revising subparagraphs (A)(i) and (B) of paragraph (1) of subsection (b), by adding new subparagraphs (E), (F), and (G) at the end of such paragraph, by adding new subparagraphs (E) and (F) at the end of paragraph (3) of such subsection, and by revising the historical note. As amended, these revised and added provisions read as follows:

§ 1.172 Statutory provisions; net operating loss deduction.

SEC. 172. *Net operating loss deduction.* * * *

(b) *Net operating loss carrybaeks and carryovers*—(1) *Years to which loss may be carried.* (A)(i) Except as provided in clause (ii) and in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year ending after December 31, 1957, shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss.

* * * * *

(B) Except as provided in subparagraphs (C), (D), and (E), a net operating loss for any taxable year ending after December 31, 1955, shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

* * * * *

(E) In the case of a taxpayer which is a domestic corporation qualifying under paragraph (3)(E), a net operating loss for any taxable year ending after December 31, 1966, and prior to January 1, 1969, shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 3 taxable years following the taxable year of such loss.

(F) In the case of a financial institution to which section 585, 586, or 593 applies, a net operating loss for any taxable year beginning after December 31, 1975, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

(G) In the case of a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)), a net operating loss for any taxable year beginning after December 31, 1969, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

* * * * *

(3) *Special rules.* * * *

(E) Paragraph (1)(E) shall apply only if—

(i) The amount of the taxpayer's net operating loss for the taxable year exceeds the sum of the taxable income (computed as provided in paragraph (2)) for each of the 3 preceding taxable years of the taxpayer,

(ii) The amount of the taxpayer's net operating loss for the taxable year, increased by the amount of the taxpayer's net operating loss for the preceding taxable year or decreased by the amount of the taxpayer's taxable income for such preceding year, exceeds 15 percent of the sum of the money and other property (in an amount equal to its adjusted basis for determining gain) of the taxpayer, determined as of the close of the taxable year of such loss without regard to any refund or credit of any overpayment of tax to which the taxpayer may be entitled under paragraph (1)(E),

(iii) The aggregate unadjusted basis of property described in section 1231(b)(1) (without regard to any holding period therein provided), the basis for which was determined under section 1012, which was acquired by the taxpayer during the period beginning with the first day of its fifth taxable year preceding the taxable year of such loss and ending with the last day of the taxable year of such loss, equals or exceeds the aggregate adjusted basis of property of such description of the taxpayer on, and determined as of, the first day of the fifth preceding taxable year, and

(iv) The taxpayer derived 50 percent or more of its gross receipts (other than gross receipts derived from the conduct of a lending or finance business), for the taxable year of such loss and for each of its 5 preceding taxable years, from the manufacture and production of units within the same single class of products, and three or fewer United States persons (including as one person an affiliated group as defined in section 1504 (a)) other than the taxpayer manufactured and produced in the United States, in the calendar year ending in or with the taxable year of such loss, 85 percent or more of the total number of all units within such class of products manufactured and produced in the United States in such calendar year.

(F) For purposes of subparagraph (E)(iv)—

(i) The term "class of products" means any of the categories designated and numbered as a "class of products" in the 1963 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) Information compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the census of manufacturers, regarding the number of units of a class of products manufactured and produced in the United States during a calendar year, or, if such information should not be available, information so compiled or published regarding the number of such units shipped or sold by such manufacturers during a calendar year, shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such calendar year.

* * * * *

[Sec. 172 as amended by secs. 14 and 64(b) Technical Amendments Act 1958 (72 Stat. 1611, 1656); sec. 203, Small Business Tax Revision Act of 1958 (72 Stat. 1678); Act of Sept. 27, 1962 (Pub. L. 87-710, 76 Stat. 648); sec. 7(f), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 317, Trade Expansion Act 1962 (76 Stat. 889); secs. 210 and 234(b)(5), Rev. Act 1964 (78 Stat. 47, 115); sec. 3(a), Act of December 27, 1967 (Pub. L. 90-225, 81 Stat. 732); sec. 431(b), Tax Reform Act 1969 (83 Stat. 619)]

PAR. 4. Section 1.172-4 is amended by revising subdivision (ii) of subparagraph (1) of paragraph (a) and by adding new subdivisions (viii) and (ix) at the end of such subparagraph. As amended, these revised and added provisions read as follows:

§ 1.172-4 Net operating loss carrybacks and net operating loss carryovers.

(a) *General provisions*—(1) *Years to which loss may be carried.* * * *

(ii) *Loss for taxable years ending after December 31, 1957.* Except as provided in subdivisions (iii), (iv), (v), (viii), and (ix) of this subparagraph, and section 170(b)(1)(E), a net operating loss sustained in a taxable year ending after December 31, 1957, shall be carried back to the 3 preceding taxable years and carried over to the 5 succeeding taxable years.

* * * * *

(viii) *Loss of a financial institution.* A net operating loss sustained in a taxable year beginning after December 31, 1975, by a taxpayer to which section 585, 586, or 593 applies shall be carried back to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

(ix) *Loss of a Bank for Cooperatives.* A net operating loss sustained in a taxable year beginning after December 31, 1969, by a taxpayer which is a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)) shall be carried back to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

* * * * *

§ 1.586 Statutory provisions; reserves for losses on loans of small business investment companies, etc.

SEC. 586. *Reserves for losses on loans of small business investment companies, etc.*—(a) *Institutions to which section applies.* This section shall apply to the following financial institutions:

(1) Any small business investment company operating under the Small Business Investment Act of 1958, and

(2) Any business development corporation.

For purposes of this section, the term "business development corporation" means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks (as defined in section 581) within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

(b) *Addition to reserves for bad debts*—(1) *General rule.* For purposes of section 166(c), except as provided in paragraph (2) the reasonable addition to the reserve for bad debts of any financial institution to which

this section applies shall be an amount determined by the taxpayer which shall not exceed the amount necessary to increase the balance of the reserve for bad debts (at the close of the taxable year) to the greater of—

(A) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(B) The lower of—

(i) The balance of the reserve at the close of the base year, or

(ii) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this subparagraph, the term "base year" means the last taxable year beginning on or before July 11, 1969.

(2) *New financial institutions.* In the case of any taxable year beginning not more than 10 years after the day before the first day on which a financial institution (or any predecessor) was authorized to do business as a financial institution described in subsection (a), the reasonable addition to the reserve for bad debts of such financial institution shall not exceed the larger of the amount determined under paragraph (1) or the amount necessary to increase the balance of the reserve for bad debts at the close of the taxable year to the amount which bears the same ratio (as determined by the Secretary or his delegate) to loans outstanding at the close of the taxable year as (i) the total bad debts sustained by all institutions described in the applicable paragraph of subsection (a) during the 6 preceding taxable years (adjusted for recoveries of bad debts during such period), bears to (ii) the sum of the loans by all such institutions outstanding at the close of such taxable years.

[Sec. 586 as added by sec. 431(a), Tax Reform Act 1969 (83 Stat. 616)]

§ 1.586–1 Reserve for losses on loans of small business investment companies, etc.

(a) *General rule.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a taxpayer which is a financial institution to which section 586 and this section apply is allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts provided such financial institution has adopted or adopts the reserve method of treating bad debts in accordance with paragraph (b) of § 1.166–1. In the case of such a taxpayer, the amount of the reasonable addition to such reserve for a taxable year beginning after July 11, 1969, shall be an amount determined by the taxpayer which does not exceed the amount computed under § 1.586–2. A financial institution to which section 586 and this section apply which adopts the reserve method is not entitled to charge-off any bad debts pursuant to section 166(a) with respect to a loan (as defined in § 1.586–2(c)(2)). Except as provided by § 1.586–2, regarding the manner of computation of the addition to the reserve for bad debts, the reserve for bad debts of a financial institution to which this section applies shall be maintained in the same manner as is provided by section 166(c) and the regulations thereunder with respect to reserves for bad debts. Except as provided by this section, no deduction is allowable for an addition to a reserve for bad debts of a financial institution to which section 586 and this section apply. For rules relating to deduction with respect to debts which are not loans (as defined in § 1.586–2(c)(2)), see section 166(a) and the regulations thereunder.

(b) *Application of section.* Section 586 and this section shall apply only to the following financial institutions—

(1) Any small business investment company operating under the Small Business Investment Act of 1958 as amended and supplemented (72 Stat. 689), and

(2) Any business development corporation, which for purposes of this section, means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans which would generally not be made by banks (as defined in section 581 and the regulations thereunder) within such region or State in the ordinary course of their businesses (except on the basis of a partial participation), and which is operated primarily for such purposes.

§ 1.586–2 Addition to reserve.

(a) *General rule.* Except as provided by paragraph (b) of this section, the amount computed under this section is the amount necessary to increase the balance of the reserve for bad debts (as of the close of the taxable year) to the greater of—

(1) The amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(2) The lower of—

(i) The balance of the reserve as of the close of the base year, or

(ii) If the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of subparagraph (2) of this paragraph, the term "base year" means the last taxable year beginning on or before July 11, 1969. For purposes of applying this paragraph, a period shorter than the 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a business development corporation's portfolio of loans changes from agricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than the 6 years may be appropriate. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall not be considered unless it is sent to the Commissioner at least 30 days before the close of the current taxable year. The request shall include a statement of the reasons such experience should be excluded.

(b) *New financial institutions*—(1) *Small business investment companies.* In the case of a new financial institution which is a small business investment company to which section 586 applies, the amount computed under this section is the greater of the amount computed under paragraph (a) of this section or the amount necessary to increase the balance of the reserve for bad debts as of the close of the taxable year to the amount which bears the same ratio to loans outstanding at the close of the taxable year as—

(i) The total bad debts (as determined by the Commissioner) sustained by all such small busines investment companies during the 12-month period ending on March 31 that ends with or within the taxpayer's previous taxable year, and during the five 12-month periods ending on March 31 that precede such 12-month period, adjusted for recoveries of bad debts during such periods (as determined by the Commissioner), bears to

(ii) The sum of the loans outstanding (as determined by the Commissioner) by all such small business investment companies at the close of each of such six 12-month periods ending on March 31.

(2) *Business development corporations.* In the case of a new financial institution which is a business development corporation to which section 586 applies, the amount computed under this section is the greater of the amount computed under paragraph (a) of this section or the amount necessary to increase the balance of the reserve for bad debts as of the close of the taxable year to the amount which bears the same ratio to loans outstanding at the close of the taxable year as—

(i) The total bad debts (as determined by the Commissioner) sustained by all such business development corporations during the calendar year ending with or within the taxpayer's previous taxable year and during the 5 calendar years preceding such calendar year, adjusted for recoveries of bad debts during such period (as determined by the Commissioner), bears to

(ii) The sum of the loans outstanding (as determined by the Commissioner) by all such business development corporations at the close of each of such 6 calendar years.

(c) *Definitions.* For purposes of this section—

(1) *New financial institution.* A financial institution is a new financial institution for any taxable year beginning less than 10 years after the day on which it (or any predecessor) was authorized to do business as a financial institution described in the applicable subparagraph of § 1.586–1(b). For this purpose, the term "predecessor" means (i) any taxpayer which transferred more than 50 percent of the total amount of its assets to the taxpayer and is described in the same subparagraph of § 1.586–1(b) which describes the taxpayer, or (ii) any predecessor of such predecessor.

(2) *Loan.* (i) The term "loan" means debt, as the term "debt" is used in section 166 and the regulations thereunder.

(ii) The term "loan" does not include the following items:

(A) Discount or interest receivable reflected in the face amount of an outstanding loan, which discount or interest has not been included in gross income;

(B) A debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder); and

(C) Any loan which is entered into or acquired for the primary purpose of enlarging the otherwise available bad debt deduction.

[FR Doc.76–35964 Filed 12–6–76;8:45 am]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1209—RETIRED SENIOR VOLUNTEER PROGRAM

The purpose of the following is to republish Retired Senior Volunteer Program (RSVP) regulations within the ACTION 1200's series. A most recent compilation of the RSVP regulations appeared in the 900 series of Volume 45 which covers the Administration on Aging (AoA) of the Department of Health, Education and Welfare.

This transfer and redesignation provides regulations to implement section 201 of the Domestic Volunteer Service Act of 1973, Pub. L. 93–113, 83 Stat. 108. The overall changes appearing in these regulations from those previously published as 45 CFR Part 906 relate to: (a) Changing paragraph numbers to conform with the 1200 series; (b) The Director of ACTION in lieu of the Commissioner AoA; and (c) Revising the terms "Advisory Committee" to "Advisory Council," "grantee" to "sponsor," and local "program" to "project."

There were certain cost-sharing requirements which appeared in the earlier version of the RSVP regulations and have subsequently been revised by 45 CFR Part 1221. The RSVP cost-sharing requirements contained in 45 CFR Part 1221 are hereby rescinded since the entire contents of Part 1221 to Title 45 are incorporated below with no changes in that section. The RSVP regulations will soon be revised to reflect historical experiences in the program.

With these changes, additions, and clarifications, the new Part 1209 of the Code of Federal Regulations is adopted as set forth below.

Subpart A—General

Sec.

1209.1–1 Purpose.
1209.1–2 Nature of Program.

Subpart B—Grants

1209.2–1 Eligibility.
1209.2–2 Applications.
1209.2–3 RSVP Cost Sharing.
1209.2–4 Awards.
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1209.2–6 Expenditures and fiscal procedures.
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1209.2–8 Records and reports.
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Subpart C—Program Operation

1209.3–1 Volunteer stations.
1209.3–2 Advisory Council.
1209.3–3 Volunteers.
1209.3–4 Expenses of volunteers.
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Subpart D—Contracts

1209.4–1 Eligibility.
1209.4–2 Provisions.
1209.4–3 Payments.

AUTHORITY: Secs. 201, 212, 221, 222, 223, 402(14), 418, 420 of Pub. L. 93–113, 83 Stat. 108, 87 Stat. 403, 404, 414.

Subpart A—Purpose

§ 1209.1–1 Purpose.

The purpose of the Retired Senior Volunteer Program is to develop a recognized role in the community and a meaningful life in retirement for older adults through significant volunteer service.

§ 1209.1–2 Nature of Program.

A Retired Senior Volunteer Program arranges varied opportunities for retired persons, age 60 and over, to serve as volunteers for the betterment of their community and themselves, with reimbursement for out-of-pocket expenses. It is organized and operated with Federal and non-Federal support in accord with the Retired Senior Volunteer Program Operations Handbook published by the Director of ACTION. The program is directed and coordinated in a community or service area by competent staff with the support of a local Retired Senior Volunteer Program Advisory Council. The community or service area is defined in the approved grant application. RSVP volunteers, aided by appropriate assignment, instruction and supervision, serve at a variety of volunteer stations, such as schools, courts, day care centers, hospitals, welfare agencies, nursing homes, and institutions. RSVP volunteers do not displace employed workers nor impair existing contracts for services. Awards and recognition appropriate to their service are given to senior volunteers.

Subpart B—Grants

§ 1209.2–1 Eligibility.

Grants may be made to State agencies on aging and other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer projects under this Part, as determined by the Director.

§ 1209.2–2 Applications.

(a) An application under this Part shall include information needed by the Director to support findings that the requirements of the Act will be met, as required in the various other sections of the Part.

(b) In addition, an application will include:

(1) General goals for the proposed project, consistent with the purpose of this Part.

(2) Individual objectives to be achieved during the projected budget period in support of the stated goals. achieved during the projected budget item justification.

(4) An explicit plan for maximizing non-Federal support of the program budget.

(5) Duties of project staff positions and qualifications required for incumbents of the positions.

(6) Ways in which active coordination is to be established with other volunteer and aging-related agencies and organizations, including the State agency.

(7) Membership and functions of a Retired Senior Volunteer Program Advisory Council.

(8) Geographical boundaries to be served by the project.

(9) Copies of proposed or existing agreements with volunteer stations using RSVP volunteers.

(10) Available data on the population, age 60 and over, in the proposed service area.

(11) Existing RSVP volunteer service opportunities and those projected for development.

(12) Other information required by the Director.

(c) The application shall be executed by a person authorized to act for the applicant, and to assume on behalf of the applicant the obligations imposed by the terms and conditions of an award, including the regulations in this Part.

(d) A copy of the application, other than one by the State agency on aging, shall be submitted by the applicant to the State agency which shall have 60 days after receipt to review it and make written recommendations to the Director.

§ 1209.2–3 RSVP Cost Sharing.

(a) The following RSVP Cost-Sharing Schedule identifies for each budget period, normally one year, the required percentage of the local cost sharing to approved project budgets of RSVP project sponsors, as well as the Federal contribution:

Budget period	Federal (percent)	Local (non-Federal) (percent)
1	90	10
2	80	20
3 and beyond	70	30

Local contributions may voluntarily exceed the annual required local contribution in any year. However, such voluntary contributions shall not be a consideration for receiving, or determining the size of, any RSVP initial or continuation grant.

(b) Exceptions may be made by the Director to these non-Federal cost-sharing requirements in unusual situations, with consideration given to the financial capabilities of the grant applicant and the availability of community support for RSVP. Applicants will be required to substantiate the need for an exception. The need for continuation of an exception will be evaluated annually based on the merits and progress of a project and the best interests of RSVP volunteers, the community in which they serve, and ACTION.

(c) An RSVP continuation grant shall not be awarded to a sponsor unable to meet the agreed to cost-sharing commitment for the preceding budget period. Time for meeting the commitment, however, may be extended by ACTION or the commitment may be waived under exceptional circumstances.

(d) A written request to the appropriate ACTION Regional Office through the ACTION State Office for an exception to the RSVP Cost-Sharing Schedule will be transmitted by the Regional Director to the Director of Older Americans Volunteer Programs in Washington, D.C., together with a recommendation on the request comprised of answers to questions formulated by ACTION, and all supporting data. The request will be evaluated and a recommendation made by a National Exceptions Review Board, comprised of the Associate Director of ACTION for Domestic and Anti-Poverty Operations, the Director of the Budget Division of ACTION, and the General Counsel for ACTION or their designated representatives. All requests will be acted on within two weeks after receipt of the request for an exception. The grant applicant will be advised in writing of the decision by the Director or the Director's designee and reasons for the decision.

(e) If by the end of the second or third quarter of a budget period a sponsor is unable to meet the current cost-sharing commitment, a continuation grant award may be considered only when:

(1) A full effort has been made by the sponsor to carry out the cost-sharing plan approved by the current grant award, and the circumstances causing the deficiency are found by the ACTION Regional Director to be the result of unusual or unforeseen circumstances, and

(2) There is reason to believe the deficiency, in addition to the required local share for the new budget period, can be fully made up before the end of the third quarter of a new budget period, and

(3) The project achievements and the project potential clearly merit special consideration.

(f) If at the end of a budget period it first appears there has been a failure of the RSVP sponsor to provide or obligate the non-Federal share of the RSVP budget, it constitutes a breach of the conditions of the grant. As a consequence, the ACTION Regional Director will:

(1) Request the RSVP sponsor to identify in writing: (i) When the commitment was not met, and identify specific efforts made to obtain the required non-Federal contribution.

(ii) The anticipated sources and amounts of local support for continuation of the project in the new budget period.

(iii) The kind of technical assistance requested from ACTION to improve the sponsor's capacity to develop local resources in support of RSVP.

(2) After review of the required information submitted by the RSVP sponsor to ACTION and consideration of the history and quality of the project, the Regional Director can: (i) Suspend further payments to an RSVP sponsor or terminate payments under the grant in accord with Part 1206 of this chapter.

(ii) Choose to waive all or part of the sponsor's non-Federal cost-sharing deficiency; or

(iii) Reduce the amount of the currently approved Federal contribution to the RSVP project budget.

(g)(1) The budget period for RSVP grants may be shortened or lengthened by ACTION for administrative purposes. If the current budget period is shortened, the sponsor is obligated to honor the cost-sharing commitment, but only as a percentage of the total grant funds expended. The sponsor's cost-sharing commitment for a subsequent continuation grant shall be in accordance with the RSVP Cost-Sharing Schedule, except that the percentage will be reduced for a budget period by one percentage point for each month the sponsor's previous budget period was shortened.

(2) If during the first two years of a project, the budget period is lengthened to more than twelve months, the percentage of the sponsor's cost-sharing obligation will remain the same.

§ 1209.2–4 Awards.

(a) Within the limits of funds available for the Retired Senior Volunteer Program, the Director will award a grant to applicants whose proposals appears to serve the purposes of the program and this part. Awards will be in writing, specifying the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purposes on the date of the award.

(b) The initial grant award will specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, sponsors shall make separate application in accordance with the provisions of this part for each budget period.

(c) Awards will be made so as to achieve an equitable distribution of projects to the States from which applications eligible for funding are received.

§ 1209.2–5 Payments.

Payments under this Part pursuant to a grant may be made (after necesaray adjustment, due to praviously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Director may determine.

§ 1209.2–6 Expenditures and fiscal procedures.

(a) All expenditures are to be made in accordance with the approved project budget and are subject to such limitations as are set forth in instructions issued by the Director.

(b) Payments received and expenditures made shall be fully recorded by or for the sponsor in accounting records separate from all other fund accounts, including funds derived from other grant awards.

(c) The sponsor shall provide or arrange for fiscal control and accounting procedures necessary to assure proper disbursement of, and accounting for, Federal funds received. Accounts and supporting documents relating to project expenditures shall be adequate to facilitate an accurate audit.

§ 1209.2–7 Audits.

All fiscal transactions relating to an award under this Part are subject to audit by the Federal Government to determine whether or not expenditurres have been made in accordance with the award and Federal requirements.

§ 1209.2–8 Records and reports.

The sponsor shall keep records and make reports as required and shall retain and afford access to the records in a manner determined necessary by the Director to allow for verification. The sponsor shall maintain accounting records for three (3) years after end of budget period or until resolution of any audit questions raised during such three-year period.

§ 1209.2–9 Termination.

A grant may be terminated in whole or in part at the discretion of the Director. Noncancellable obligations properly incurred prior to receipt of the notice of termination will be honored. The sponsor shall be promptly notified in writing of such termination and given reasons therefor.

Subpart C—Program Operation

§ 1209.3–1 Volunteer stations.

(a) Volunteer stations are agencies, organizations or institutions which receive senior volunteers from the Retired Senior Volunteer Program. Volunteer stations at which volunteers serve will be in the community where such persons live or in nearby communities. Volunteer services will be performed either on publicly owned and operated facilities or projects or on local projects sponsored by private non-profit organizations (other than political parties) other than projects involving construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place of religious worship. (b) Volunteer stations to which RSVP volunteers are assigned by the

project shall be party to a Memorandum of Understanding executed with the sponsor containing mutually agreeable provisions relating to functions and conditions of service of volunteers and to responsibilities of both the project and the volunteer station. The purpose of the Memorandum of Understanding is to promote cooperation, establish channels of communication, and avoid misunderstanding.

§ 1209.3–2 Advisory Council.

(a) A Retired Senior Volunteer Program Advisory Council shall be established for each project, prior to filing of the project application, to give advice on planning of the project and on drafting of the application and, after funding of the project, to give the sponsor support, assistance and advice on significant decisions and actions. Membership of the Advisory Council shall consist of representation from volunteer stations, specialists in the field of aging and voluntarism, representation from major private organizations and public agencies concerned with the best interests of older adults and volunteers, and other citizens of the community able to make a substantial contribution to the project, including persons competent in the field of service involved. At least one-fourth of the membership shall be persons aged 60 and over and must include RSVP volunteers. The Council shall have regularly scheduled meetings. Transportation costs for attendance at Council meetings subsequent to the grant award shall be reimbursed in the same manner as for transportation of the RSVP volunteers.
(b) The sponsor shall request assistance of the Council to coordinate activities of the project with other volunteer and older persons programs. The sponsor shall also request the Council to evaluate progress of the project at regular intervals.

§ 1209.3–3 Volunteers.

(a) Each RSVP project will be responsible for development of a variety of opportunities for useful service in the community commensurate with abilities, preferences and availability of senior volunteers from varied levels of income, education and experience.
(b) Eligibility requirements for service as a RSVP volunteer are that a person:
(1) Be retired and age 60 or over;
(2) Be physically and mentally able to serve;
(3) Accept supervision as required, and
(4) Commit the necessary time to carry out the assigned volunteer functions, usually a given number of hours on a regular basis.

§ 1209.3–4 Expenses of Volunteers.

Volunteers will not be compensated for their services. Reimbursement may be provided to RSVP volunteers for necessary out-of-pocket expenses incurred during, or as a result of, assigned volunteer activities in accord with allowable expense reimbursement prescribed in the Retired Senior Volunteer Program Operations Handbook.

§ 1209.3–5 Training of staff and volunteers.

The project budget shall include such short-term instruction or training as may be necessary to make the most effective use of the skills and talents of those persons who are participating in the administration of the project and volunteers, including payment of necessary and reasonable expenses of trainees incurred during training.

§ 1209.3–6 Safety standards.

Adequate standards of safety to protect older persons serving as RSVP volunteers at various volunteer stations shall be assured by the sponsor.

§ 1209.3–7 Insurance.

RSVP volunteers shall be provided insurance protection in relation to their volunteer assignments by the sponsor as established in the Retired Senior Volunteer Program Operations Handbook.

Subpart D—Contracts

§ 1209.4–1 Eligibility.

The Director is authorized to make contracts to carry out the purpose of this part with a public or private non-profit agency or organization (other than the State agency).

§ 1209.4–2 Provisions.

Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations, and agency policies.

§ 1209.4–3 Payments.

Payments for a contract under this part may be made in advance or by way of reimbursement and in such installments and on such conditions as the Director may determine.

This redesignation shall become effective on December 7, 1976.

JOHN L. GANLEY,
Deputy Director.

[FR Doc.76-35857 Filed 12-6-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 29)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods (Performance Reports)

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of November 1976.

It appearing, that by petition filed December 31, 1975, the American Movers Conference requested this Commission to institute a rulemaking proceeding for the purpose of investigating certain specified matters described in the attached report which concern problems relating to the transportation by motor common carriers of household goods in interstate or foreign commerce; and that notice of the filing of this petition was published in the FEDERAL REGISTER on January 6, 1976, inviting written comments by any person (including petitioner) wishing to make representations in favor of, or against, the relief sought in the petition;

And if further appearing, that investigation of the matters and things involved in this proceeding has been made and that the Commission has made and filed its report herein containing its findings of facts and conclusions thereon, which report is hereby referred to and made a part hereof;

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 § 1056.7 thereof as set forth in the notice attached hereto; and that the petition of the American Movers Conference, except to the extent granted herein, be, and it is hereby, denied.

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 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, 316, and 320, 5 U.S.C. 552, 553, and 559.)

By the Commission.

ROBERT L. OSWALD,
Secretary.

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (PERFORMANCE REPORTS)

• *Purpose.* The purpose of this notice is to inform the public that the Interstate Commerce Commission has amended § 1056.7(b) of this Commission's General Rules and Regulations (49 CFR 1056.7(b)) to give carriers additional time within which to file their annual performance reports and to require carriers to list in those performance reports the time within which claims for loss and damage were settled by the respective carriers. •

The Interstate Commerce Commission, in the above-entitled proceeding, has amended 49 CFR 1056.7(b), (i) to require that motor common carriers of household goods file their annual performance reports with this Commission on or before March 31 of each year, and (ii) to require that carriers specify in their performance reports the percentage of loss or damage claims settled within 30 days of filings, and the percentage of loss or damage claims settled within 60 days of filing.

This action was taken as a result of a petition filed by the American Movers Conference seeking these and other changes in our performance reporting

requirements, as set forth in 49 CFR 1056.7. Notice of the proposed rulemaking proceeding was published in the FEDERAL REGISTER on January 9, 1976, and comments were filed by interested persons. This Commission adopted the changes described in this notice in order to assure that carriers are given sufficient time within which to prepare accurate performance reports and to give potential shippers a more accurate indication of the time within which claims against various household goods carriers (if any claims were to be filed) would be processed by the particular carrier. Other changes requested by the American Movers Conference were rejected, inasmuch as they were either not justified by the evidence of record or they would reduce the effectivness of the performance reporting requirements set forth in 49 CFR 1056.7.

These regulations are issued under the authority of 49 U.S.C. 301, 302, 304, 308, 316, and 320, and 5 U.S.C. 552, 553, and 559.

By the Commission.

ROBERT L. OSWALD,
Secretary.

§ 1056.7 [Amended]

Accordingly, this action modified 49 CFR 1056.7(b) as follows:

(1) Section 1056.7(b) is revised by deleting therefrom the words, "Each motor common carrier of household goods shall on or before the 45th day following the termination of each calendar year (beginning with the calendar year in which this regulation becomes effective)" and substituting therefor the words "Each motor common carrier of household goods shall on or before March 31 of each year * * *."

(2) Paragraph (j) of § 1056.7(b) is revised by deleting present paragraph (j) and substituting therefor the following:

(j)(1) Average length of time to settle claims for loss or damage (for claims settled during the calendar year).

(2) Percentage of claims for loss or damage settled within 30 days of filing (for claims settled during the calendar year).

(3) Percentage of claims for loss or damage settled within 60 days of filing (for claims settled during the calendar year).

(4) Percentage of claims for loss or damage settled more than 60 days from the date of filing (for claims settled during the calendar year).

[FR Doc.76-35786 Filed 12-6-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Lake Ilo National Wildlife Refuge, North Dakota

The following special regulation is issued and is effective on December 7, 1976.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

NORTH DAKOTA

LAKE ILO NATIONAL WILDLIFE REFUGE

Sport Fishing on the Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota is permitted in accordance with all applicable State regulations through March 27, 1977. The area open to fishing comprises 1,050 acres, and is delineated on maps available at refuge headquarters, 1 mile west of Dunn Center, North Dakota and from the Area Manager, U.S. Fish and Wildlife Service, Post Office Box 1897, Bismarck, North Dakota 58501. Sport fishing shall be in accordance with all applicable State regulations, subject to the following conditions.

(1) Fishing at all times shall be limited to daylight hours only.

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 March 27, 1977.

CHARLES S. PECK,
Refuge Manager, Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota 58626.

NOVEMBER 29, 1976.

[FR Doc.76-35919 Filed 12-6-76;8:45 am]

PART 33—SPORT FISHING

Certain National Wildlife Refuges in California

The following special regulations are issued and are effective on January 1, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

General Conditions. Fishing shall be in accordance with applicable State and Federal regulations and special conditions listed. Portions of the refuges which are open to fishing are designated by signs and/or delineated on maps. The maps are available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 3737, Portland, OR 97208.

Colusa National Wildlife Refuge. (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, CA 95988.)

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season.

Delevan National Wildlife Refuge. (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, CA 95988.)

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season.

Modoc National Wildlife Refuge. (Headquarters: Sheldon-Hart Mountain-Modoc National Wildlife Refuges, P.O. Box 111, Lakeview, OR 97630.)

Special Conditions. (1) The refuge is closed to fishing during the waterfowl hunting season.

(2) The taking of frogs on refuge lands is prohibited.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, CA 95988.

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season.

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, CA 92233.

Special Condition. Fishing is permitted only on that portion of the refuge which is inundated by the Salton Sea and other refuge lands posted with public fishing signs.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, CA 93635.

Special Conditions. (1) Fishing permitted from sunrise to one hour after sunset.

(2) The refuge is closed to sport fishing during the migratory waterfowl hunting season.

(3) Use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM H. MEYER,
Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc.76-35909 Filed 12-6-76;8:45 am]

PART 33—SPORT FISHING

Certain National Wildlife Refuges in Washington

The following special regulations are issued and are effective on Saturday, January 1, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

General Conditions. Fishing shall be in accordance with applicable State and Federal regulations. Portions of the refuge which are open to fishing are designated by signs and/or delineated on maps. The maps are available at the refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, OR 97208.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323.

Special Conditions. (1) The refuge is closed to sport fishing during the migratory waterfowl hunting season.

(2) The use of boats or floating devices of any description is prohibited.

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344.

Special Conditions. (1) Mallard Lake, Migraine Lake, Scabrock Lake, and all

unnamed waters are open April 17 through September 30, 1977.

(2) The use of boats and the use of outboard motors is prohibited on lakes so posted.

(3) Fishing on Juvenile Lake is permitted only to persons 17 years of age and under.

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Washington 99114.

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 December 31, 1977.

WILLIAM H. MEYER,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.76-35909 Filed 12-6-76;8:45 am]

PART 33—SPORT FISHING

Certain National Wildlife Refuges in Nevada

The following special regulations are issued and are effective on January 1, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

General Conditions: Fishing shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps. The maps are available at the respective refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 3737, Portland, OR 97208.

Charles Sheldon Antelope Range. (Headquarters: P.O. Box 111, Lakeview, OR 97630.)

Ruby Lake National Wildlife Refuge, Ruby Valley, NV 89833.

Stillwater National Wildlife Refuge, P.O. Box 592, Fallon, NV 89406.

Special Condition: Refuge closed to fishing during the migratory waterfowl hunting season.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM H. MEYER,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.76-35910 Filed 12-6-76;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.

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[EDR-313A, Docket 29988, December 2, 1976]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Transmission of Tariff Filings to Subscribers; Supplemental Notice of Proposed Rulemaking

By EDR-313, October 28, 1976, the Board issued a notice of proposed rulemaking in this proceeding requesting comments from interested persons in response to its proposal to require those carriers subject to the provisions of section 403(a) of the Act to offer tariff subscription services for passenger fares, freight rates, and charter services. The Board requested that the comments be filed by December 3, 1976.

By letter, dated November 26, 1976, counsel for the Air Freight Forwarders Association (AFFA) has requested an extension of the filing date for comments to December 17, 1976. In support of its requests, AFFA alleges that a survey of its members is being taken in order to assess the impact of the proposed rule and that this analysis will not be completed until December 3, 1976; at which time AFFA will then determine what its position will be on the merits of the proposed rule.

Since it does not appear that granting the requested two week extension will unduly prejudice any party to this proceeding and in the interest of receiving the views of all interested persons, the undersigned finds that good cause has been shown for an extension of time for filing comments. It should also be noted that this is the first extension requested in this proceeding.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR Part 385), the undersigned hereby extends the time for filing comments to December 17, 1976.

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc.76-35941 Filed 12-6-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 249]

[Release Nos. 33-5776; 34-13034]

ANNUAL AND PERIODIC REPORTS

Withdrawal of Proposed Amendments

The Securities and Exchange Commission announced today that it has withdrawn its proposal to amend Forms 10-K (17 CFR 249.310) and 10-Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 (the "1934 Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)), which was published for comment in Securities Act Release No. 5715 (June 2, 1976), 41 FR 23983, and has adopted a modified version of the proposal in the form of amendments to the instructions to Forms S-7 (17 CFR 239.26) and S-16 (17 CFR 239.27) under the Securities Act of 1933, (the "1933 Act") (15 U.S.C. 77a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) and Forms 10-K and 10-Q under the Securities Exchange Act of 1934. (See Rules and Regulations in this issue at 41 FR 53473.)

The amendments to Forms 10-K and 10-Q [1] published for comment in Securities Act Release No. 5715 (June 2, 1976), 41 FR 23983, would have provided a space on the facing sheet of each form which a registrant, at its option, could use to indicate its intention to file a registration statement on either Form S-7, Form S-9 (17 CFR 239.22) or Form S-16 [2] on or before the date of its next filing on either Form 10-K or Form 10-Q. Compliance with the proposed notice provision was expected to enable the staff to review promptly the annual, quarterly, and current reports filed by registrants under the 1934 Act, and, in most cases, thereby to expedite its review of registration statements on Forms S-7, S-9, or S-16, when filed.

In view of the adverse comments received on this proposal (See File No. S7-638), the Commission has determined to withdraw it and to adopt instead a modified version of the proposal in the form of amendments to the instructions to Forms 10-K and 10-Q under the 1934 Act and Forms S-7 and S-16 under the 1933 Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 2, 1976

[FR Doc.76-35976 Filed 12-6-76;8:45 am]

[1] Forms 10-K and 10-Q are used for annual and quarterly reports, respectively, filed under the 1934 Act.

[2] Form S-7 and Form S-16 are registration forms under the 1933 Act which may be used for the registration of securities of issuers which have filed periodic reports under the 1934 Act for three or more years and which meet certain other conditions. See Securities Act, Release No. 5728 (July 26, 1976) 41 FR 32539, for a proposal to modify the conditions as to the use of Forms S-7 and S-16.

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 230]

CREDIT UNIONS SERVING DEPARTMENT OF DEFENSE PERSONNEL

Proposed Policies Governing Establishment and Support

Pursuant to the authority contained in 10 U.S.C. 131 et seq. Part 230 updates Department of Defense policies governing the establishment and support of, and relationships with, credit unions serving DoD personnel in the United States, the District of Columbia, the territorial possessions of the United States, the Canal Zone, and Puerto Rico, and at overseas operating locations and assigns responsibility for policy direction of the DoD credit union program.

Public comment on the proposed revision may be submitted on or before January 6, 1977, to Directorate, Personnel Services (MPP), OASD(M&RA), Room 3C980 (Pentagon), Washington, D.C. 20301, 202-697-9191.

32 CFR Part 230 is revised as set forth below:

PART 230—CREDIT UNIONS SERVING DEPARTMENT OF DEFENSE PERSONNEL

Sec.

230.1 Purpose.
230.2 Applicability.
230.3 Definitions.
230.4 General policies.
230.5 Responsibilities.
230.6 Logistical support.
230.7 Specific policies and procedures for DoD Credit Unions.
230.8 Effective date.

AUTHORITY. Sec. 301, 80 Stat. 379; 5 U.S.C. 301 and sec. 1-28, 48 Stat. 1216 (12 U.S.C. 1751 et seq.; 10 U.S.C. 131 et seq.)

§ 230.1 Purpose.

This part (a) updates Department of Defense policies governing the establishment and support of, and relationships with, credit unions serving DoD personnel in the United States, the District of Columbia, the territorial possessions of the United States, the Canal Zone, and Puerto Rico, and at overseas operating locations in implementation of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) and the Rules and Regulations of the Administrator of Federal Credit Unions (12 CFR Chapter VII.) and (b) assigns responsibility for policy direction of the DoD credit union program.

§ 230.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands and the Defense Agencies (hereinafter referred to collectively as "DoD Components").

§ 230.3 Definitions.

(a) *Federal Credit Union.* Credit unions established and operated under the authority granted by the Federal Credit Union Act, as amended, as legal entities with specific powers and authorities as approved by law. They are supervised and examined periodically by the National Credit Union Administration (12 CFR Chapter VII).

(b) *State Credit Union.* Credit unions organized under State laws which operate on the same general principles as Federal credit unions and are supervised and examined by a State regulatory body.

(c) *Insured Credit Union.* Any credit union whose member acounts are insured under the provisions of the Federal Credit Union Act, a State-sponsored insurance plan, or a private insurance plan with coverage comparable to that offered by the National Credit Union Administration.

(d) *DoD Credit Union.* A Federal or State credit union, the majority of whose members are DoD personnel.

(e) *Full-Service Credit Union.* A full-service credit union provides normal counter transaction service and is staffed with a loan officer, a person authorized to sign checks and a qualified financial counselor. (Counselling functions may be assumed by the loan officer or the person authorized to sign checks of the credit union.) In addition the credit union must provide nondiscriminatory service.

(f) *Stateside DoD Credit Union.* A DoD credit union located in one of fifty states of the United States, the District of Columbia, the Canal Zone, Puerto Rico and United States Territories and Possessions (§ 230.7).

(g) *Credit Union Sub-Office.* A full-service subsidiary office of an existing credit union.

(h) *Sub-Office Facility.* A facility employing teletype or other communications systems with the parent credit union to conduct business at remote locations where a full-service credit union or sub-office capability is impracticable. Sub-office facilities do not provide cash transaction services, but do disburse loans and shares via check or draft. They are required to provide qualified financial counseling service at all times.

(i) *Overseas Credit Union.* A Federally-chartered credit union which furnishes services with a sub-office or sub-office facilities at U.S. military installations in foreign jurisdictions (§ 230.7).

(j) *Fair Rental.* Fair rental is a reasonable charge for on-base land and is not necessarily comparable with the rental charges in the local civilian economy. The charge will be primarily based on costs of administering the lease and will be as established by the Assistant Secretary of Defense (Installations and Logistics). Once determined, the charges will be applicable for the entire term of the lease.

(k) *DoD Personnel.* DoD personnel as used in this part, unless the context indicates otherwise, means all military personnel on active duty, Civil Service employees, and other civilian employees including special Government employees of all offices, agencies and departments carrying on functions on a Defense installation (including nonappropriated fund activities).

(l) *Discrimination.* Any differential treatment in the provision of services, including loan services, by a credit union to DoD credit union members and their dependents on the basis of race, color, religion, national origin, sex or marital status, age, rank or grade.

§ 230.4 General policies.

(a) As stated in the Federal Credit Union Act (12 U.S.C. 1751 et. seq.) and the Rules and Regulations of the Administrator of Federal Credit Unions (12 CFR Chapter VII.), credit unions are recognized as cooperative associations created for the purpose of stimulating systematic savings and creating a source of credit for provident or productive purposes. Credit unions emphasize self-help and wise management of resources, thereby raising standards of living, strengthening the family unit and increasing the self-reliance of the members. They will be recognized and assisted by DoD Components at all echelons because of their important contributions to morale and welfare since they provide benefits to DoD personnel by (1) Encouraging habits of thrift through the accumulation of savings, (2) Combating usurious practices by providing money for personal loans at low-cost interest rates, (3) Extending full counseling services on personal and family financial planning problems, true costs of installment buying contracts, Pub. L. 90-321, "Consumer Credit Protection Act," May 29, 1968, and related matters of financial interest to members and their dependents.

(b) Credit union services will be made available to DoD personnel of all ranks and grades under conditions and in the manner set forth in § 230.7. DoD Components will recognize the right of all military and civilian personnel to organize and/or affiliate with credit unions formed under duly constituted authority and should encourage the application and expansion of the principles of the credit union movement at all DoD installations worldwide.

(c) Existing DoD credit unions worldwide will continue to operate in accordance with present agreements, as applicable.

(d) Section 230.7 contains specific policies and procedures which govern the operations of credit unions, the establishment of new credit unions, and the provisions of credit union service in overseas areas. In addition, § 230.7 states the policy for furnishing space and logistical support to existing and new credit unions.

§ 230.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower and Reserve Affairs) shall:

(1) Administer the overall DoD credit union program and assure its effective implementation.

(2) Maintan liaison, as appropriate, with the National Credit Union Administration (NCUA) and equivalent State regulatory agencies.

(3) Maintain liaison with the Defense Credit Union Council and other associations, leagues of credit unions and groups which include DoD credit unions in order to provide DoD policies to the industry and as an aid in solving mutual problems in the conduct of credit union operations.

(4) Take final action on requests for exceptions to the provisions of this part.

(b) The Secretaries of the Military Departments shall:

(1) Have responsibility for recognizing and assisting credit unions in developing and expanding necessary credit union services for organizations under their jurisdiction located in the United States, the District of Columbia, the Canal Zone, Puerto Rico, and U.S. territories and possessions, consistent with the provisions of this part.

(2) Establish liaison, as appropriate, with the National Credit Union Administration, the State agencies involved, the Defense Credit Union Council and other associations, leagues and groups which include DoD credit unions.

(3) Coordinate the development of stateside credit unions with other Military Departments when required.

(4) Maintain a current listing of all credit unions, credit union sub-offices and sub-office facilities serving their Departments.

(c) All DoD Components will:

(1) Recognize the right of military and civilian personnel to organize and/or affiliate with credit unions formed under duly constituted authority, and encourage the application and expansion of the principles of the credit union movement in the DoD worldwide.

(2) Recognize and support credit union associations, leagues of credit unions and groups formed by DoD credit unions to serve individual credit unions.

(3) Encourage DoD personnel who volunteer to serve on credit union boards and committees on a non-reimbursable basis where neither conflict of duty nor interest is involved (32 CFR Part 40). These personnel may be allowed to attend credit union conferences and meetings in accordance with DoD Directive 1327.5, "Leave and Liberty," June 29, 1974 [1] and DoD Instruction 1424.2, "Administrative Dismissal and Excusal of DoD Civilian Employees," October 10, 1972.[1]

§ 230.6 Logistical support.

Credit unions organized by and for DoD personnel may be provided logistical support as set forth in § 230.7 and DoD

See footnotes at end of document.

Directive 4000.6, "Policy on Logistic Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Overseas Military Commands," January 23, 1976.[1]

§ 230.7 Specific policies and procedures for DoD Credit Unions.

(a) *General*—(1) *New DoD Credit Unions in the U.S. and Its Territories.* (i) Where there is a demonstrated need for credit union services, primary emphasis will be placed on the establishment of a facility chartered by on-site personnel when sufficient personnel capability and interest exists. Otherwise, the possibility of using sub-office services of an existing credit union under the common-bond principle (e.g., Army credit unions servicing Army personnel at Army installations) should be explored. However, credit union services should not be denied or delayed merely because commonality between the Military Services cannot be satisfied.

(ii) Any group of persons seeking to establish a full-service credit union on an installation without a full-service credit union, will submit a proposal to the installation commander for review. The proposal will be forwarded, with a recommendation for approval or denial, through channels to Military Service headquarters for final determination.

(iii) When neither of the conditions in paragraph (a)(1)(i) of this section prevail, and provided qualified financial counseling service is available, a sub-office facility employing teletype or other communications liaison with the parent credit union may be established.

(iv) Where none of the possibilities above exist, service by mail is permitted by any credit union whose charter authorizes same.

(2) *Share Insurance.* Credit unions sponsored by DoD activities or operating sub-offices on military installations will qualify for Federal share insurance as provided by the Federal Credit Union Act (12 U.S.C. 1751 et. seq.), or participate in the State-sponsored share insurance program of the state in which the credit union is operating, or in a private insurance plan. State and private insurance plans must provide essentially the same coverage as provided by the National Credit Union Administration. Credit unions located on DoD installations which do not have share insurance as of the date of this Part will be required to provide such insurance within 2 years. Failure to provide insurance will result in a removal from the installation and a request by DoD to the appropriate regulatory body for charter revocation.

(3) *Dual Credit Unions.* At certain installations, two credit unions, each with independent and/or overlapping fields of membership, now exist. These credit unions are encouraged to take voluntary action to request charter amendments which would permit full credit union services to all eligible personnel.

(i) Where charter amendment is neither desired nor deemed appropriate by the officials of the credit union or where such proposed amendment is disapproved by the National Credit Union Administration or the appropriate state agency, affected credit unions should be encouraged to consider the advantages of merger. Mergers may not be directed by military officials.

(ii) Where neither charter amendments nor mergers are possible, existing credit unions, as an exception to paragraph (d) of this section, may retain but not expand existing facilities or may elect to operate from an off-base location. Priority in space allocation and facility support will be tendered to that credit union offering full services.

(iii) Where neither of two existing credit unions on a military installation offers full services and another credit union receives approval to provide full credit union services to all personnel at the installation, the installation commander shall:

(*a*) Withdraw on-base space and support functions for credit unions which do not provide full services.

(*b*) Require their removal to an off-base operating location.

(iv) Excepting for those already in existence, only one credit union on a military installation is permitted.

(4) *Credit Union Service Overseas.* Credit unions established as a sub-office of a stateside DoD Federal credit union will be limited to on-base operations, and will confine their membership to DoD military and civilian personnel and their dependents who are United States citizens.

(i) *Development and Supervisory Procedures.* Affected United Command Commanders and/or Designated Component Commanders and the Military Departments will issue appropriate instructions consistent with this part governing existing sub-office credit unions under their jurisdictions, and encourage the sub-office concept consistent with the principles established for stateside DoD credit unions and any international arrangements related to the presence of United States Forces in the country concerned.

(*a*) The office of the ASD(M&RA) will be notified through military channels where there is a need for credit union services in an overseas location. This notification will include the name of a designated project officer and a statement that this requirement has been coordinated with the U.S. Chief of Mission or U.S. Embassy involved and that the country involved will permit the operation.

(*b*) The ASD(M&RA) will then notify, or cause to be notified, stateside DoD Federal credit unions of the existence of this need. A list of interested credit unions, along with their specific proposals for operation in the subject area, will then be forwarded to the Unified Commander and/or the designated Component Commander, and to the appropriate Military Departments, requesting recommendations. Concurrently, the proposals will be provided to the National Credit Union Administration for information.

(2) Upon receipt of recommendations a DoD position will be developed and a recommendation will be provided to the NCUA. The NCUA will make the final selection of the credit union to provide service in the overseas area.

(*b*) The NCUA will assign each approved sub-office a primary installation from which to operate and a geographical territory for further expansion through additonal facilities. These may be permanent locations or traveling services through mobile outlets.

(*c*) Sub-offices will be authorized an exclusive on-site franchise; however, any credit union having an approved charter which authorizes it to serve its members while stationed overseas may continue to do so by direct mail, including the use of available media for commercial solicitation through advertising.

(ii) Overseas credit union sub-offices and facilities will conduct business in accordance with this part. Additionally, implementing regulations of the affected Unified Command Commanders and/or the Designated Component Commander or the Military Departments will govern.

(*a*) The recommendations and direction of the National Credit Union Administration through its rules, regulations, procedural forms, reports and manuals (including the Board of Directors Manual for Federal Credit Unions) apply directly to overseas credit union sub-offices and facilities.

(*b*) Funds should be deposited and/or invested in accordance with the authority applicable to Federal Credit Unions. Overseas credit union sub-offices and facilities should deposit funds in accordance with instructions issued by the National Credit Union Administration.

(*c*) Operation of overseas credit union sub-offices and facilities will be reviewed by the NCUA during examination of parent credit unions.

(*d*) All overseas credit union transactions must either be in U.S. currency or military script prescribed for the area in which the overseas credit union is operating.

(*e*) No credit union loans may be made for the purpose of purchasing real property or for the purpose of purchasing or erecting any type of residence in any foreign country.

(5) *Joint Operations.* Joint operations at the same location by multiple credit unions are normally not appropriate or necessary. However, in unusual circumstances when required in order to provide proper service to DoD personnel, such operation may be approved as an exception to policy. Requests for approval of joint operations must be submitted through military channels to ASD (M & RA). Approved requests will be provided to the appropriate regulatory agency for final confirmation.

(b) *Operations*—(1) *Operating policies.* Credit unions organized by and for DoD personnel will operate in accordance with the provisions of this part and DoD Instruction 1000.15, "Private Organizations on DoD Installations," October 31, 1973.[1] They may be provided with the property and logistic support contemplated by paragraph (d) of this section, provided operating policies are consistent with the following:

[1] See footnotes at end of document.

(i) *Lending.* (*a*) In accordance with accepted credit union practice, lending policies will be as liberal as possible and still be consistent with the interests of the credit union membership and the individual member. Credit unions must strive to provide the best possible service, to include minimum interest on loans, to all of their members.

(*1*) To be avoided are unnecessarily restrictive, unreasonable, or out-of-date rules on the size of loans, type and amount of security, or waiting periods before loan eligibility can be granted.

(2) Special attention will be given to assisting the military members in pay grades of E–1, E–2 and E–3 who apply for loans for provident purposes.

(*b*) Credit unions which evidence a policy of discrimination in their loan services will be in violation of the recognized spirit of the credit union movement. A continuing failure to reflect a fair proportion of loan services to all ranks, grades, or classes of personnel is one of the factors to be considered in determining that a credit union is practicing discrimination. Complaints or violations of the standards of service will be handled as follows:

(*1*) Installation commanders who suspect credit union discrimination will first attempt to solve the problem by negotiation. Failing this, a request in writing for investigation will be made to the regional representative of the National Credit Union Administration in the case of a Federal credit union, or to the state authority in the case of a State-chartered credit union. The request will clearly describe the problems. These regulatory bodies will attempt to resolve the situation. Information copies of all correspondence relating to the matter will be sent to intermediate Headquarters and ASD (M & RA).

(2) If action by the appropriate regulatory agency's local representative fails to solve the problem, a full report with recommendations will be submitted through military channels to ASD (M & RA). Appropriate follow-up action, directly to the Administrator, NCUA, or to a state regulatory agency, if appropriate, which may include a request for charter revocation, will be accomplished by ASD (M & RA)

(*c*) Any evidence of suspected financial malpractice by credit unions will be reported in writing by the installation commander involved to the appropriate regulatory body with a request for investigation.

(ii) *Counseling.* (*a*) Counseling service will be made available to DoD credit union members without charge, and will include helping members, particularly youthful and inexperienced servicemen and young married families, to solve money problems and to budget.

(*b*) The importance of this service cannot be overstressed. Individual financial counseling service must be available to all; however, its need by younger personnel and their dependents is of special value and it can contribute substantially to morale.

(iii) *Savings.* Members will be encouraged to participate in a regular savings plan:

(*a*) Which meets their individual needs and provides a reasonable return on savings; and

(*b*) Is dictated by good management principles as to amounts which may be deposited at any one time or the total amount which may be held in savings.

(iv) *Relations.* (*a*) It is a mutual responsibility of the installation and the credit union to build a viable relationship in which there is an in-depth understanding of each others requirements. This relationship should be one in which continuous communications are maintained and problems anticipated and resolved as smoothly as possible.

(*b*) Credit unions operating on military installations will: Keep the installation commander advised of the credit union operations; furnish him a copy of the monthly financial report and other local credit union publications; and invite him or his designees to attend annual meetings and other appropriate functions. Credit unions will, to the extent resources permit and when so requested, provide the installation commander with lecturers and material on consumer credit matters in support of educational programs for DoD personnel (32 CFR Part 43).

(*c*) Cooperation, liaison and exchange of information between credit unions of all DoD Components will be encouraged. Credit union associations, credit union leagues, and councils formed by DoD credit unions can provide an excellent means of communication.

(*d*) The support and sympathetic understanding intended by this part will not be construed as representing control, supervision, or financial responsibility of credit unions by installation commanders or DoD Components.

(2) *Facilities and staffing.* (i) Full services shall be provided by credit unions at on-site facilities staffed by (*a*) A loan officer authorized to act by and for the credit committee, (*b*) An individual authorized to sign checks, and (*c*) A qualified financial counsellor available to the membership during operating hours. Exceptions to this requirement may be approved by the Military Department concerned in the case of newly organized credit unions.

(*1*) Where an on-site facility requires only minimum staffing, the counsellor duties may be assumed by paragraph (b) (2) (i) (*a*) or (*b*), of this section.

(2) Where an on-site facility extends its services to one or more areas of the same installation and direct courier or message service is available to the main office, a one-person operation is authorized for the extended operation.

(ii) All staffing will be accomplished in full compliance with the spirit and intent of the equal employment opportunity policies and programs of the Department of Defense, DoD Directive 1100.15, "The Department of Defense Equal Opportunity Program," June 3, 1976.[1]

(c) *Miscellaneous provisions.* (1) Credit unions serving DoD personnel will be afforded advertising space in appropriate publications on a paid-for or no-charge basis consistent with the policies of the media concerned.

(i) The use of bulletin boards for promotional or informational material is authorized.

(ii) Competitive literature from other credit unions will not be disseminated at that installation. This does not preclude any credit union whose approved charter will permit it to serve its members while stationed overseas from utilizing a direct mail approach or a commercial advertising campaign in the same area. Distribution of competing credit union literature through military exchange outlets in areas where an on-base credit union exists is not authorized.

(iii) The use of the American Forces Radio and Television Service to promote a specfic credit union is prohibited, DoD Instruction 5120.20, "American Forces Radio and Television (AFRT)," April 26, 1971.[1]

(2) *Duty Hours.* Credit unions will be permitted to conduct operations during normal duty hours providing that there is no undue interference with the performance of official duties. Credit unions are encouraged to establish operating hours consistent with the needs of the military installation to best service the overall needs of the membership within sound management principles.

(3) *Support of Pay Allotment Privileges.* DoD personnel may use the allotment of pay privileges to make allotments to the credit union of their choice to meet existing obligations and establish sound credit savings practices, DoD Directive 7330.1, "Voluntary Military Pay Allotments," May 24, 1974.[1]

(i) Members who elect to deposit funds by allotment will have their accounts credited on the date the credit union is authorized to deposit funds received on behalf of the members.

(ii) Under no circumstances will the initiation of an allotment of pay become a prerequisite for a loan approval or delivery of funds to the credit union member. Allotments voluntarily initiated to a credit union under DoD Directive 7330.1, "Voluntary Military Pay Allotments," May 24, 1974,[1] may continue in force at the pleasure of the allotor.

(iii) Military members of credit unions having an outstanding loan balance should contact the credit union prior to departure from the installation on a permanent change of station, in accordance with clearance procedures established by the appropriate Military Department.

(iv) Individuals who are members of a local credit union but do not have an outstanding loan balance shall be encouraged to file a change of address. Care must be exercised to assure that any procedure adopted for notice of change of address does not involve coercion.

(v) Requests for central military locator service for active duty personnel by credit unions located on a military installation will be provided at no cost

See footnotes at end of document.

(32 CFR Part 288). Credit unions should cite this authority when requesting such service. This service is provided only when necessary to locate individuals for settlement of accounts including bad checks and delinquent loans (32 CFR Part 43a).

(d) *Utilization of Military Real Property and Space.* One full-service credit union at each DoD installation will be furnished space, when available, by no-cost permit for periods of 5 years, DoD Directive 4165.6, "Real Property; Acquisition, Management and Disposal," (under revision). The furnishing of office space and related real property to credit unions will be governed by Section 1770 of the Federal Credit Union Act. Credit unions providing less than full-service are not authorized to be furnished space. Credit unions assigned military real property and space will reimburse the DoD for all services such as telephone lines, long distance toll calls, space alterations, etc., but excepting from such reimbursement air conditioning, heat, light, janitorial services, fixtures and maintenance when provided.

(1) Criteria governing the assignment of existing space facilities and construction of new space facilities (when authorized) for credit unions will be in accordance with those specified in DoD Manual 4270.1-M, "Department of Defense Construction Criteria Manual," October 1, 1972.[2]

(2) Proposals by credit union officials for the erection of structures at credit union expense must receive the prior approval of the Assistant Secretary of Defense (Installations and Logistics) and must be reported to Congress in accordance with DoD Instruction 7700.18, "Nonappropriated Funded Construction Program—Review and Reporting Procedures," March 9, 1972.[1] The following provisions are emphasized:

(i) The building must be confined to the needs of the credit union. The building will not be constructed to also provide for other commercial enterprises or Government instrumentalities.

(ii) Credit unions submitting such plans for consideration must also agree to be financially responsible for and to reimburse the DoD for any maintenance, utilities and other services furnished.

(iii) Land required for approved construction at credit union expense shall be made available only at fair rental by real estate lease not to exceed 25 years in duration, DoD Directive 4165.6, "Real Property; Acquisition, Management and Disposal," (under revision): *Provided*, That at the option of the Government structures and other improvements erected thereon will be conveyed to the Government without reimbursement, or removed and the land restored to its original condition in the event of (*a*) installation inactivation, closing or other disposal action, (*b*) liquidation of the credit union, or (*c*) revocation or other termination of the credit union lease.

(3) Logistical support for overseas credit unions will be in accordance with the above and DoD Directive 4000.6, "Policy on Logistic Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Overseas Military Commands," January 23, 1976.[1]

(4) Military Postal Service for overseas credit unions may be authorized with DoD Directive 4635.1, "Department of Defense Postal Operations and Related Services," August 1, 1973.[1]

§ 230.8 Effective date.

This part is effective 30 days after publication in the FEDERAL REGISTER.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 2, 1976.

[FR Doc.76-35928 Filed 12-6-76;8:45 am]

[1] Filed as part of original. Copies available from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, ATTN: Code 300.

[2] Filed as part of original.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

[36 CFR Part 903]

PRIVACY ACT OF 1974

Proposed Implementation

On September 29, 1975, the Pennsylvania Avenue Development Corporation published in 40 FR 44754 final regulations implementing the Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a). Subsequent to that publication, the Corporation received a communication from the Ad Hoc Interagency Task Force on Privacy Act Implementation which suggested certain changes in the Corporation's regulations. The Corporation, therefore, began an in-depth review of its Privacy Act Regulations and is now proposing to adopt revised regulations as published here.

The revised regulations make several technical changes in the previous regulations to increase their clarity for the public. Also, a general restructuring of the Table of Sections, which reflects a change in the order of sections in the regulations, has occurred. The Privacy Protection Officer, rather than the Administrative Officer, has been designated as the individual administering the Act for the Corporation. Changes have been made in the regulations at pertinent places to reflect that designation.

The revision also makes several substantive changes to the present regulations. These changes are based upon suggestions made by the Task Force. One such change occurs in § 903.3(b) where the Corporation proposes to minimize the requirements for verification of identity. Section 903.4 entitled "Requests for access to records" has been changed to specify with particularity the information required from an individual when a request for access is filed. Paragraph 903.4(c) in the present regulations, which states that an individual must sign a statement that he or she has reviewed the specified record, has been deleted. It was felt that the requirement might impede a potential requester from seeking access to Corporation-held systems of records. Also, it is questionable whether access could have been denied in any case, if the individual refused to sign such a statement. Paragraph 903.7 (e) has been changed to reflect the Corporation's mandate under the Act (5 U.S.C. 552a(c)(4)) to provide statements of disagreement and copies of the amended record to both prior and subsequent recipients of the record. That paragraph appears as § 903.9(e) in this revision. Previously, the Corporation had only placed a burden on itself to provide those items to subsequent recipients of the record.

It was suggested by the Ad Hoc Task Force that § 903.7(a) in the earlier regulations was unduly burdensome and restrictive on individuals seeking to appeal adverse decisions of the Corporation on a requested amendment to a record. The Corporation stated that appeals would not be received after 15 workdays. As indicated here in § 903.9(a) the Corporation has increased the time limit to 60 workdays. The Ad Hoc Task Force asserted that the Corporation did not have authority under the Act to impose a time limit on the individual's right to appeal. It is questionable whether that point is well taken. There is no direct prohibition in the Act and the Corporation feels that a time limit is necessary to assure effective review of the appeal, and that a timely disposition is beneficial to all parties concerned. The Corporation takes the same position in regards to the Task Force's objection to § 903.7(d), which appears as § 903.9(e) herein. The Corporation has increased the time limit to 60 workdays, but insists that some time limit on the right of appeal is necessary for the effective administration of the Act. The Corporation, in its review, agrees with the Task Force that the shorter time limit may have been unduly burdensome on the requester.

Finally, in § 903.11, a schedule of fees for furnishing and reproducing records is presented. Previously, as it appeared in § 903.9, reference was made to the same fee schedule as appeared in Part 902, the regulations implementing the Freedom of Information Act. This addition permits the regulations of Part 903 to stand alone and simplifies access to the fees schedule by interested individuals.

In order to permit full discussion of these changes, the Corporation invites comments, suggestions and objections to be filed in writing with the Privacy Protection Officer at the Corporation's offices, 425 13th St., N.W., Suite 1148, Washington, D.C. 20004. The record will be kept open until January 3, 1977, to receive these comments, suggestions or objections. Notice of final adoption of these revised regulations with suggested changes will occur soon thereafter.

Accordingly, it is proposed to revise 36 CFR Part 903 to read as follows below:

JOHN M. WOODBRIDGE,
Executive Director.

NOVEMBER 29, 1976.

PART 903—PRIVACY ACT REGULATIONS

Sec.

903.1 Purpose and scope.
903.2 Definitions.
903.3 Procedures for notification of records pertaining to individuals.
903.4 Requests for access to records.
903.5 Response to request for access.
903.6 Appeal of initial denial of access.
903.7 Requests for amendment of record.
903.8 Review of request for amendment of record.
903.9 Appeal of initial adverse determination of request for amendment of record.
903.10 Disclosure of records to persons or agencies.
903.11 Fees for furnishing and reproducing records.
903.12 Penalties.
903.13 [Reserved]

AUTHORITY: Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a)); Pennsylvania Avenue Development Corporation Act of 1972 (Pub. L. 92-578, 86 Stat. 1266 (40 U.S.C. 870)), as amended, Pub. L. 93-429, 88 Stat. 1170 (1974), Pub. L. 94-388, 90 Stat. 1188 (1976).

§ 903.1 Purpose and scope.

The purpose of this part is to enable the Pennsylvania Avenue Development Corporation to implement the Privacy Act of 1974, and in particular the provisions of 5 U.S.C. 552a, as added by the Act. The Act was designed to insure that personal information about individuals collected by Federal agencies be limited to that which is legally authorized and necessary, and that the information is maintained in a manner which precludes unwarranted intrusions upon individual privacy. The regulations in this part establish, and make public, procedures whereby an individual can (a) request notification of whether or not the Corporation maintains or has disclosed a record pertaining to the or her, (b) request access to such a record or an accounting of its disclosure, (1) request that the record be amended, and (d) appeal any initial adverse determination of a request to gain access or amend a record.

§ 903.2 Definitions.

As used in this part:

(a) "Agency" means agency as defined in 5 U.S.C. 552(e).

(b) "Corporation" means the Pennsylvania Avenue Development Corporation.

(c) "Workday" shall be a day excluding a Saturday, Sunday or legal holiday.

(d) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(e) "Maintain" includes maintain, collect, use, or disseminate.

(f) "Record" means any items, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(g) The term "system of records" means a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(h) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual except as provided by Section 8 of Title 13, United States Code.

(i) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 903.3 Procedures for notification of records pertaining to individuals.

(a) An individual making a written or oral request under the Privacy Act (5 U.S.C. 522a) shall be informed of any Corporation systems of records which pertain to the individual, if the request contains a reasonable identification of the appropriate systems of records as described in the notice published in the FEDERAL REGISTER.

(b) Requests may be made in person between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, (except legal holidays). The request should be addressed to the Privacy Protection Officer, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004. The Privacy Protection Officer of the Corporation will require adequate personal identification before processing the request. If a request is made in writing it must be under the signature of the requesting individual and include the individual's address, date of birth, and an additional proof of identification, such as a photocopy of a driver's license or similar document bearing the individual's signature. A notarized, signed statement is acceptable to verify the identity of the individual involved without additional proof.

§ 903.4 Requests for access to records.

(a) Except as otherwise provided by law or regulation, an individual, upon request made in person or delivered in writing may gain access to his or her record or to any information pertaining to him or her which is contained in a system of records maintained by the Corporation, and to review the record and have a copy made of all or any portion thereof in a form comprehensible to him or her. An individual seeking access to a Corporation record may be accompanied by a person of his or her choosing. However, the Corporation will require a written statement from the individual authorizing discussion of his or her record in the accompanying person's presence.

(b) A request under paragraph (a) of this section shall be directed to the Privacy Protection Officer at the place, times and in the manner prescribed in §§ 903.3 (a) and (b). The request should include the following information: (1) The name of the individual; (2) if made in writing, the information required under § 903.3(b); (3) a description of system or systems of records which contain the record to which access is requested; (4) the approximate dates covered by the record; and, (5) a suggested date and time when the individual would like to view the record.

(c) Requests which do not contain information sufficient to identify the record requested will be returned promptly to the requester, with a notice indicating that information is lacking. Individuals making requests in person will be informed of any deficiency in the specification of records or identification at the time that the request is made. The Privacy Protection Officer of the Corporation will require adequate personal identification before processing a request made in person.

§ 903.5 Response to requests for access.

(a) Within 10 days of receipt of a request made under § 903.4 the Privacy Protection Officer shall determine whether access to the record is available under the Privacy Act and shall notify the requesting individual in person or in writing of that determination.

(b) Notices granting access shall inform the individual when and where the requested record may be seen, how copies may be obtained, and of any anticipated fees or charges which may be incurred under § 903.11 of this part. Access shall be provided within 30 days of receipt of the request unless the Corporation, for good cause shown, is unable to provide prompt access, in which case the individual shall be informed in writing within the 30 days as to the cause for delay and when it is anticipated that access will be granted.

(c) Notices denying access shall state the reasons for the denial, and advise the individual that the decision may be appealed in accordance with the procedures set forth in § 903.6.

§ 903.6 Appeal of initial denial of access.

(a) After receiving notification of an initial denial of access to a record, an individual may request a review and reconsideration of the request by the Executive Director of the Corporation, or an officer of the Corporation designated by him, but other than the Privacy Protection Officer. Appeals for review shall be in writing, addressed to the Executive Director, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004. The appeal shall identify the record as in the original request, shall indicate the date of the original request and the date

of the initial denial, and shall indicate the expressed basis for the denial.

(b) Not later than 30 days after receipt of an appeal, the Executive Director, or an officer of the Corporation designated by him, will complete review of the appeal and the initial denial and either:

(1) Determine that the appeal should be granted, and notify the individual in writing to that effect; or,

(2) Determine that the appeal should be denied because the information requested is exempt from disclosure. If the reviewing official denies the appeal, he or she shall advise the individual in writing of the decision and the reasons for reaching it, and that the denial of the appeal is a final agency action entitling the individual to seek judicial review in the appropriate district court of the United States as provided in 5 U.S.C. 552a(g).

§ 903.7 Requests for amendment of record.

(a) An individual may request amendment of a Corporation record pertaining to him or to her, if the individual believes that the record contains information which is not accurate, relevant, timely, or complete. The request shall be in writing, whether presented in person or by mail, shall state with specificity the record sought to be amended, and shall propose wording of the correction or amendment sought. The request shall be directed to the Privacy Protection Officer at the place, times, and in the manner specified in §§ 903.3 (a) and (b). Assistance in preparing a request to amend a record, or to appeal an initial adverse determination under § 903.3(a), may be obtained from the Privacy Officer, Pennsylvania Avenue, Development Corporation, 425 13th Street, Suite 1148, Washington, D.C. 20004.

(b) Not later than 10 days after the date of receipt of a request the Privacy Protection Officer will acknowledge it in writing. The acknowledgement will clearly describe the request, and if a determination has not already been made, will advise the individual when he or she may expect to be advised of action taken on the request. For requests presented in person, written acknowledgement will be provided at the time when the request is presented. No separate acknowledgement of receipt will be issued if the request can be reviewed and the individual advised of the results of the review within the 10 day period.

§ 903.8 Review of request for amendment of record.

(a) Upon receipt of a request for amendment of a record the Privacy Protection Officer will promptly review the record and: either (1) Amend any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or (2) Inform the individual of refusal to amend the record in accordance with the request. In reviewing a record pursuant to a request to amend it, the Corporation will assess the accuracy, relevance, timeliness and completeness of the record in terms of the criteria established in 5 U.S.C. 522a(e)(5). In reviewing a record in response to a request to amend it by deleting information, the Corporation will ascertain whether or not the information is relevant and necessary to accomplish a purpose of the Corporation required to be accomplished by statute or by executive order of the President, as prescribed by 5 U.S.C. 522a(e)(1).

(b) The Corporation shall take the action specified in paragraph (a) of this section within 30 days of receipt of a request for amendment of a record, unless unusual circumstances preclude completion of the action within that time. If the expected completion date for the action, as indicated in the acknowledgement provided pursuant to § 903.5 cannot be met, the individual shall be advised of the delay and of a revised date when action is expected to be completed. If necessary for an accurate review of the record, the Corporation will seek, and the individual will supply, additional information in support of his or her request for amending the record.

(c) If the Corporation agrees with all or any portion of an individual's request to amend a record, the Corporation will so advise the individual in writing, and amend the record to the extent agreed to by the Corporation. Where an accounting of disclosures has been kept, the Corporation will advise all previous recipients of the record of the fact that the amendment was made and the substance of the amendment.

(d) If the Corporation disagrees with all or any portion of an individual's request to amend a record, the Corporation shall: (1) Advise the individual of its adverse determination and the reasons therefor, including the criteria used by the Corporation in conducting the review; (2) inform the individual that he or she may request a review of the adverse determination by the Executive Director of the Corporation, or by an officer of the Corporation designated by the Executive Director; and, (3) advise the individual of the procedures for requesting such a review including the name and address of the official to whom the request should be directed.

(e) If the Corporation is apprised by another agency of any corrections or other amendments made to a record contained in the Corporation's system of records, the Corporation will promptly amend its record and advise in writing all previous recipients of the record of the fact that the amendment was made and the substance of the amendment.

§ 903.9 Appeal of initial adverse determination of request for amendment of record.

(a) After receipt by an individual of notice of an adverse determination by the Privacy Protection Officer concerning a request to amend a record, the individual may, within 60 working days after the date of receipt of the notice, appeal the determination by seeking a review by the Executive Director of the Corporation, or by an officer of the Corporation designated by him. The appeal shall be in writing, mailed or delivered to the Executive Director, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004. The appeal shall identify the record in the same manner as it was identified in the original request, shall indicate the dates of the original request and of the adverse determination and shall indicate the expressed basis for that determination. In addition, the appeal shall state briefly the reasons why the adverse determination should be reversed.

(b) Not later than 30 days after receipt of an appeal, the Executive Director, or an officer of the Corporation designated by him, will complete a review of the appeal and the initial determination, and either: (1) Determine that the appeal should be granted, take the appropriate action with respect to the record in question, and notify the individual accordingly; or, (2) determine that the appeal should be denied.

(c) The reviewing official may, at his or her option, request from the individual such additional information as is deemed necessary to properly conduct the review. If additional time is required, the Executive Director may, for good cause shown, extend the period for action beyond the 30 days specified above. The individual will then be informed in writing of the delay and the reasons therefor, and of the approximate date on which action is expected to be completed.

(d) If the reviewing official denies the appeal, he or she shall advise the individual in writing: (1) Of the decision and the reasons for reaching it; (2) that the denial of the appeal is a final agency action entitling the individual to seek judicial review in the appropriate district court of the United States, as provided in 5 U.S.C. 552a(g); and, (3) that the individual may file with the Corporation a concise statement setting forth the reasons for his or her disagreement with the refusal of the Corporation to amend the record in question.

(e) Any individual having received notices of a denial of an appeal to amend a record may file a statement of disagreement with the Executive Director not later than 60 working days from the date of receipt of the notice. Such statements shall ordinarily not exceed one page in length, and the Corporation reserves the right to reject statements of excessive length. Upon receipt of a proper and timely statement of disagreement, the Corporation will clearly annotate the record in question to indicate the portion of the record which is in dispute. In any subsequent disclosure containing information about which the individual has filed a statement of disagreement, the Corporation will provide a copy of the statement together with the record to which it pertains. In addition, prior recipients of the disputed record will be provided with a copy of

statements of disagreement to the extent that an accounting of disclosures was maintained. If the Corporation deems it appropriate, it may also include in any disclosure its own concise statement of the reasons for not making the amendments requested.

§ 903.10 Disclosure of records to persons or agencies.

(a) The Corporation will not disclose any record which is contained in a system of records, by any means of communication to any person or to another agency except: (1) Pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains; (2) to those officers and employees of the Corporation who have a need for the record in the performance of their duties; (3) when required under 5 U.S.C. 522 (The Freedom of Information Act); or (4) pursuant to the conditions of disclosure contained in 5 U.S.C. 552a(b)(3) through 5 U.S.C. 522a(b)(11).

(b) The Privacy Protection Officer of the Corporation shall keep an accounting of each disclosure made pursuant to paragraph (a)(4) of this section, in accordance with 5 U.S.C. 552a(c). Except for disclosures made pursuant to 5 U.S.C. 552a(b)(7), the Privacy Protection Officer shall make the accounting kept under this paragraph available to an individual to whom the record pertains, upon his or her request. An individual requesting an accounting of disclosures should do so at the place, times and in the manner specified in §§ 903.3 (a) and (b).

§ 903.11 Fees for furnishing and reproducing records.

(a) Individuals will not be charged a fee for:

(1) The search and review of the record;

(2) Any copies of the record produced as a necessary part of the process of making the record available for access;

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail. The Privacy Protection Officer may provide additional copies of any record without charge when it is determined that it is in the interest of the Government to do so.

(b) Except as provided in paragraph (a) of this section, fees will be charged for the duplication of records at a rate of 10¢ per page. If it is anticipated that the total fee chargeable to an individual under this subpart will exceed $25.00, the Corporation shall promptly notify the requester of the anticipated cost. An advance deposit equal to 50% of the anticipated total fee will be required unless waived by the Privacy Protection Officer. In notifying the requester of the anticipated fee, the Privacy Protection Officer shall extend an offer to the requester to consult so that the request might be reformulated in a manner which will reduce the fee, yet still meet the needs of the requester.

(c) Fees must be paid in full prior to delivery of the requested copies. Remittances may be in the form of cash, personal check, bank draft or a postal money order. Remittances, other than cash shall be made payable to the Treasurer of the United States.

§ 903.12 Penalties.

The provision of 5 U.S.C. 552a(i), as added by Section 3 of the Privacy Act, make it a misdemeanor subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual from an agency under false pretenses. Similar penalties attach for violations by agency officers and employees of the Privacy Act or regulations established thereunder.

§ 903.13 [Reserved]

[FR Doc.76-35805 Filed 12-6-76;8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

[45 CFR Part 1903]

STATE MEETINGS, COORDINATING COMMITTEE

Designation and Functions of Coordinating Committees

Under the authority vested in it by Pub. L. 94-167, the National Commission on the Observance of International Women's Year proposes to establish in 45 CFR, Chapter XIX, a new Part 1903, State Meetings, Coordinating Committee.

Part 1903 sets forth the criteria which the Commission will consider in designating persons to serve on the Coordinating Committees in each State to organize and conduct the State Meetings at which representatives will be selected for the National Conference. The members of each Coordinating Committee will be selected on a basis which will ensure that the State Meeting will send representatives to the National Conference who reflect diverse segments of the population, including, but not limited to, low-income women, members of different race, ethnic, religious and age groups and members of various groups which work to advance the rights of women.

These regulations further set forth the responsibilities of the Coordinating Committee to draw up an agenda for the State Meeting which includes topics to be considered at the Conference. Additional topics may be considered subject to the limitation that they are germane to women's issues and do not concern matters of religion. The agenda proposed by the Coordinating Committee for the State Meeting must be approved by the Commission in advance of distribution or publication.

The Coordinating Committee must also undertake required financial duties which shall include facilitating the participation of persons who are unable to pay their own expenses in connection with Coordinating Committee meetings, the State Meeting, the Conference, or any of these functions. The Coordinating Committee may accept contributions from sources other than the Commission, subject to Commission regulations.

Finally, the Coordinating Committee shall conduct its own meetings and the State Meeting according to rules of procedure promulgated by the Commission, and shall submit required reports of its activities to the Commission, including detailed minutes of general meetings and a list of representatives selected to participate in the National Conference.

Interested persons may submit written comments, suggestions, data or arguments relating to the procedures contained in this Part to Judge Elizabeth Athanasakos, Presiding Officer, National Commission on the Observance of International Women's Year, D/IWY, Department of State, Washington, D.C. 20520, attention: General Counsel. Material submitted to the Presiding Officer by December 30, 1976, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours in Room 3100, National Commission on the Observance of International Women's Year, 2401 E Street, N.W. Washington, D.C.

It is therefore proposed to issue 42 CFR Part 1903 in the manner set forth below.

PART 1903—STATE MEETINGS, COORDINATING COMMITTEES

Sec.

1903.1 Designation of Coordinating Committee.
1903.2 Responsibility for agenda for State Meeting.
1903.3 Submission of agenda and reports to Commission.
1903.4 Employees of Coordinating Committee.
1903.5 Financial responsibilities of Coordinating Committee.
1903.6 Contributions from sources other than the Commission.
1903.7 Conduct of meetings.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 13, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

§ 1903.1 Designation of Coordinating Committee.

(a) The Commission shall designate persons to serve as members of the Coordinating Committee in each State, in such number as the Commission deems necessary, and with full recognition of the statutory requirements that the Coordinating Committee will effectively organize and conduct the State Meeting and that the State Meeting will select representatives to the conference in accordance with sections 3 and 6 of Pub. L. 94-167.

(b) Section 3(a) of Pub. L. 94-167 requires that the Conference be composed of:

(1) Representatives of local, State, regional and national institutions, agencies, organizations, unions, associations, publications and other groups which work to advance the rights of women; and

(2) Members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups and women of all ages.

(c) Section 3(b) of Pub. L. 94–167 sets forth the goals of the Conference to:

(1) Recognize the contributions of women to the development of our country;

(2) Assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) Assess the role of women in economic, social, cultural, and political development;

(4) Assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) Identify the barriers that prevent women from participating fully and equally in national life, and develop recommendations for means by which such barriers can be removed;

(6) Establish a timetable for the achievement of the objectives set forth in such recommendations, and

(7) Establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference. The second Conference will assess the progress made in achieving the objectives set forth in paragraphs (c)(5) and (6) of this section, and will evaluate the steps taken to improve the status of American women.

The Commission will therefore designate members of the Coordinating Committee who in the judgment of the Commission will be able to organize and conduct the State Meetings to achieve these goals.

(d) The Coordinating Committee in each State shall include as non-voting ex officio members all members of the Commission who are residents of the State.

§ 1903.2 Responsibility for agenda for state meeting.

(a) The Coordinating Committee shall organize and conduct the State Meeting to achieve the purposes set forth in section 3(b)(1)–(6) of Pub. L. 94–167 as set forth in § 1903.1(c)(1)–(6).

(b) Subject to the provisions of paragraph (d) of this section, the State Meeting shall consider, and report on, as many of the recommendations of the Commission as is feasible. The recommendations of the Commission relate to the following topics which may be used as workshop topics:

(1) Legal Status of Homemakers.
(2) Women and Employment.
(3) Women and Education.
(4) Equal Rights Amendment.
(5) Women and the Media.
(6) Child Care.
(7) Teenage Pregnancy.
(8) Women in Elective and Appointive Office.
(9) Women and Credit.
(10) Physical and Mental Health of Women.
(11) Rape.
(12) Female Offenders.
(13) Women in the Arts and Humanities.
(14) Racial and Ethnic Minority Women.
(15) Older Women.
(16) Strategies for Change in the Status of Women.
(17) International Interdependence.

(c) In addition to the topics in paragraph (b) of this section, the State Meeting may consider additional topics relevant to identifying the barriers that prevent women from participating fully and equally in all aspects of national life. However, the recommendations and report of the State Meeting must focus on the particular concerns of women within such additional topics.

(d) Neither the Coordinating Committee nor the State Meeting shall include in any topic selected for the Meeting the subject of religion, or religious institutions, organizations or activities, or women's roles in any of them.

§ 1903.3 Submission of agenda and reports to Commission.

(a) The Coordinating Committee shall submit its proposed program agenda for the approval of the Commission before any distribution or publication of the agenda.

(b) Within 30 days after the completion of the State Meetings, the Coordinating Committee shall submit to the Commission a complete report of all activities at the State Meeting, including detailed minutes of all plenary or general sessions, and a complete listing of all representatives selected and certified to participate in the Conference in accordance with Commission instructions.

§ 1903.4 Employees of Coordinating Committee.

(a) Members of the Coordinating Committee, their employees and volunteers who provide services to the Coordinating Committee will not be deemed employees of the Federal Government for purposes of laws relating to retirement, insurance, health benefits, veteran's preference, or any other law under which benefits are made available only to compensated employees of the Federal Government, in accordance with the provisions of Title V of the United States Code, except as otherwise provided in paragraphs (b) and (c) of this section.

(b) Members of the Coordinating Committee, their employees, and volunteers who provide services to such Committee are eligible to receive workmen's compensation benefits for work-related injuries pursuant to Chapter 81 of Title V of the United States Code, provided such injuries are incurred in the conduct of business for the Coordinating Committee in fulfilling its functions pursuant to Pub. L. 94–167.

(c) Members of the Coordinating Committee, their employees and volunteers who provide services to such Committee are covered by the Federal Tort Claims Act, 28 U.S.C. 1346, 2671 et seq., for tortious injury caused by them to third parties, provided that such injury occurs while the members, employees, or volunteers are performing official business on behalf of the Coordinating Committee in fulfilling its functions pursuant to Pub. L. 94–167.

§ 1903.5 Financial responsibilities of Coordinating Committee.

The Coordinating Committee shall undertake all financial responsibilities in relation to the State Meeting which are required by Commission regulations. Such responsibilities include financial assistance to persons who are unable to pay their own expenses for the purpose of participating in the meetings of the Coordinating Committee, the State Meeting, or the Conference.

§ 1903.6 Contributions from sources other than the Commission.

The Coordinating Committee may, subject to Commission regulations, accept, use, and dispose of, in connection with the organization and conduct of the State Meetings, any contributions of money, services, facilities or property made from private persons or firms or by local, State, or Federal Government agencies.

§ 1903.7 Conduct of meetings.

The Coordinating Committee shall conduct its own meetings and the State Meeting according to rules of procedure issued by the Commission, including the rules for the election and certification of representatives from the State Meeting to the Conference.

Dated: November 30, 1976.

JUDGE ELIZABETH ATHANASAKOS,
Presiding Officer, National Commission on the Observance of International Women's Year.

[FR Doc.76-35967 Filed 12-6-76;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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

EXECUTED MEMORANDUM OF AGREEMENT

Protection of Properties

Pursuant to section 800.6(a) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the month of October 1976. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593, May 13, 1971.

Fort Pickens, Escambia County, Florida, affected by conversion of south wing of the barracks/mess hall building into office space, undertaken by the Department of Interior, National Park Service (10/4/76).

West 8th Street Passenger Station, Bayonne, New Jersey, affected by construction of Routes 169 and 440 in Bayonne undertaken by the U.S. Department of Transportation, Federal Highway Administration (10/4/76).

Fort Lincoln, Bismark, North Dakota, affected by construction of new training center facilities and improvements to the utility system, undertaken by the Economic Development Administration, Department of Commerce (10/4/76).

Petersburg National Battlefield, Petersburg, Virginia, affected by construction of Petersburg East II, undertaken by the Department of Housing and Urban Development (10/7/76).

Downtown Atlanta Historic District, Atlanta, Georgia, affected by construction of the Metropolitan Atlanta Rapid Transportation System undertaken by the Department of Transportation, Urban Mass Transportation Administration (10/17/76).

Bootlegger and Rinehart/Leavitt Archeological Sites, Tiber Dam, Montana, affected by rebuilding spillway and increasing water level of Tiber Reservoir, undertaken by the Department of Interior, Bureau of Reclamation (10/17/76).

100 N.W. Block, Mishawaka, Indiana, affected by the Mishawaka Neighborhood Development Program A–5, Area No. 2 undertaken by the U.S. Department of Housing and Urban Development (10/23/76).

The Memoranda are available for inspection at the Advisory Council offices, Suites 430 and 1030, 1522 K Street, N.W., Washington, D.C. 20005. Further information is available from the Director, Office of Review and Compliance, Advisory Council on Historic Preservation, at the above address.

KENNETH C. TAPMAN,
Acting Executive Director.

[FR Doc.76–35123 Filed 12–6–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

NORTHERN CALIFORNIA SUBCOMMITTEE OF THE PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Change of Meeting Place

The time and location of the meeting of the Northern California Subcommittee announced in the FEDERAL REGISTER of November 30, 1976, has been changed to 11 a.m. on December 17, 1976, at the Appraisers Building, Room 1329, 630 Sansome Street, San Francisco, California.

For additional information, contact the Regional Forester, California Region, 630 Sansome Street, San Francisco, California 94111 (415–556–6986).

CHESTER A. SHIELDS,
Associate Deputy Chief.

DECEMBER 1, 1976.

[FR Doc.76–35856 Filed 12–6–76;8:45 am]

MEDICINE BOW NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Medicine Bow National Forest Grazing Advisory Board will meet at 10:00 a.m. January 11, 1977, in the Forest Service Conference room at 605 Skyline Drive, Laramie, Wyoming.

The purpose of this meeting is to elect Advisory Board Officers, discuss recent legislation affecting National Forest management, including the effect of the BLM Organic Act upon the organization of the Grazing Advisory Board, as well as any additional items to be submitted by Board members or other interested parties, insofar as time will allow.

The meeting will be open to the public. People who wish to attend should notify Ladd Frary, Resource Staff Officer, or Lucy Soldan, Administrative Assistant, 605 Skyline Drive, Laramie, Wyo. Phone: AC 307/745–7308. Written statements may be filed with the Board by sending them to the Forest Supervisor at 605 Skyline Drive, Laramie, WY 82070. Such statements must arrive before 10:00 a.m. on January 11, 1977.

DONALD L. ROLLENS,
Forest Supervisor.

NOVEMBER 29, 1976.

[FR Doc.76–35907 Filed 12–6–76;8:45 am]

Office of the Secretary

PERISHABLE AGRICULTURAL COMMODITIES ACT—INDUSTRY ADVISORY COMMITTEE

Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the Perishable Agricultural Commodities Act—Industry Advisory Committee for an additional period of 2 years.

This Committee represents all segments of the fruit and vegetable industry and provides advice and counsel in the administration of the Perishable Agricultural Commodities Act.

The Chairman of the Committee is Mr. Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

Authority for this Committee will expire November 12, 1976 unless the Secretary formally determines that continuance is in the public interest.

This notice is given in compliance with Pub. L. 92–463.

Dated: December 1, 1976.

J. PAUL BOLDUC,
Assistant Secretary For Administration.

[FR Doc.76–35808 Filed 12–6–76;8:45 am]

Rural Electrification Administration

BASIN ELECTRIC POWER COOPERATIVE

Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and proceduures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $35,000,000 to Basin Electric Power Cooperative of Bismarck, North Dakota. These loan funds will be used to finance two 60 MW combustion turbines which are proposed for construction near Vermillion, South Dakota, along with associated transmission facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds for Mr. James L. Grahl, Manager, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501.

In order to be considered, proposals must be submitted on or before January 6, 1977, to Mr. Grahl. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Basin Electric Cooperative and REA deem appropriate.

Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 30th day of November, 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.76-35860 Filed 12-6-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Restricted Vehicle Use; Closure Order

Notice is hereby given in accordance with Title 43 CFR Group 6000—Outdoor Recreation and in conformance with the principles established by the National Environmental Policy Act of 1969, that certain lands located in the Curlew-Black Pine portion of Oneida County are temporarily closed to snowmobile activities.

Careful review and analysis in cooperation with the Idaho Fish and Game Department, the Idaho State Department of Highways, and the public, has determined that use of this area by snowmobiles will cause damage to concentrated herds of migrating mule deer. The effectiveness of funneling deer via a deer-proof wing fence to a point along I-80N and allowing them to cross the freeway to reach their traditional wintering range in the western portion of Black Pine Valley is being analyzed. Because of the fence, the deer would be highly susceptible to harassment by snowmobiles.

The closure is not restrictive to authorized Bureau of Land Management or Idaho Fish and Game Department personnel, where snowmobile travel is needed to make observations or studies of the migrating deer herds.

This closure applies to approximately 24,000 acres of National Resource Land located in the Curlew-Black Pine Valley portion of Oneida County. The area is bounded by the Stone-Black Pine Road on the north, the Utah-Idaho state line on the south, the Juniper-State Line Road on the west, and the private land boundary with NRL on the east.

The legal description of this area is:

BOISE MERIDIAN

T. 16 S., R. 32 E.,
Sec. 7, 8, 9: (Those portions of NRL lying south of Stone-Black Pine Road);
Sec. 17: E½; 18, 19, 20: SW¼NW¼NW¼;
Sec. 28: W½SW¼, SW¼NW¼, NE¼SW¼;
Sec. 29: (All except NE¼NE¼), 30.
T. 16 S., R. 31 E.,
Sec. 3, 4, 5, 6, 10, 11, 12: (Portions lying south of Stone-Black Pine Road);
Sec. 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30;
Sec. 28: (Portion lying east of freeway);
Sec. 29: (Portion lying west of private land).
T. 16 S., R. 30 E.,
Sec. 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27.

All Federal lands administered by the Bureau of Land Management within the above described area are closed from the date of this Notice until March 31, 1977. Signs will be posted to identify the exterior boundaries.

A map of the closure area is posted in the Burley District Office located at 200 South Oakley Highway, Burley, Idaho 83318.

Dated: November 24, 1976.

LARRY L. WOODARD,
Acting Idaho State Director, Bureau of Land Management.

[FR Doc.76-35898 Filed 12-6-76;8:45 am]

IDAHO

Restricted Vehicle Use

Notice is hereby given in accordance with Title 43 CFR Group 6000—Outdoor Recreation, and in conformance with the principles established by the National Environmental Policy Act of 1969, that certain lands located in the Juniper Mountain Sand Dunes area are closed to all motorized vehicles between December 15 and March 15 of each year.

Extensive studies by the Bureau of Land Management and the Idaho Department of Fish and Game have determined that the area in question is a major wintering area for elk, moose, deer, sage grouse and sharptails. The presence of motorized vehicles within this wintering range has been found to have a definite adverse affect on this wildlife resource.

The restriction applies to approximately 18,700 acres of public land lying west of St. Anthony in and around the Juniper Mountain Sand Dunes within the following approximate boundaries:

North—Big Grassy Road
West—North-South line adjacent to Sand Mountain
South—Parker Poleline Road
East—North-South line beginning at old Poleline Dump and going North for 3 miles to a point on North side of dunes and then East along North side of dunes to a point 2 miles Southwest of Sand Hills Resort.

The legal description of this area is:

BOISE MERIDIAN

T. 7 N., R. 38 E.,
Sec. 1-5, all;
Sec. 6, S½;
Sec. 7-12, all.
T. 7 N., R. 39 E.,
Sec. 6 & 7, all.
T. 8 N., R. 38 E.,
Sec. 12, SE¼;
Sec. 13, E½;
Sec. 23, E½, SW¼;
Sec. 24, 25 & 26, all;
Sec. 27, E½, SW¼;
Sec. 28, E½SE¼;
Sec. 33, E½, SW¼, N½NW¼;
Sec. 35 & 35, all.
T. 8 N., R. 39 E.,
Sec. 17, S½SE¼, SE¼NE¼, N½NW¼, SW¼NE¼;
Sec. 18, E½, SW¼, NE¼NW¼;
Sec. 19, all;
Sec. 20, NW¼NW¼, SW¼NE¼, S½SW¼, NW¼SW¼;
Sec. 21, SE¼SW¼;
Sec. 26 & 27, portion North of Sand Dunes;
Sec. 28, S½, SW¼NW¼;
Sec. 29, S½, NW¼, S½NE¼;
Sec. 30 & 31, all;
Sec. 32, 33 & 34, portion North of Sand Dunes.

All Federal lands administered by the Bureau of Land Management within the above described area are restricted from the date of this notice. A map of the restricted area is posted in the Idaho Falls District Office located at 940 Lincoln Road, Idaho Falls, Idaho 83401.

Cooperation of all will be sincerely appreciated.

Date: November 24, 1976.

LARRY L. WOODARD,
Acting Idaho State Director, Bureau of Land Management.

[FR Doc.76-35899 Filed 12-6-76;8:45 am]

Geological Survey

GEOTHERMAL RESOURCES OPERATIONAL (GRO) ORDER NOS. 6 AND 7

Central and Western Regions

Notice is hereby given that pursuant to 30 CFR 270.2, the Chief, Conservation Division, U.S. Geological Survey, has approved GRO Order Nos. 6 and 7 for the Central and Western Regions.

The purposes of GRO Order Nos. 6 and 7 are to provide guidelines relative to Pipelines and Surface Production Equipment and to Production and Royalty Measurement, Equipment, and Testing Procedures, respectively, for geothermal resources operations in the Central and Western Regions.

The proposed Orders were published in the FEDERAL REGISTER on May 21, 1976 (Vol. 41, No. 100, pages 20901 and 20902), and June 15, 1976 (Vol. 41, No. 116, pages 24196 and 24197), respectively, with a solicitation for comments. All comments on the proposed Orders have been considered in preparing the final version of GRO Order Nos. 6 and 7. In addition, the Geological Survey, on its own motion, has revised some sections of the pro-

posed Orders to strengthen and clarify them.

Significant modifications made in the draft Orders and the rationale for these changes are as follows:

GEOTHERMAL RESOURCES OPERATIONAL ORDER NO. 6

The introduction has been amended to clarify the means by which the Supervisor is to be advised of the design of pipelines and surface facilities so he may review such plans and grant approval prior to construction.

Section 1.A.(1) *Thermal Expansion.* This section has been reworded for clarification, and to allow design flexibility for varying terrain and the physical characteristics of fluid production.

Section 1.A.(3) *Environmental Considerations.* This section has been expanded to include the environmental protection requirements of GRO Order No. 4 and other applicable laws and regulations.

Section 1.C.(1) This section has been revised and clarified. Also, the title has been changed from *Hydrostatic Tests* to *Pipeline Integrity Tests.* Pipeline testing requirements are dictated by the fluid being carried. Thus, pipelines carrying steam and those carrying water are dealt with separately in C(1)(a) and C(1)(b).

Section 1.C.(3) *Operator Monitoring.* This section has been expanded, by adding a second sentence, to provide for supervisory control system monitoring as an alternate provision.

Section 2.C(10). This part has been titled *Pipeline integrity tests* and revised to include pressure test considerations for steam and water pipelines.

GEOTHERMAL RESOURCES OPERATIONAL ORDER NO. 7

Section 1.A. *Measurement of Production.* The third sentence of the second paragraph has been rewritten to clarify under what conditions vented production need not be measured and reported.

Section 1.B.(1) *Steam.* The accuracy requirements of mass flow calculations derived from a dry steam metering system has been modified to ±2 percent of the measured flow, which is considered to be a more reasonable and practical limit.

Section 4.A.(1)(c). The last sentence of this section has been reworded to extend inspection periods of meter runs and accessory equipment from 6 months to not exceeding 1 year. Negligible wear from solid particles or other causes would justify an extension of time.

NOTE.—1 The United States Geological Survey has determined that these documents do not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OBM Circular A–107.

W. A. RADLINSKI,
Acting Director.

GEOTHERMAL RESOURCES OPERATIONAL ORDER NO. 6

PIPELINES AND SURFACE PRODUCTION FACILITIES

Effective: January 1, 1977.

This Order is established pursuant to the authority prescribed in 30 CFR 270.11. The design, operation, and testing of all pipelines and surface facilities will be conducted in accordance with the provisions of this Order. All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. References in this Order to approvals, determinations, or requirements are to those given or made by the Area Geothermal Supervisor (Supervisor) or his delegated representative.

The design of all pipelines and surface facilities, including but not limited to, production, injection, and waste water disposal systems, shall be submitted with the Application for Permit to Drill or on a Sundry Notice to the Supervisor for approval prior to construction. In addition, a Plan of Operation with contents and approval according to 30 CFR 270.34, shall be required when surface or environmental disturbances are anticipated beyond those covered by a previously approved Plan of Operation.

1. *Design and Construction Requirements.* All geothermal pipelines and surface facilities shall be designed and constructed in accordance with the following:

A. *General Design.*

(1) *Thermal Expansion.* All pipelines and production facilities shall be designed to prevent failure in tension or compression due to thermal stresses based on limitations specified in applicable piping codes. Pipelines shall be anchored to isolate or transfer stress to the ground or solid structure, and to prevent unsafe movement in case of line failure. Main anchor locations are to be predicated on the surface configuration of the area, and may be required at pipe ends, at changes in direction, at shut-off valves, at manifolds where lines are interconnected, or at other points as dictated by the expansion design adopted. Intermediate anchors may be required to divide the pipeline into separate expanding sections and to bear any unbalanced thrust. Intermediate supports between anchors should allow free lateral and longitudinal movement. Vibration, expansion direction and magnitude, and internal turbulence as well as effects of mineral scaling should be considered before including slip joints or expansion belows in the design.

(2) *Two-Phase Flow.* Submission of complete design criteria and calculations may be required for planned two-phase production pipelines and surface facilities to demonstrate that the design of such facilities has given consideration to the water hammer stresses that may be caused by two-phase flow. Example stress calculations for the pipeline shall be submitted.

(3) *Environmental Considerations.* All pipelines and surface facilities shall be designed and constructed in accordance with the environmental protection requirements of GRO Order No. 4 and other applicable laws and regulations.

B. *Safety Control Devices.*

(1) *Production Pipelines and Related Facilities.* All steam and hot water production pipelines and related surface facilities shall be equipped with the following devices except as noted in 1.B.(1)(d) below:

(a) Each producing well shall be equipped with a low pressure sensing device to actuate a valve to shut in production to minimize safety or pollution hazards caused by pipeline or facility failure.

(b) Pipelines and related surface facilities shall be protected against pressure buildup in excess of the system's design limit by high pressure sensors which will actuate either (1) well shut-in valves, or (2) system or well pressure relief valves and/or rupture discs. If only pressure relief valves and/or rupture discs are installed, it must be demonstrated that such venting in an emergency will not result in exceeding applicable pollution standards; otherwise shut-in valves shall be installed. Vented production must be properly muffled so as to comply with provisions of GRO Order No. 4. A remote controlled shut-in or venting system may be required, in addition to pressure sensors.

(c) Check valves or other approved devices shall be required in the system to prevent uncontrolled crossflow from other parts of the system in case of a line or facility failure, or where a line failure may result in pollution due to line drainage.

(d) Exceptions to requirements 1.B(1)(a) through (c) above may be made for systems or parts of systems where the lessee can demonstrate to the satisfaction of the Supervisor that lack of such controls will not result in danger of pollution or to public health and safety. Information to be considered in an evaluation of a requested exception should include, but is not limited to, chemical analysis of the produced fluids, steam and gases; the rate, temperature and pressure of production; environmental conditions in the area; type of geothermal reservoir system; type of resource utilization; the number, hourly coverage, and supervision of personnel operating the facilities; and the type of manually operated controls installed.

(2) *Injection Facilities.* All injection pipelines and related surface facilities must be designed to safely accommodate maximum expected surface injection pressures and shall be equipped with the following devices, except as noted in 1.B.(1)(d) above.

(a) Each injection well shall be equipped with a pressure sensing or other approved device to actuate a valve to shut in injection to minimize safety or pollution hazards caused by injection pipeline or facility failure.

(b) Injection pipelines and related surface injection facilities shall be protected against pressure buildup in excess of the system's design limit by pressure sensors which will actuate either (1) well shut-in valves, or wellhead or injection pipeline shut-in valves, or (2) a system or well pressure relief valves and/or rupture discs. If only pressure relief valves and/or rupture discs are installed, it must be demonstrated that such venting in an emergency will not result in exceeding applicable pollution standards; otherwise, shut-in valves shall be installed. A remote-controlled shut-in or venting system may be required, in addition to pressure sensors.

(c) Check valves or other approved devices shall be required to prevent uncontrolled backflow from injection wells in the system in case of a line or facility failure, or where a line failure may result in pollution due to line drainage.

C. *Testing and Operation.*

(1) *Pipeline Integrity Tests.*

(a) *Pipeline-steam.* The pipes shall be joined and joints tested in accordance with appropriate piping codes for steam distribution systems. The pipeline shall be operationally tested in service with steam during the initial clean-out by pressure testing to the maximum anticipated working pressure for one hour. The Supervisor shall be notified at least 48 hours in advance of the estimated date and time of each test so that the test may be witnessed.

(b) *Pipeline-water.* The pipeline shall be hydrostatically tested to 1.25 times the design working pressure for a minimum of 2 hours prior to placing the line in service. Certain low pressure lines such as waste disposal drains and all piping designed for internal pressures at or below 5 psig, regardless of temperature, may be exempted from this requirement, if authorized by the Supervisor. The Supervisor shall be notified at least 48 hours in advance of the estimated date and time of each test so that the test may be witnessed.

(2) *Safety Device Tests.* The automatic and remote control devices installed in ac-

cordance with 1.B(1) and (2) above shall be tested semiannually or at more frequent intervals as required by the Supervisor. Advance notification of at least 48 hours shall be given so that the Supervisor may witness the test. The lessee shall maintain records on each device showing present status and past history, including dates and details of inspection, testing, repairing, adjustment, reinstallation or replacement, and will forward copies of these records to the Supervisor semiannually.

(3) *Operator Monitoring.* Production, injection, and other waste disposal systems which are not completely equipped with shut-in or relief devices, shall require 24-hour on-site monitoring by operator personnel unless it can be demonstrated to the satisfaction of the Supervision that less frequent monitoring will not increase the danger of pollution or to human life and health. Supervisory control system monitoring by power plant or steam supply operators of steam turbine header pressure, water disposal liquid level and injection line pressure can be substituted for the above monitoring provision, if approved by the Supervisor.

2. *Application for Construction of Pipeline and Related Surface Facilities.* The operator shall submit the items listed below with the Application for Permit to Drill or on a Sundry Notice, in triplicate, to the Supervisor for approval. In addition, as appropriate, a Plan of Operation according to 30 CFFR 270.34 items (a) through (i) may be required for submittal for joint approved by the Supervisor and the appropriate land management agency. Production and injection pipelines for wells may be included as a part of the Application for Permit to Drill and Plan of Operation required for drilling the well.

A. *Maps.* A plat(s) showing the major topographic features and other pertinent data including the proposed route, length, size, and location of the line(s), and any connecting facilities.

B. *Equipment Plans.* A schematic drawing showing the location of the following pipeline and facilities safety equipment and the manner in which the equipment functions:

(1) High-low pressure sensor(s).
(2) Automatic shut-in valve(s).
(3) Check valve(s).
(4) Metering system(s).
(5) Pressure relief valve(s).
(6) Other manual or automatic valve(s) or equipment.

C. *Design Information.* General information concerning the pipeline and facilities including the following:

(*) Product(s) to be transported by the pipeline.
(2) Size, weight, and grade of the pipe.
(3) Length of line(s).
(4) Type(s) of corrosion protection.
(5) Description of protective coatings.
(6) Description of pipe insulation and the application of exterior color camouflage.
(7) Anticipated gravity or density of the product(s) and a chemical analysis.
(8) Design working pressure and capacity.
(9) Maximum working pressure and capacity.
(10) *Pipeline integrity tests.* Steam Pipeline—Testing pressure and hold time to which the pipeline will be tested after installation. Water Pipeline—Hydrostatic pressure and hold time to which the pipeline will be tested after installation.
(11) Other related information as required by the Supervisor.

3. *Completion Report.* The operator shall submit a report to the Supervisor when installation of the pipeline is completed, accompanied by all hydrostatic test data, including procedure, test pressure, hold time, and results.

REID T. STONE,
Area Geothermal Supervisor.

Approved:

EDDIE R. WYATT,
Acting Chief, Conservation Division.

GEOTHERMAL RESOURCES OPERATIONAL ORDER NO. 7

PRODUCTION AND ROYALTY MEASUREMENT, EQUIPMENT, AND TESTING PROCEDURES

Effective: January 1, 1977.

This Order is established pursuant to the authority prescribed in 30 CFR 270.11 and 270.12 and in accordance with 30 CFR 270.60, 270.64, 270.74, and 270.75. All geothermal production and the resulting produced energy (electricity) or by products, and leasehold operational utilization thereof, shall be measured and monitored in accordance with the provisions of this Order.

All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. References in this Order to approvals, determinations, or requirements are to those given or made by the Area Geothermal Supervisor (Supervisor) or his delegated representatives.

All metering systems shall be approved by the Supervisor prior to installation. Field production metering shall be accomplished with sufficient accuracy to assure that royalty calculations using such measurement data will result in fair market value to the Government, and to enable evaluation of well and reservoir production performance and trends. Where royalty is due on other than a well production basis, i.e., plant output in kilowatt hours or production of by-products, metering systems used in that regard shall also be approved by the Supervisor.

1. *Metering.* The general requirements and accuracy for measuring production and utilized energy or byproducts of geothermal resources are outlined below:

A. *Measurement of Production.* Surface facilities and measuring devices shall be installed so that the production mass flow rate (or volume, when appropriate) of water and/or steam and the pressure and temperature of the produced fluids from each well are accurately determined. If metering is not to be accomplished on a continuous basis, each well shall be gauged periodically at the frequency prescribed by the Supervisor.

The operator shall maintain detailed records available for inspection by the Supervisor concerning the performance measurements relative to each well. The record shall show average flow rates, temperature, pressure, and any other pertinent data gathered. Except for drilling and well workover operations, and low rate venting of new geothermal wells to prevent well bore damage prior to facility hook up, vented production shall also be measured and reported.

Each well shall be equipped to permit fluid sampling for determining the enthalpy and chemical content of produced geothermal fluids. Enthalpy and chemical analysis for each well shall be provided the Supervisor yearly or more frequently if required by the Supervisor.

B. *Royalty Metering.* Metering systems involved in the calculation of royalty values due shall be designed, installed, operated, and maintained to attain the accuracy herein specified. However, the Supervisor may require greater accuracy where conditions dictate that necessity and the technology exists, or may permit a lesser degree of accuracy when physical problems, such as severe corrosion or scaling, preclude attainment of the desired standards.

(1) *Steam.* Dry steam metering systems and the mass flow calculations derived therefrom shall be designed and maintained to achieve an accuracy of $\pm 4.0\%$ of the measured flow.

(2) *Hot Water.* Hot water metering systems and the mass flow or volumetric calculations derived therefrom shall be designed and maintained to achieve an accuracy of $\pm 2.0\%$ of the measured flow.

(3) *Steam and Water (two-phase flow).* Metering of two-phase flow shall be designed and maintained to achieve the maximum reasonable attainable accuracy consistent with the nature of the production to be measured. Due to the complexity and difficulties involved in this type of metering, the Supervisor shall establish the initial accuracy limits for each specific installation based on the nature of existing flow conditions and commensurate with the then existing state-of-the-art. The operator shall, upon request, demonstrate to the satisfaction of the Supervisor that the approved metering system(s) being employed is operating within the prescribed range of accuracy. The Supervisor is authorized, when warranted, to require modifications in the system consistent with new technology to improve the accuracy of measurement or, when required accuracy is not attainable, to direct that the two-phase fluid flow be separated and the steam and water metered individually.

(4) *Heat Content.* Where the heat content of produced water or steam is the primary use, including but not limited to heating a greenhouse complex, space heating, and plant processing, metering systems shall be designed and maintained to achieve an accuracy of $\pm 2.0\%$ for both the input and discharge flows.

(5) *Electrical Power Output or Consumption.* Where the resource sales payment is equated to kilowatts of electric power output or geothermal-produced electricity is consumed in geothermal operations, the metering systems shall be designed and maintained to achieve an accuracy of $\pm 0.5\%$.

(6) *By-Products.* When the by-product is in liquid form, metering accuracies shall be maintained within $\pm 1.0\%$. When the by-product is a solid, measurement thereof shall be either by volume or weight and shall be accurate to $\pm 1.0\%$.

(7) *Waste Heat.* Waste heat shall be metered in accordance with the standards set forth in 1.B.(4) when such measurements are involved in royalty calculations.

C. *Non-Royalty Metering.* Measurement of produced or injected fluids that are not involved directly in royalty calculations, such as waste waters or injected waters shall be metered with accuracies sufficient to evaluate well, reservoir, and project performance. Such metering systems shall be designed and maintained to achieve an accuracy of $\pm 5.0\%$, unless otherwise specified by the Supervisor.

2. *Commingling Production.* In accordance with 30 CFR 270.64, the Supervisor may authorize a lessee to commingle production from wells on a lease with production from other leases held by the lessee or by other lessees subject to such conditions as the Supervisor may prescribe. Where utilization of the geothermal resource for energy and/or by-products involves commingling production from two or more leases, the following conditions and requirements shall be met:

A. The surface facilities, metering, and fluid sampling systems employed shall be approved by the Supervisor.

B. The commercially utilized production leaving each lease shall be measured in accordance with the standards set forth in Section 1 hereof, either on or off the leasehold, in a manner that will allow accurate allocation and royalty calculation for that lease.

3. *Common Storage.* Where commercial utilization involves common storage from two or more leases, e.g., a common brine evaporation pool for production of chemical by-products, the contributions of each lease to that facility shall be measured in accordance with the standards set forth in Section 1 hereof, either on or off the leasehold, in a manner that will allow accurate allocation and royalty calculation for that lease. The surface facilities, metering, and fluid sampling systems employed shall be approved by the Supervisor.

4. *Meter Testing and Maintenance.* All meters and metering systems shall be maintained in acceptable working condition and shall be inspected, tested, and adjusted to meet appropriate design standards. The frequency and stringency of tests shall be prescribed by the Supervisor. The supervisor may witness any periodic metering system test or inspection, and the operator shall schedule an acceptable time and date for such tests when requested by the Supervisor.

A. *Royalty Meter Tests and Inspections.* The following tests and inspections shall be performed on all meters involved in royalty calculations. Depending on inspection results, the Supervisor may alter the inspection frequencies herein specified.

(1) *Orifice Meter Tests and Inspections.*

(a) Visual functional inspection shall be performed as part of the daily well check. Recorders shall be inspected for malfunctions at that time and repaired if necessary.

(b) Recorders shall be inspected and the calibration checked with master test gauges at least once per month. The equipment used for the calibration check shall verify the differential and static pressure ranges. Field error of a meter exceeding ±1.0% of the meter's differential and static pressure ranges shall require removal of that instrument and installation of a recalibrated instrument.

(c) Orifice plates and meter tube runs shall be inspected by the operator for wear and recalipered to the nearest thousandth of an inch. Worn plates or runs shall be remachined or replaced. The inspection period shall depend on well performance and on the production demand, but meter runs and accessory equipment shall be inspected at intervals not exceeding one year.

(2) *Turbine Meter Tests and Inspections.*

(a) Daily readout checks shall be made to verify functional operation.

(b) At least once every six months, the turbine meter shall be checked for accuracy with a prover. If a discrepancy in excess of ±0.5% over limited range or ±1.0% over stated range is noted, the meter shall be inspected for bearing wear, turbine damage, or corrosion and repaired or replaced as necessary.

(3) *Electrical Meters (Power Meters).*

(a) Inspect daily for function.

(b) A detailed check and inspection shall be accomplished at least once each month.

(c) At least every six months, the meter shall be calibrated with a master meter. The meter shall be repaired or replaced if a discrepancy greater than ±0.5% is found.

(4) *Other Types of Meters.*

(a) Where metering systems depend on static and differential pressure measurements, e.g., venturi or nozzles testing shall be as outlined above for orifice meters in 4.A.(1).

(b) Testing procedures and frequencies for all other metering systems shall be as approved by the Supervisor.

B. *Non-Royalty Meter Tests and Inspections.* Metering systems measuring produced or injected fluids which are not involved in royalty calculation shall normally be checked at least weekly for functional operation, and be inspected, calibrated, and/or proven at yearly intervals to demonstrate an overall accuracy of ±5.0%, unless otherwise specified by the Supervisor.

5. *Application for Meter Installation.* All metering systems shall be approved by the Supervisor prior to installation. Approval may be obtained by inclusion of the required details in a Plan of Exploration, Development, or Production, or where appropriate, separately by submission of a Sundry Notice, in triplicate, to the Supervisor.

Applications shall include the following information:

A. Purpose of the meter and whether it will be involved in royalty calculations.

B. Location; e.g., Well No. 53–6, SE¼SE¼, Section 6, T. 3 S., R. 10 E., M.D.M.

C. What is to be metered such as steam, water, or combination thereof, and appropriate physical characteristics, such as the temperature, pressure, density, corrosive or scaling tendencies, and a chemical analysis.

D. Anticipated average and range of daily rates to be metered.

E. If the meter is involved in royalty calculations, the estimated monthly gross dollar value that will be measured by the meter and how the measurement will be used in royalty calculations.

F. Drawing of the installation showing piping, locations of equipment, and valves.

G. If not shown in a drawing, indicate (a) type of meter, manufacturer, model number, and range of coverage; (b) pressure ratings of piping, valves, and other equipment; and, (c) design code or standards used for installation design.

H. Anticipated accuracy.

I. Proposd inspection, testing or calibration procedures and the testing schedule.

REID T. STONE,
Area Geothermal Supervisor.

Approved:

EDDIE R. WYATT,
Acting Chief, Conservation Division.

[FR Doc.76-35804 Filed 12-6-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-4]

BEATRICE POCAHONTAS CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Beatrice Pocahontas Company has filed a petition to modify the application of 30 CFR 75.1710 to its Beatrice Mine, located in Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5)(i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner states that the application of 30 CFR 75.1710–1(a) to each piece of equipment at all locations throughout Petitioner's mine will in fact in many instances result in a diminution of safety to the miners at its mine.

2. The height of the coalbed in Petitioner's mine varies from 96 inches at the highest points to 40 inches at the lowest points. A minimum of 12 inches vertical clearance from the roof is required to insure that, during operation, face equipment at all times avoids contact with the roof support systems at the working faces of the mine. Therefore, the vertical distance from the floor to the roof at any point in which any electric face equipment can operate is effectively reduced 12 inches from the height of the coalbed.

3. Petitioner operates the following types of self-propelled electric face equipment:

Torkars Models 48, 30–34 and 40 shuttle cars
3500 Galis roof bolters
18SC Joy shuttle car
120L Jeffrey continuous miner
88 S & S scoop

Because of the variation of the physical characteristics of each of these types of equipment (i.e.; heights, width, location of operator compartment and positioning of controls) each may require a different style of canopy.

4. Petitioner states that it is at present unable to construct itself, or to procure from equipment manufacturers, canopies which, if installed on face equipment at Petitioner's mine will both meet

the required structural capacity and at all times allow operation of face equipment without creating the safety hazards herein stated. Petitioner further states that there are no new types or designs of face equipment immediately available from equipment manufacturers which eliminate these safety hazards.

5. Petitioner states that in some, but not all, instances the installation of available certified canopies on the face equipment at Petitioner's mine creates, among others, the following safety hazards:

(a) The field of vision of the operator is significantly reduced as a result of the close proximity of the canopy top to the operator's compartment.

(b) The operator's arm and leg movements in operating the equipment are more restricted as a result of reduced space in the operator's compartment.

(c) Operator fatigue is greatly increased as a result of reduced operator compartment space.

The above safety hazards are not present in the operation of all pieces of face equipment on which canopies have been installed in Petitioner's mine. However, the use of canopies on certain types of face equipment in certain locations of Petitioner's mine does create these safety hazards, thereby reducing the overall safety of the miners.

6. Petitioner does not propose to eliminate the installation of certified canopies on face equipment at its mine where such installation is presently possible without creating safety hazards. Petitioner does, however, propose to develop, in cooperation with MESA, an orderly plan and/or schedule for the installation of certified canopies on electric self-propelled face equipment at its mine in those instances where the present installation of the canopies on the said equipment will create safety hazards. This plan may include, among others, the following considerations:

(a) The height of the coalbed and mining conditions at various locations of Petitioner's mine;

(b) The present state and future development and availability of canopies and face equipment; and

(c) The overall safety of the miners at Petitioner's mine.

7. Petitioner requests modification of 30 CFR 75.1710–1(a) by relieving Petitioner of the requirement of presently installing certified canopies on electric face equipment at those locations of Petitioner's mine where such installation creates safety hazards and by allowing Petitioner to dovelop and implement, with the cooperation of MESA, an orderly plan and/or schedule for the installation of certified canopies on all of the face equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35902 Filed 12-6-76;8:45 am]

[Docket No. M 76X637]

BEAVER BRANCH COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Beaver Branch Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, located in Floyd County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner uses scoops and roof bolting machines in its mining operation.

2. The height of Petitioner's mine is 26 to 38 inches.

3. Petitioner's mine has rolling top and bottom. Due to these conditions, Petitioner feels the installation of canopies to be hazardous and unsafe. The canopies would make it impossible to use Petitioner's equipment in some locations in the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35905 Filed 12-6-76;8:45 am]

[Docket No. M 77-6]

CARBON FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Carbon Fuel Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 43, Mine No. 46, and Morton Mine, located in Kanawha County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls.

The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner avers that the application of § 75.1710–1 to mobile bridge conveyer units used for continuous haulage in its No. 43, Morton and No. 46 Mines will result in a diminution of safety to the miners in each mine, but that an alternative method of achieving the result of the standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mines by § 75.1710–1.

2. The bridge conveyor unit ("unit") used is a Model No. M.B.C. 36. Each unit (consisting of a minimum of two bridges and a bridge carrier) is a minimum of 102 feet long, but additional bridges and bridge carriers can be added to the system to increase the overall length. The system at Mine No. 43 consists of two bridges and one bridge carrier; the system at the Morton Mine consists of four bridges and three bridge carriers; and the system at Mine No. 46 consists of two bridges 41 feet in length and one bridge carrier.

3. Each bridge carrier travels along the mine floor by means of "cats," similar to a bulldozer. When moving, the bridge carriers travel at an average speed of 26 feet per minute. Between each bridge carrier and bridge, there is 5 feet of free travel or leeway. A man is stationed at each bridge carrier. Operating controls are located approximately in the middle of the 30-foot bridge carrier. As mining by the continuous miner progresses, bridge carrier operators move the bridge carrier in the direction required. When operating the bridge carrier, the operator is never closer than 71 feet to the working face where coal is being mined by the continuous miner. In each mining cycle, the continuous miner will take a 20-foot cut, back out of the place and proceed to another entry. The bridge conveyor unit follows behind the continuous miner.

4. The bridge carrier operator, when operating the bridge carrier, sits sideways in the entry on a seat mounted on the bridge carrier. The seat on the bridge carrier is approximately 16 inches from the mine floor. The low-low belt unit is to the bridge carrier operator's back approximately 1½ to 2 inches below seat level. The bridge carrier operating controls and the unit itself are located in front of the bridge carrier operator.

5. The bridge carrier operator actually operates the bridge carrier less than 3 hours per 8-hour working shift. At other times during a working shift, the bridge carrier operator is performing other duties such as cleaning up, servicing equipment, etc. The roof in the entry in which the bridge carrier operator is working is supported with permanent roof support in accordance with the applicable roof control plan at each mine.

6. At *Mine No. 43*, the union employees are represented by local Union No. 2102 of District 17 of the United Mine Workers of America. The No. 43 Mine is operating in the No. 2 Eagle coal seam which is approximately 48 inches high but the mining height in such seam may vary.

7. At *Morton Mine*, the union employees are represented by local Union No. 2236 of District 17 of the United Mine Workers of America. The Morton mine is operating in the No. 2 Eagle coal seam which is approximately 47 inches high but the mining height in such seam may vary.

8. At *No. 46 Mine*, the union employees are represented by local Union No. 7626 of District 17 of the United Mine Workers of America. The No. 46 Mine is operating in the Powellton coal seam which is approximately 42 inches high but the mining height in such seam may vary.

9. Petitioner feels that compliance with 30 CFR 75.1710–1 for mobile bridge conveyor units used for continuous haulage at Petitioner's No. 43 Mine, Morton Mine and No. 46 Mine will result in a diminution of safety to the miners in each such mine because personnel who operate such units in each mine must be able to see both ends of the bridge carriers in order to know when to move the bridge carrier. Because of the restricted height in the areas in which such equipment operates, if cabs or canopies are provided for such equipment, the vision of the bridge carrier operator will be substantially restricted so that safety hazards to such operator and other personnel in each mine is increased. In addition, a cab or canopy would place the bridge carrier operator in a cramped position and the operator must be able to sit on the seat facing the controls on the equipment and have vision to the left, right and front.

10. No imminent danger is involved. The operation of mobile bridge conveyor units used for continuous haulage in Petitioner's Mine No. 43, Morton Mine and Mine No. 46 with cabs or canopies is more hazardous to the personnel in such mines than operation of such units without cabs or canopies and results in a diminution of safety to the miners in each mine.

11. In the alternative, Petitioner avers that its mobile bridge conveyor units used for continuous haulage as presently installed in its Mine No. 43, Morton Mine and Mine No. 46 is an alternative method which achieves the same results of 30 CFR 75.1710–1 and at all times guarantees no less than the same measure of protection afforded the miners of such mines by 30 CFR 75.1710–1.

12. Petitioner requests that in lieu of the mandatory safety standard contained in 30 CFR 75.1710–1 that it be permitted to continue to operate its mobile bridge conveyor units used for continuous haulage in such mines without cabs or canopies.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35900 Filed 12-6-76;8:45 am]

[Docket No. M 77-3]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Virginia Pocahontas No. 1 and No. 4 Mines located in Buchanan County, Virginia.

30 CFR 71.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active working of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner states that the application of the standard of 30 CFR 75.1710–1(a) to equipment at all locations throughout Petitioner's mines will in many instances result in a hazard to the miners at its mines.

2. The height of the coalbed in Petitioner's mines varies from the highest points to the lowest points as follows:

Mine	Coalbed height (inches)	
	Highest	Lowest
Virginia Pocahontas No. 1 Mine	78	42
Virginia Pocahontas No. 4 Mine	74	38

A minimum of 12 inches vertical clearance from the roof is required to insure that, during operation, face equipment at all times avoids contact with the roof support systems at the working faces of the mines. Therefore, the vertical distance from the floor to the roof at any point in which any electric face equipment can operate is effectively reduced 12 inches from the height of the coalbed.

3. Petitioner's equipment consists of the following self-propelled electric face equipment:

18SC Joy shuttle car
48 Torkars shuttle car
3500 Galis roof bolter
35Y Lee-Norse continuous miner
86 S&S scoop
26H Lee-Norse continuous miner
32 Lee-Norse continuous miner
11CM Joy continuous miner
Acme drill on a 14BU loader frame

Because of the variation of the physical characteristics of each of these types of equipment (i.e., heights, widths, location of operator compartment and positioning of controls) each may require a different style of canopy.

4. Petitioner states that it is at present unable to construct itself, or to procure from equipment manufacturers, canopies which, if installed on face equipment at Petitioner's mines will both meet the required structural capacity and at all times allow operation of face equipment without creating the safety hazards herein stated. Petitioner further states that there are no new types or designs of face equipment immediately available from equipment manufacturers which eliminate these safety hazards.

5. Petitioner states that in some, but not all, instances the installation of available certified canopies on the face equipment at Petitioner's mines creates, among others, the following safety hazards:

(a) The field of vision of the operator is significantly reduced as a result of the close proximity of the canopy top to the operator's compartment.

(b) The operator's arm and leg movements in operating the equipment are more restricted as a result of reduced space in the operator's compartment.

(c) Operator fatigue is greatly increased as a result of reduced operator compartment space.

The above safety hazards are not present in the operation of all pieces of face equipment on which canopies have been installed in Petitioner's mines. However, the use of canopies on certain types of face equipment in certain locations of Petitioner's mines does create the above safety hazards, thereby reducing the overall safety of the miners.

6. Petitioner does not propose to eliminate the installation of certified canopies on face equipment at its mines where such installation is presently possible without creating safety hazards. Petitioner does, however, propose to develop, in cooperation with MESA, an orderly plan and/or schedule for the installation of certified canopies on electric self-propelled face equipment at its mines in those instances where the present installation of the canopies on the equipment will create safety hazards. This plan may include, among others, the following considerations:

(a) The height of the coalbed and mining conditions at various locations of Petitioner's mines;

(b) The present state and future development and availability of canopies and face equipment; and

(c) The overall safety of the miners at Petitioner's mines.

7. Petitioner requests modification of 30 CFR 75.1710–1(a) by relieving Petitioner of the requirement of presently installing certified canopies on electric face equipment at those locations of Petitioner's mines where such installation creates safety hazards and by allowing Petitioner to develop and implement, with the cooperation of MESA, an orderly plan and/or schedule for the installation of certified canopies on all of the face equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearing Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35903 Filed 12-6-76;8:45 am]

[Docket No. M 77-1]

JOHN BROWN HARRIS, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), John Brown Harris, Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Tiz No. 1 Mine, located in Greenbrier County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that installing canopies on the haulage equipment in this mine would create a hazard to the equipment operators.

2. Petitioner's equipment consists of one Joy 11 RU cutting machine, one S & S CX1 coal scoop, one S & S CX2 coal scoop and two Model LRB–15A Long-Airdox roof bolters. This equipment necessitates that the operator leave the machines to make certain adjustments and do other maintenance and mechanical adjustments, which cannot be readily accomplished with canopies in place. In addition, the canopies would destroy, or partially block, the vision of the operator and make it necessary for each equipment operator to tram his machine with his head sticking out from under the protection of the canopy.

3. The Tiz No. 1 Mine has operations in seams of coal varying from 47 to 84 inches in height, with rolls in the mine roof coming to within 24 inches of the mine floor. In this mine, primary problems and hazards occur due to abrupt changes in seam heights and rolls in the mine roof, which do not permit clearance between the top of operated equipment and the roof, adequate to allow installation of canopies for the protection of the operators without the creation of other and additional hazards.

4. Petitioner feels that since these standards involved here will result in

diminution of safety at its mine, and no technology is available at present to satisfactorily accomplish the desired results of increased safety, and that in view of the present energy requirements of the nation, the production at this mine will be sharply curtailed, or stopped, if this Petitioner is required to install the present standard canopy. Petitioner finds that no standard canopy now in production can meet the requirements of the law and still permit coal of these variable and fluctuating heights to be satisfactorily removed. Petitioner requests that the Safety Act be modified in order that it may continue to produce coal.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35904 Filed 12-6-76;8:45 am]

[Docket No. M 77-5]

VIRGINIA POCAHONTAS CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Virginia Pocahontas Company has filed a petition to modify the application of 30 CFR 75.1710 to its Virginia Pocahontas No. 2 Mine, located in Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls.

The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner states that the application of 30 CFR 75.1710–1(a) to each piece of equipment at all locations throughout Petitioner's mine will in fact in many instances result in a diminution of safety to the miners at its mine.

2. The height of the coalbed in Petitioner's mine varies from 66 inches at the highest points to 40 inches at the lowest points. A minimum of 12 inches vertical clearance from the roof is required to insure that, during operation, face equipment at all times avoids contact with the roof support systems at the working faces of the mine. Therefore, the vertical distance from the floor to the roof at any point in which any electric face equipment can operate is effectively reduced 12 inches from the height of the coalbed.

3. Petitioner operates the following types of self-propelled electric face equipment:

3500 Galis roof bolter.
18SC Joy shuttle car.
26H Lee-Norse continuous miner.
86 S & S scoop.

Because of the variation of the physical characteristic of each of these types of equipment (i.e., heights, width, location of operator compartment and positioning of controls), each may require a different set of canopies.

4. Petitioner states that it is at present unable to construct itself, or to procure from equipment manufacturers, canopies which, if installed on face equipment at Petitioner's mine will both meet the required strutural capacity and at all times allow operation of face equipment without creating the safety hazards herein stated. Petitioner further states that there are no new types or design of face equipment immediately available from equipment manufacturers which eliminate these safety hazards.

5. Petitioner states that in some, but not all, instances the installation of available certified canopies on the face equipment at Petitioner's mine creates, among others, the following safety hazards:

(a) The field of vision of the operator in significantly reduced as a result of the close proximity of the canopy top to the operator's compartment.

(b) The operator's arm and leg movements in operating the equipment are more restricted as a result of reduced space in the operator's compartment.

(c) Operator fatigue is greatly increased as a result of reduced operator compartment space. The above safety hazards are not present in the operation of all pieces of face equipment on which canopies have been installed in Petitioner's mine. However, the use of canopies on certain types of face equipment in certain locations of Petitioner's mine does create these safety hazards, thereby reducing the overall safety of the miners.

6. Petitioner does not propose to eliminate the installation of certified canopies on face equipment at its mine where such installation is presently possible without creating safety hazards. Petitioner does, however, propose to develop, in cooperation with MESA, an orderly plan and/or schedule for the installation of certified canopies on electric self-propelled face equipment at its mine in those instances where the present installation of the canopies on the equipment will create safety hazards. This plan may include, among others, the following considerations:

(a) The height of the coalbed and mining conditions at various locations of Petitioner's mine;

(b) The present state and future development and availability of canopies and face equipment; and

(c) The overall safety of the miners at Petitioner's mine.

7. Petitioner requests modification of 30 CFR 75.1710–1(a) by relieving Petitioner of the requirement of presently installing certified canopies on electric face equipment at those locations of Petitioner's mine where such installation creates safety hazards and by allowing Petitioner to develop and implement, with the cooperation of MESA, an orderly plan and/or schedule for the installation of certified canopies on all of the face equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 6, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

NOVEMBER 29, 1976.

[FR Doc.76-35901 Filed 12-6-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 10, 1976, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.) and the procedures of the Advisory Council on Historic Preservation 36 CFR Part 800.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since November 2, 1976. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated HAER.

ALABAMA

Bullock County

Union Springs, *Bullock County Courthouse Historic District*, N. Prairie St. (10–8–76).

Calhoun County

Anniston, *Noble Cottage*, 900 Leighton Ave. (10–8–76).

Colbert County

Cherokee vicinity, *Buzzard Roost*, 3 mi. W. of Cherokee on U.S. 72 (11–7–76).

Tuscumbia vicinity, *The Oaks (Abraham Ricks House)*, SE of Tuscumbia off AL 157 on Ricks Lane (11–7–76) HABS.

Dale County

Ozark, *Claybank Log Church*, E. Andrews Ave. (11–7–76).

Elmore County

Wetumpka, *First Presbyterian Church of Wetumpka*, W. Bridge St. (10–8–76).

Jefferson County

Bessemer vicinity, *Owen Plantation House*, S of Bessemer on Eastern Valley Rd. (10–22–76).

Lauderdale County

Florence vicinity, *Old Natchez Trace (310–24)*, 15 mi. NW of Florence on AL 20 (11–7–76).

Marion County

Hamilton vicinity, *Pearce's Mill*, E of Hamilton on SR 253 (10–8–76).

Mobile County

Mobile, *St. Louis Street Missionary Baptist Church*, 108 N. Dearborn St. (10–8–76).

Mobile, *South Lafayette Street Creole Cottages*, 20, 22, and 23 S. Lafayette St. (11–7–76).

Montgomery County

Montgomery, *Cottage Hill Historic District*, roughly bounded by Goldthwaite Bell, Holt, and Clayton (11–7–76).

Talladega County

Childersburg vicinity, *Kymulga Mill and Covered Bridge*, 4.5 mi. NE of Childersburg on SR 46 (10–29–76).

ALASKA

Juneau Division

Juneau, *Alaska Governor's Mansion*, 716 Calhoun St. (11–7–76).

ARIZONA

Cochise County

Cochise, *Cochise Hotel*, off U.S. 666 (10–22–76).

Navajo County

Whiteriver vicinity, *Fort Apache Historic District*, S of Whiteriver off AZ 73 on Ft. Apache Indian Reservation (10–14–76).

Yavapai County

Prescott vicinity, *Walker Charcoal Kiln*, SE of Prescott on Prescott National Forest (10–8–76).

ARKANSAS

Benton County

Rogers, *Mutual Aid Union Building*, 2nd and Poplar Sts. (10–14–76).

Columbia County

Spotville vicinity, *Allen, W. H., House*, NW of Spotville off AR 98 (10–14–76).

Craighead County

Jonesboro, *Bell House*, 303 W. Cherry (11–7–76).

Franklin County

Charleston, *Franklin County Courthouse, Southern District*, AR 22 (10–18–76).

Garland County

Hot Springs, *Passmore House*, 846 Park Ave. (10–8–76).

Hot Springs, *Wildwood*, 808 Park Ave. (10–8–76).

Monroe County

Clarendon, *Monroe County Courthouse*, Courthouse Square (10–14–76).

Pulaski County

Cato vicinity, *Frenchman's Mountain Methodist Episcopal Church and Cemetery*, W of Cato on Cato Rd. (10–22–76).

Little Rock, *Gazette Building*, 112 W. 3rd St. (10–22–76).

Sweet Home, *Hanger Cotton Gin*, Harper Rd. and Gates Lane (10–8–76).

Searcy County

Marshall, *Searcy County Courthouse*, Courthouse Square (10–21–76).

CALIFORNIA

Fresno County

Fresno, *San Fe Passenger Depot*, 2650 Tulare St. (11–7–76).

Marin County

Olema vicinity, *Olema Lime Kilns*, 4 mi. SE of Olema on CA 1 (10–8–76).

Monterey County

Greenfield vicinity, *Site Number 4 MNT 85*, SW of Greenfield (10–29–76).

San Francisco County

San Francisco, *Balclutha*, Pier 41 East (11–7–76).

San Francisco, *Point Lobos Archeological Sites*, off Point Lobos Ave. (11–7–76).

Santa Clara County

Los Gatos vicinity, *Kotani-en Garden*, W of of Los Gatos (11–7–76).

Solano County

Benicia, *Benicia Arsenal*, Army Point and I–680 (11–7–76) HABS.

Vallejo, *Vallejo City Hall and County Building Branch*, 734 Marin St. (11–7–76).

Yolo County

Davis, *Southern Pacific Railroad Station*, H and 2nd Sts. (11–7–76).

Woodland, *Gibson, William B., House*, 512 Gibson Rd. (11–7–76).

COLORADO

Denver County

Denver, *Christ Methodist Episcopal Church*, 2201 Ogden St. (11–7–76).

Denver, *Cornwall Apartments*, 1317 Ogden St., 912 E. 13th Ave. (10–8–76).

Denver, *Moffat Station*, 2105 15th St. (10–22–76).

Denver, *Schmidt, George, House*, 2345 7th St. (10–29–76).

Denver, *Smith's Irrigation Ditch*, Washington Park (10–8–76).

Grand County

Grand Lake vicinity, *North Inlet Shelter Cabin*, 6 mi. E of Grand Lake on Rocky Mountain National Park (10–22–76).

Larimer County

Estes Park vicinity, *Moraine Lodge*, W of Estes Park off U.S. 34 on Bear Lake Rd. (10–8–76).

Yuma County

Wray vicinity, *Beecher Island Battleground*, 16.5 mi. SE of Wray on Beecher Rd. (10–29–76).

DELAWARE

Kent County

Masten's Corner vicinity, *Vogl House*, W of Masten's Corner on SR 78 (11–7–76) HABS.

New Castle County

Greenville, *St. Joseph's on the Brandywine*, 10 Barley Mill Rd. (11–7–76).

Wilmington, *Friends Meetinghouse*, 4th and West Sts. (11–7–76).

Wilmington, *Old Asbury Methodist Church*, Walnut and 3rd Sts. (11–7–76).

FLORIDA

Duval County

Jacksonville, *Jacksonville Terminal Complex*, 1000 W. Bay St. (10–22–76).

GEORGIA

Fulton County

Atlanta, *Carnegie Library of Atlanta*, 126 Carnegie Way, NW (10–22–76).

Hancock County

Jewell vicinity, *Cheely–Coleman House*, S of Jewell off GA 123 at Ogeechee River (10–29–76).

Lincoln County

Danburg vicinity, *Channault House*, NE of Danburg at jct of GA 44 and GA 79 (10–14–76).

Danburg vicinity, *Matthews House*, NE of Danburg on GA 79 (10–14–76).

Richmond County

Augusta, *FitzSimons–Hampton House*, GA 28 (10–29–76).

Wilkes County

Danburg vicinity, *Willis–Sale–Stennett House*, N of Danburg off GA 79 on SR 1445 (10–14–76).

IDAHO

Power County

American Falls, *American Falls East Shore Power Plants*, ID 39 (10–29–76).

ILLINOIS

Cook County

Chicago, *Germania Club*, 108 W. Germania Pl. (10–22–76) HABS.
Chicago, *Nickerson, Samuel, House*, 40 E. Erie (11–7–76) HABS.
Winetka, *Orth House*, 42 Abbotsford Rd. (10–8–76).

Henderson County

Gladstone vicinity, *South Henderson Church and Cemetery*, E of Gladstone (10–14–76).

Kane County

Elgin, *Elgin Academy*, 350 Park St. (10–8–76).

Macon County

Decatur, *Decatur Historic District*, roughly bounded by Eldorado, Church, Haworth, and the Sangamon River (11–7–76).

Pope County

Golconda, *Golconda Historic District*, IL 146 (10–22–76).

St. Clair County

Belleville, *Belleville Historic District*, much of east Belleville between E. S. Belt, Illinois, and Forest (11–7–76).

INDIANA

Allen County

Fort Wayne, *Edsall, William S., House*, 305 W. Main St. (10–8–76).

Elkhart County

Bristol vicinity, *Bonneyville Mills*, 2.5 mi. E of Bristol on SR 131 (10–22–76).
Elkhart, *Bucklen Theatre*, S. Main and Harrison Sts. (10–8–76).

Madison County

Anderson, *Gruenewald House*, 626 N. Main St. (10–8–76).

Marion County

Indianapolis, *Stewart Manor (Charles B. Sommers House)*, 3650 Cold Spring Rd. (10–8–76).

Monroe County

Bloomington, *Monroe County Courthouse*, Courthouse Square (10–8–76).

Tippecanoe County

Lafayette vicinity, *Ely Homestead*, 4106 E. 200 North, NE of Lafayette (10–8–76).

IOWA

Benton County

Vinton, *Benton County Courthouse*, E. 4th St. (10–8–76).

Buena Vista County

Albert City, *Albert City Depot*, Main and Railway Sts. (10–22–76).

Cedar County

Tipton vicinity, *Floral Hall*, W of Tipton on Cedar County Fair Grounds (11–7–76).

Clayton County

Elkader, *Carter House*, 101 High St., SE (11–7–76).
Elkader, *Clayton County Courthouse*, 111 High St., NE (10–8–76).
Elkader, *Elkader Keystone Bridge*, Bridge St. (11–7–76).
Elkader, *Elkader Opera House*, 207 N. Main (10–8–76).
Elkader, *Stemmer, J. C., House*, 113 Oak, N.W. (10–21–76).

Crawford County

Denison, *McHenry, William A., House*, 1428 1st Ave. N. (11–7–76).

Davis County

Bloomfield, *Bloomfield Square*, Madison, Jefferson, Franklin, and Washington Sts. (11–7–76).
Bloomfield vicinity, *Russell Octagon House*, SW of Bloomfield off U.S. 63 (10–8–76).

Des Moines County

Burlington, *Burlington and Missouri River Railroad Passenger Station*, 237 S. 4th St. (10–22–76).

Dubuque County

Dubuque, *Shot Tower*, Commercial St. and River Front (11–7–76).
Dubuque, *Thedinga, J. H., House*, 340 W. 5th St. (11–7–76).
Holy Cross vincinity, *Western Hotel*, SE of Holy Cross on U.S. 52 (11–7–76).

Fayette County

Fayette, *College Hall*, 200 block E. Clark (11–7–76).

Fremont County

Riverton, *Chautauqua Pavilion*, IA 42 (10–22–76).

Johnson County

Iowa City, *Czecho Slovakian Association Hall*, 524 N. Johnson St. (11–7–76).
Iowa City, *McCollister, James, Farmstead*, SE of jct of U.S. 6 and U.S. 218 (10–8–76).

Linn County

Cedar Rapids vicinity, *Seminole Valley Farmstead*, W of Cedar Rapids (10–8–76).
Mt. Vernon, *King Memorial Chapel*, Cornell College campus (11–7–76).

Lyon County

Rock Rapids, *Rock Rapids Depot, Railroad Track, and Bridge*, N. Story St. (11–7–76).

Madison County

Winterset, *Cutler–Donahue Covered Bridge*, Winterset City Park (10–8–76).

Marshall County

Marshalltown, *Willard, LeRoy R., House*, 609 W. Main (10–22–76).

Muscatine County

Muscatine, *Clark, Alexander, House*, 203 W. 3rd St. (10–14–76).

Polk County

Des Moines, *Iowa State Capitol Building*, Grank Ave and E. 12th St. (10–21–76).
Des Moines, *Southeast Water Trough*, SE 11th and Scott St. (10–8–76).

Scott County

Davenport, *Collins House*, 1234 E. 29th St. (10–8–76).

Warren County

Scotch Ridge, *United Presbyterian Church Summerset*, U.S. 65/69 (11–7–76).

Webster County

Fort Dodge, *Corpus Christi Church*, 416 N. 8th St. (10–8–76).

KANSAS

Marion County

Lost Springs vicinity, *Lost Springs*, 2.5 mi. W of Lost Springs (9–30–76).

Morris County

Wilsey vicinity, *Diamond Spring*, 6 mi. W of Wilsey (9–30–76).

Shawnee County

Dover, *Sage Inn*, SW 57th St. and Douglas Rd. (10–8–76).

KENTUCKY

Bourbon County

Paris vicinity, *Airy Castle (G. W. Bowen House)*, 8 mi. NE of Paris on LaRue Rd. (11–7–76).
Paris vicinity, *Wright, Capt. James, House and Cabin*, 1 mi. SW of Paris on U.S. 27/68 (10–8–76).

Boyle County

Danville vicinity, *Harlan's Station Site*, 5 mi. W. of Danville on Salt River Rd. (10–21–76).

Fayette County

Lexington, *Christ Church Episcopal*, Church and Market Sts. (10–21–76).
Lexington, *Moore–Redd–Frazer House (Malvern Hill)*, Georgetown Pike (10–21–76).
Lexington vicinity, *Fairlawn (Greentree)*, 6 mi. NE of Lexington on U.S. 68 (10–14–76).
Lexington vicinity, *Shady Side*, 4 mi. E of Lexington on U.S. 68 (11–7–76).

Harrison County

Cynthiana vicinity, *Poplar Hill*, E of Cynthiana on KY 32/36 (11–7–76).

Hopkins County

Madisonville, *Lyon, Chittenden P. Jr., House*, 304 Union St. (10–18–76).

Madison County

Richmond, *Breck, Judge Daniel, House*, 312 Lancaster Ave. (11–7–76).
Richmond, *Downtown Richmond Historic District*, Main St. and Courthouse Square (9–30–76)

Mercer County

Harrodsburg, *Clay Hill (Magoffin–Thompson House)*, 433 Beaumont Ave. (11–7–76).
Harrodsburg, *Dorcham (Stagg–Haggin–Stephenson House)*, 409 N. College St. (10–22–76).

Pendleton County

Butler vicinity, *Fryer House*, NE of Butler on U.S. 27 (10–8–76).

Scott County

Georgetown vicinity, *Gaines, James, House*, S of Georgetown on Yarnallton Pike (11–7–76).
Georgetown vicinity, *Johnson, Leonidas, House (Clifton)*, 7 mi. NW of Georgetown on U.S. 227 (10–8–76).

Shelby County

Simpsonville vicinity, *Old Stone Inn*, E of Simpsonville on U.S. 60 (10–8–76).

Spencer County

Taylorsville vicinity, *Beechland (Jacob Yoder House)*, 2.5 mi. N of Taylorsville (11–7–76).

Todd County

Elkton, *McReynolds House*, S. Main St. (10–22–76).

LOUISIANA

Orleans Parish

New Orleans, *Williams Mansion (Milton H. Latter Memorial Library)*, 5120 St. Charles Ave. (10–21–76).

MAINE

Androscoggin County

Lewiston, *Lewiston City Hall*, Pine and Park Sts. (10–21–76).
Lewiston, *Oak Street School*, Oak St. (10–8–76).

Cumberland County

Brunswick, *Federal Street Historic District*, roughly bounded by Mason, Maine, College, and Federal Sts. (10–29–76).

Hancock County

Sunset vicinity, *Olmsted, Frederick Law, Summer Home*, SW of Sunset on Deer Isle (11–7–76).

Kennebec County

Waterville, *First Baptist Church*, Park and Elm Sts. (11–7–76).

Lincoln County

North Whitefield vicinity, *St. Denis Catholic Church*, W of North Whitefield on ME 218 (10–29–76).
Walpole vicinity, *Walpole Meetinghouse*, N of Walpole on Meeting House Rd. (11–7–76) HABS.

Penobscot County

Dixmont, *Bussey, Louis I., School*, U.S. 202 (11–7–76).

Somerset County

Norridgewock, *May, Sophie, House*, Sophie May Lane (10–8–76).

Waldo County

Belfast, *First Church of Belfast*, Church St. (11–7–76) HABS.

Washington County

Machias, *Washington County Courthouse*, Court St. (11–7–76).

MARYLAND

Baltimore (independent city)

St. Peter The Apostle Church and Buildings, 11–13 S. Poppleton St. and 848 Hollins St. (10–14–76).

Baltimore County

Oella, *Mount Gilboa Chapel*, Oella and Westchester Aves. (10–21–76).

Carolina County

West Denton, *Neck Meetinghouse and Yard*, MD 404 (10–22–76).

Cecil County

Elkton, *Holly Hall*, 259 S. Bridge St. (10–8–76).

Charles County

LaPlata, *La Grange*, MD 6, W of U.S. 301 (10–22–76).

Dorchester County

Cambridge, *Glasgow*, 1500 Hambrooks Blvd. (10–8–76).

Prince Georges County

Upper Marlboro vicinity, *Melwood Park*, W of Upper Marlboro on MD 408, 0.5 mi E of jct with Melwood Rd. (10–8–76) HABS.

St. Marys County

St. Marys City vicinity, *Mary W. Somers (Chesapeake Bay skipjack)*, SE of St. Marys City at St. Inigoes Creek (10–8–76).

Washington County

Sharpsburg, *Chapline, William, House*, 109 W. Main St. (10–8–76).

Wicomico County

Hebron at jct. of U.S. 50 and MD 347 *Paul's Episcopal Church*), 1 mi. NE of Hebron at jct. of U.S. 50 and MD 347 (10–22–76).

MASSACHUSETTS

Berkshire County

Stockbridge vicinity, *Old Curtisville Historic District*, N of Stockbridge on MA 183 (10–29–76).

Essex County

Haverhill, *Washington Street Shoe District*, Washington, Wingate, Emerson Sts., Railroad, and Washington squares (10–14–76).
Lawrence, *Grace Episcopal Church*, Common and Jackson Sts. (11–7–76).
Manchester vicinity, *The New Hampshire*, SE of Manchester off Graves Island (10–29–76).

Hampshire County

Northampton, *The Manse*, 54 Prospect St. (10–14–76).

Middlesex County

Lexington, *Simonds Tavern*, 331 Bedford St. (10–14–76).
Malden, *Old City Hall*, Main St. (10–8–76).
Weston, *Woodward, Rev. Samuel, House*, 19 Concord Rd. (10–8–76).

Plymouth County

Lakesville, *Town Hall*, Bedford St. (10–22–76).
Wareham, *Tremont Nail Factory District*, 21 Elm St. (10–22–76).

Worcester County

Lancaster vicinity, *Lancaster Industrial School for Girls*, SE of Lancaster on Old Common Rd. (10–8–76).
Lancaster vicinity, *Lane, Anthony, House*, NE of Lancaster on Seven Bridge Rd. (11–7–76).
Shrewsbury, *Shrewsbury Historic District*, Church Rd., Main, Prospect, Boylston, and Grafton Sts. (10–8–76).
South Lancaster, *South Lancaster Engine House*, 283 S. Main St. (10–22–76).
Worcester, *Greendale Village Improvement Society Building*, 480 W. Boylston St. (11–7–76).

MICHIGAN

Houghton County

Jacobsville vicinity, *Jacobsville Finnish Lutheran Church*, W. of Jacobsville (10–8–76).

Lapeer County

Northeastern Lapeer County, *Younge Site* (10–29–76).

MINNESOTA

Rice County

Dundas, *Archibald/Dundas Mill Site*, off MN 218 (10–8–76).

MISSISSIPPI

Adams County

Natchez, *The Elms*, 215 S. Pine St. (11–7–76).
Natchez, *Oakland*, 9 Oakhurst Dr. (10–21–76).
Natchez vicinity, *Gloucester*, S of Natchez on Lower Woodville Rd. (11–7–76) HABS.

Harrison County

Biloxi, *Toledano–Philbrick–Tullis House*, 947 E. Beach Blvd. (11–5–76) HABS.

Hinds County

Jackson, *Edwards Hotel*, Capitol and Mill St. (11–7–76).

Panola County

Sledge vicinity, *Holly Grove Site*, E of Sledge (10–21–76).

MISSOURI

St. Louis (independent city)

Cupples, Samuel, House, 3673 W. Pine Blvd. (10–21–76).

MONTANA

Silver Bow County

Butte, *Clark, Charles W., Mansion*, 108 N. Washington St. (10–22–76).

NEBRASKA

Grant County

Hyannis, *Hotel DeFair*, NE 2 and Main St. (10–29–76).

Otoe County

Nebraska City, *Nebraska City Historic District*, roughly bounded by 5th Ave., 3rd, 19th, and 1st Corso Sts. (10–29–76).
Nebraska City, *South Nebraska City Historic District*, roughly bounded by 4th, 11th, 1st Corso, and 4th Corso Sts. (10–22–76).
Nebraska City, *South 13th Street Historic District*, roughly bounded by 12th, 14th, 1st Corso, and 6th Corso Sts. (10–29–76).

NEVADA

Carson City (independent city)

Carson City, Governor's Mansion, 606 Mountain St. (10–22–76).

NEW JERSEY

Burlington County

Moorestown, *Smith Mansion*, 12 High St. (10–22–76).

Hunterdon County

Califon, *Califon Historic District*, Main and Academy Sts. (10–14–76).

Middlesex County

Old Bridge vicinity, *Cedar Grove School*, E of Old Bridge on SR 516 (10–24–76).

Monmouth County

Long Branch, *Church of the Presidents*, 1260 Ocean Ave. (11–7–76) HABS.

Morris County

Morristown vicinity, *Boisaubin Manor*, SE of Morristown on Treadwell Ave. (10–22–76).

Somerset County

Flagtown vicinity, *Huff House and Farmstead*, River Rd. at S branch of Raritan River (11–7–76).

NEW MEXICO

Bernalillo County

Albuquerque, *Armijo, Salvador, House*, 618 Rio Grande Blvd, NW (10–8–76).
Albuquerque, *First Methodist Episcopal Church*, 3rd St. and Lead Ave. (11–7–76).

San Miguel County

Las Vegas, *St. Paul's Memorial Episcopal Church and Guild Hall*, 714–716 National Ave. (11–7–76).

NEW YORK

Dutchess County

Beacon, *Tioronda Bridge*, South Ave. (10–8–76).

Franklin County

Malone, *Paddock Building*, 34 W. Main St. (11–7–76).

Genesee County

Stafford, *Stafford Village Four Corners Historic District*, jct. U.S. 5 and U.S. 237 (10–8–76).

Herkimer County

Ilion, *Remington Stables*, 1 Remington Ave. (10–29–76).

Rensselaer County

Troy, *Lansingburgh Academy*, 114th and 4th Sts. (10–14–76).

Suffolk County

Huntington vicinity, *Lloyd, Joseph, House*, NW of Huntington on Lloyd Harbor Rd. (11–7–76).

Montauk vicinity, *Montauk Association Historic District*, E of Montauk off NY 27 on DeForest Rd. (10–22–76).

Wayne County

Sodus Point, *Sodus Point Lighthouse*, off NY 14 at Lake Ontario (10–8–76).

Westchester County

Rye, *Ward, William E., House*, Comly Ave. (11–7–76).

NORTH CAROLINA

Alleghany County

Piney Creek vicinity, *Weaver, William, House*, SW of Piney Creek on SR 1302 (11–7–76).

Ashe County

Crumpler vicinity, *Pierce, John M., House*, N of Crumpler on SR 1559 (11–7–76).

Crumpler vicinity, *Thompson's Bromine and Arsenic Springs*, W of Crumpler on SR 1542 (10–22–76).

Grassy Creek vicinity, *Waddell, William, House*, W of Grassy Creek off NC 16 on SR 1532 (11–7–76).

Scottville vicinity, *Bower–Cox House*, SW of Scottville on SR 1595 (11–7–76).

Scottville vicinity, *Cox, Samuel, House*, SW of Scottville off U.S. 221 on SR 1636 (11–7–76).

Buncombe County

Asheville, *Asheville City Hall*, City County Plaza (11–7–76).

Burke County

Morganton vicinity, *Forney, Jacob Jr., House*, NW of Morganton on SR 1440 (10–14–76).

Chowan County

Edenton, *Pembroke Hall*, W. King St. (11–7–76) HABS.

Gaston County

Gastonia vicinity, *Wilson, William J., House*, S of Gastonia off SR 1109 (10–14–76).

Gates County

Gatesville, *Gates County Courthouse*, Court St. (10–22–76).

Halifax County

Roanoke Rapids and vicinity, *Roanoke Canal*, Roanoke Rapids Lake SE to Weldon (10–8–76).

OHIO

Ashtabula County

West Andover, *Henderson, John, House*, 5246 Stanhope-Kelloggsville Rd. (11–7–76).

Brown County

Georgetown, *Bailey–Thompson House*, 112 N. Water St. (11–7–76) HABS.

Georgetown, *Grant, Ulysses S., Boyhood Home*, 219 E. Grant Ave. (10–8–76).

Cuyahoga County

Cleveland, *Federal Reserve Bank of Cleveland*, E. 6th St. and Superior Ave. (10–8–76).

Cleveland, *Lorain–Carnegie Bridge*, spans Cuyahoga River between Lorain and Carnegie Aves. (10–8–76).

Cleveland, *Society for Savings Building*, Public Square (11–7–76) HABS.

Cleveland Heights, *Brown, John Hartness, House*, 2380 Overlook Rd. (11–7–76).

Darke County

Greenville, *Greenville Mausoleum*, West St., Greenville Cemetery (10–21–76).

Fairfield County

Canal Winchester vicinity, *Lowcks Covered Bridge*, SE of Canal Winchester on SR 207 (10–8–76).

Pickerington vicinity, *Hizey Covered Bridge*, E of Pickerington on SR 235 (10–8–76).

Geauga County

Mayfield Heights vicinity, *White, Walter C., Estate*, E of Mayfield Heights at U.S. 322 and County Line Rd. (10–8–76).

Greene County

Xenia, *Millen–Schmidt House*, 184 N. King St. (11–7–76).

Hamilton County

Cincinnati, *Mecklenburg's Garden*, 302 E. University Ave. (11–7–76).

Harrison vicinity, *Campbell, Hugh, House*, 332 Weathervane Rd. (11–7–76).

Remington, *Elliott House*, 9352 Given Rd. (10–29–76).

Lawrence County

Burlington, *Johnston, William C., House and General Store*, Washington and Davidson Sts. (10–22–76).

Licking County

Croton vicinity, *Belle Hall Covered Bridge*, E of Corton on Dutch Cross Rd. (10–22–76).

Mahoning County

Youngstown, *Mill Creek Park Suspension Bridge*, Mill Creek Park (10–29–76).

Youngstown, *Renner, George J. Jr., House*, 277 Park Ave. (10–8–76).

Youngstown, *Tod Homestead Cemetery Gate*, Belmont Ave. (10–22–76).

Portage County

Hiram, *Young, Thomas F., House*, Wakefield and Garfield Sts. (10–22–76).

Preble County

Eaton vicinity, *Christman Covered Bridge*, 1.5 mi. NW of Eaton (10–22–76).

Lewisburg vicinity, *Warnke Covered Bridge*, NE of Lewisburg on Swamp Creek Rd. (10–8–76).

Richland County

Mansfield, *Kingwood Center*, 900 Park Ave. W. (11–7–76).

Summit County

Akron, *St. Paul's Sunday School and Parish House*, E. Market and Forge, Sts. (11–7–76).

Vinton County

Allensville vicinity, *Mt. Olive Road Covered Bridge*, 1 mi. NE of Allensville on Mt. Olive Rd. (10–8–76).

Warren County

Lebanon vicinity, *Crossed Keys Tavern*, E of Lebanon on OH 350 (10–21–76).

Washington County

Bartlett vicinity, *Shinn Covered Bridge*, NE of Bartlett off OH 555 (10–8–76).

Dart vicinity, *Hune Covered Bridge*, 2.5 mi. N of Dart on SR 34 (10–8–76).

Marietta vicinity, *Rinard Covered Bridge*, NE of Marietta on SR 406 (10–8–76).

Watertown vicinity, *Harra Covered Bridge*, 2 mi. NW of Watertown on SR 172 (10–8–76).

Wyandot County

Wyandot vicinity, *Swartz Covered Bridge*, NW of Wyandot on SR 130A (10–8–76).

OKLAHOMA

Kay County

Newkirk vicinity, *Jenkins, Gov. William W., Homestead Site*, 3 mi. SE of Newkirk (10–14–76).

Kingfisher County

Kingfisher vicinity, *Kingfisher College Site*, 1 mi. E of Kingfisher (10–22–76).

LeFlore County

Talihina vicinity, *Old Military Road*, 7 mi. NE of Talihina on Ouachita National Forest (10–22–76).

Oklahoma County

Oklahoma City, *Oklahoma State Capitol*, 22nd St. and Lincoln Blvd. (10–8–76).

OREGON

Marion County

Mt. Angel, *St. Mary's Roman Catholic Church*, off OR 214 (10–22–76).

PENNSYLVANIA

Allegheny County

Pittsburgh, *South Side Market Building*, 12th and Bingham Sts. (10–14–76).

Springdale, *Carson, Rachel, House*, 613 Marion Ave. (10–22–76).

Centre County

Bellefonte, *Bellefonte Academy*, 225 E. Bishop St. (11–7–76).

Bellefonte, *Centre County Courthouse*, High St. (11–7–76).

Bellefonte, *Miles–Humes House*, 203 N. Allegheny St. (10–21–76).

Dauphin County

Harrisburg, *Griffith, William R., House (Cathedral House)*, 215 N. Front St. (10–21–76) HABS.

Delaware County

Media vicinity, *Ridley Creek State Park*, NW of Media between PA 3 and PA 352 (10–8–76).

Lycoming County

Williamsport, *Williamsport City Hall*, Pine St. (11–7–76).

Montgomery County

Montgomeryville vicinity, *Knapp Farm*, S of Montgomeryville off PA 309 (10–22–76).

Schwenksville vicinity, *Pennypacker Mansion*, 5 Haldeman Rd. (11–7–76).

Philadelphia County

Philadelphia, *Bergdoll Manston*, 2201–2205 Green St. (11–7–76).

Washington County

Eighty-Four vicinity, *Brownlee, Samuel, House*, N of Eighty-Four on PA 519 (11–7–76).

Westmoreland County

Irwin, *McCormick House*, 508 Main St., (10–21–76).

York County

York, *Laurel–Rex Fire Company House*, S. Duke St. (10–8–76).

PUERTO RICO

Guaynabo, *Iglesia Parroquial de San Pedro Martir de Guaynabo*, Plaza de Recreo (9–8–76).

RHODE ISLAND

Newport County

Newport, *Malbone*, Malbone Rd. (10–22–76) HABS.

Providence County

Pawtucket, *Spaulding, Joseph, House*, 30 Fruit St. (10–22–76).
Providence, *Butler Hospital*, 333 Grotto Ave. (10–8–76).
Providence, *Dexter, Jeremiah, House*, 957 N. Main St. (10–8–76) HABS.
Providence, *Rhode Island Hospital Trust Building*, 15 Westminister St. (10–22–76).

SOUTH CAROLINA

Charleston County

Charleston, *St. Mary's Roman Catholic Church*, 93 Hasell St. (11–7–76).

Oconee County

Westminister, *Southern Railway Passenger Station*, 129 Main St. (11–7–76).

SOUTH DAKOTA

Brookings County

Brookings, *Chicago and Northwestern Railroad Depot*, U.S. 77 (10–8–76).
Brookings, *Fishback House*, 501 8th St. (10–8–76).

TENNESSEE

Campbell County

Speedwell vicinity, *Smith–Little–Mars House*, W of Speedwell on TN 63 (11–7–76).

Gibson County

Trenton, *Gibson County Courthouse*, Court Square (11–7–76).

Hamblen County

Morristown, *Rose School*, Jackson and W. 2nd North Sts. (10–18–76).

Hamilton County

Ooltewah, *James County Courthouse*, Mulberry St. (11–7–76).

Williamson County

Franklin vicinity, *Glen Echo*, N of Franklin off U.S. 31 on Spencer Creek Rd. (11–7–76).

TEXAS

Brazos County

Bryan, *Bryan Carnegie Library*, 111 S. Main St. (10–27–76).
Bryan, *Cavitt House*, 713 E. 30th St. (10–27–76).

San Augustine County

San Augustine, *Horn–Polk House*, 717 W. Columbia St. (11–7–76).

Smith County

Tyler, *Goodman–LeGrand House*, 624 N. Broadway (11–7–76).

Tom Green County

San Angelo, *Tom Green County Jail*, U.S. 67 (10–22–76).

VIRGIN ISLANDS

St. Croix Island

Frederiksted vicinity, *Little La Grange*, NE of Frederiksted (10–22–76).

St. Thomas Island

Charlotte Amalie vicinity, *New Herrnhut Moravian Church*, E of Charlotte Amalie (10–8–76).

VIRGINIA

Accomack County

Accomac, *Debtors' Prison*, VA 764 (11–7–76) HABS.
New Church vicinity, *Pitts Neck*, 6 mi. W of New Church on VA 709 (10–21–76) HABS.

Albemarle County

Cismont vicinity, *Grace Church*, NE of Cismont on VA 231 (10–21–76).

Gloucester County

Gloucester vicinity, *Burgh Westra*, E of Gloucester off VA 3/14 (10–8–76).

Norfolk (independent city)

Ft. Norfolk, 803 Front St. (11–7–76).

Waynesboro (independent city)

Coiner–Quesenbery House, 332 W. Main St. (11–7–76).

WASHINGTON

Chelan County

Berne vicinity, *Stevens Pass Historic District*, W of Berne on U.S. 2 (10–22–76) (also in King County).

Lewis County

Vader, *Olsen, Ben, House*, S end of D St. (11–7–76).

Pierce County

Elbe, *Elbe Evangelical Lutheran Church*, WA 5 (10–8–76).
Tacoma, *Pantages Theatre/Jones Building*, 901 and 909 Broadway (11–7–76).
Tacoma, *Slavonian Hall*, 2306 N. 30th St. (11–7–76).
Tacoma, *Wright Park and Seymour Conservatory*, Divison Ave. to 6th Ave., between S. G and I Sts. (10–8–76).
Wilkeson, *Wilkeson School*, off WA 165 (10–8–76).

WISCONSIN

Columbia County

Wisconsin Dells, *Bennett, H. H. Studio*, 215 Broadway (10–8–76).

Dodge County

Mayville, *White Limestone School*, N. Main St. between Day and Buchanan Sts. (10–22–76).

Green County

Monroe, *Chenoweth, Frank L., House*, 2004 10th St. (10–8–76).

Ozaukee County

Waubeka vicinity, *Stony Hill School*, NE of Waubeka on SR I (10–8–76).

Pierce County

River Falls, *South Hall, River Falls State Normal School*, 320 E. Cascade Ave. (11–7–76).

Rock County

Janesville, *Lappin-Hayes Block*, 20 E. Milwaukee St. (11–7–76).

WYOMING

Albany County

Centennial vicinity, *Libby Lodge*, NW of Centennial on WY 130 (9–30–76).

Johnson County

Buffalo, *Carnegie Public Library*, 90 N. Main (11–7–76).
Buffalo, *Johnson County Courthouse*, 76 N. Main (11–7–76).
Buffalo, *St. Luke's Episcopal Church*, 178 S. Main (11–7–76).

Lincoln County

Kemmerer vicinity, *Johnston Scout Rocks* NE of Kemmerer (11–7–76).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

OKLAHOMA

Oklahoma County

Oklahoma City, *Capitol–Lincoln Terrace Historic District*, irregular pattern bounded by 13th, 23rd, Lincoln Blvd., and Culbertson Ave. (9–30–76).

WISCONSIN

Milwaukee County

Shorewood, *Church, Benjamin, House*, Parkway Dr., Estabrook Park (2–23–72) HABS (formerly listed under Milwaukee).

* * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places.

ILLINOIS

DeWitt County

Birkbeck vicinity, *Pabst Site*, SE of Birkbeck off U.S. 54

Pulaski County

Mound City, *Mound City Civil War Naval Hospital*, Commercial Ave. and Central St.

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory

Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I-459-4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Nome Division

Little Diomede Island, *Iyapana, John, House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Coconino County

House Rock Springs, Upper Houserock Valley
Paria Plateau Archeological District

Graham County

Foote Wash—No Name Wash Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir Sites NA 13,257*, and *NA 13,258.*

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Site U:1:30(A.S.U.)
Site U:1:31(A.S.U.)
Skunk Creek Archeological District.

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*
Tucson vicinity, *Old Santan*, NW of Tucson.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, *Southern Pacific Depot.*

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites *3VB49-3VB51*, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoney ford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites, Sierra National Forest.
Muir Hut, Kings Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction project.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The 20-Mule Team Borax Wagon Road (also in Kern and San Francisco counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Simi Valley, *Archeological Site Ven-341.*
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 490, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites.
CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, *P. E. Booth Company Pier*, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA-MNO-584.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4-Nap-14, 4-Nap-281, Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa-1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Farrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabin, Sequoia National Park.
Quinn Ranger Station.
Tharp's Log.
Smithsonian Institution Shelters.
Squatter's Cabin.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Moffat County

White Indian Contact Site.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges.*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

New London County

New London, *Washington Street Historic District*, project 103-159.
New London, *Williams Memorial Institute Building*, 110 Broad St.

DELAWARE

Sussex County

Lewes, *Delaware Breakwater.* Harbor of Refuge Breakwater.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *828 Wheaton Street.*
Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Chatooga County

Archeological Sites in area of Structure 1-M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Hall County

Odd Fellows Building (Chamblee).

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F-117-1 (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W. of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15*, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building*, 211-213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126-146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Mitchell, *Riley School*.

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.

Monroe County

Bloomington, *Carnegie Library*.

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House*.

Vanderburgh County

Evansville, *Riverside Neighborhood*.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.

Johnson County

Fishtrap United Methodist Church.

Lawrence County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

American Sector, Central City District Bywater District.

St. Martins Parish

Site 16, Sm–45, Atchafalaya Basin Floodway.

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).

Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craghill Channel Upper Range Front Light*, on Chesapeake Bay.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.

Carroll County

Bridge No. 1–141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station*.
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light area.
Truro, *Highland House*, Cape Code Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.
Holyoke, *Steamer Company No. 3*.

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.
Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District*.

Winona County

Winona, *Second Street Commercial Block*.

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W. Robidoux on S. 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House*.

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Greene County

Springfield, *Landers Theater*, 311 East Walnut St.

Henry County

La Due, *Batschelett House*, near Harry S. Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander, House.

MONTANA

Big Horn County

Fort Smith, *Big Horn Canal Headgate*.

Carbon County

Hardin, *Pretty Creek Site (Hough Creek Site)*, Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District*.

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge*.
Valentine vicinity, *Newman Brothers House*.

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669—26EK1672*.

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex*.

Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

New Brunswick, *Delaware and Raritan Canal*, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Sussex County

Old Mine Road Historic District (also in Warren County).

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lea County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.
Long Island, *Seaford Park Archeological Site.*

New York County

New York, *Harlem Courthouse*, 170 E. 121st St.
New York, *New York Cancer Hospital (Towers Nursing Home)*, 2 W. 106th St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.

Otsego County

Swart-Wilcox House

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.

Saratoga County

Saratoga Springs, *Saratoga Springs Historic District.*
Saratoga Springs, *Yaddo House and Gardens*, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District*, between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site.*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston*, Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39)*, Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.*

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 mi. NW of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Warren County

Corwin, *Shafer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House*, 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Camp Comanche Site*, E range on Cache Creek.
Fort Sill, *Chiefs Knoll, Post Cemetery*, N of

Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station*.

Curry County

Port Orford, *Cape Blanco Light Station*.

Douglas County

Winchester Bay, *Umpqua River Lighthouse*.

Gilliam County

Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir Area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge*.

Lane County

Roosevelt Beach, *Heceta Head Lighthouse*.
Roosevelt Beach, *Heceta Head Light Station*.

Lincoln County

Agate Beach, *Yakuina Head Lighthouse*.

Tillamook County

Tillamook, *Cape Meares Lighthouse*.

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901–1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Lock Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites) Mid-County Expwy. (also in Montgomery County.)

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank* Bldg 13N., Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion*.

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I–78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I–78.
Site 4: Farmhouse, barn, and outbuildings, I–78.

Philadelphia County

Philadelphia, *Bridge on "I" Street*, over Tacony Creek.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *Tremont Mills*, Wingonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters*.

Washington County

Charleroi, *Ninth Street School*.
Cross Creek Village, Cross Creek watershed.
Somerset Township, *Wright No. 22 Covered Bridge*

RHODE ISLAND

Providence County

Woonsocket, *Club Marquette Building (St. Anne's Gymnasium*, Cumberland St.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot*.

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

Trousdale County

Dixon Springs, *McGee House*.

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George, House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carola Vela House)*, 601 Zaragosa St.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Windsor County

Windsor, *Post Office Building*.

VIRGINIA

Wythe County

Fort Criswell

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Clallam County

Cape Alava vicinity, *White Rock Village Archeological Site*, S of Cape Alava.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Seglum, *New Dungeness Light Station*.

Grays Harbor County

West Port, *Grays Harbor Light Station*.

King County

Burton, *Point Robinson Light Station*.
Seattle, *Alki Point Light Station*.
Seattle, *Home of the Good Shepherd*.
Seattle, *West Point Light Station*.

Kitsap County

Hansville, *Point No Point Light Station*.

Pacific County

Ilwaco, *North Head Light Station*.

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site*.
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station*.

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station*.

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, *Old Bank Building*, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse*.
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse*.
Parkersburg, *Wood County Jail*.

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302*.

Fond du Lac County

Fond du Lac, *Aetna Station No. 5*, 193 N. Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office*.

WYOMING

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Natrona County

Casper, *Cantonment Reno*.
Casper, *Castle Rock Archeological Site*.
Casper, *Dull Knife Battlefield*.
Casper, *Middle Fork Pictograph-Petroglyph Panels*.
Casper, *Portuguese Houses*.

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts*.

[FR Doc.76-35666 Filed 12-6-76;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Nov. 26, 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 on or before December 17, 1976.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Butte County

Chico, *Allen-Sommer-Gage House*, 410 Normal St.

Del Norte County

Crescent City vicinity, *Enderts Beach Archeological Sites*, S of Crescent City.
Klamath vicinity, *O'men Village Site*, N of Klamath.

Fresno County

Wilsonia vicinity, *Gamlin Cabin*, NW of Wilsonia.

Humboldt County

Blue Lake vicinity, *Noledin Village Site*, N of Blue Lake.

Mariposa County

Curry Village, *Le Conte Memorial Lodge*, Yosemite Valley, Yosemite National Park.
Mariposa, *Mariposa County Courthouse*, 5088 Bullion St.
Yosemite Village, *Ahwahnee Hotel*, Yosemite Valley.

Napa County

Napa, *Winship-Smernes Building*, 948 Main St.

San Benito County

Soledad vicinity, *Chalone Creek Archeological Sites*, E of Soledad.

San Bernardino County

San Bernardino vicinity, *Cajon Pass Camp Site*, 16 mi. N of San Bernardino.

Santa Clara County

San Jose, *First Unitarian Universalist Church*, 160 N. 3rd St.
Santa Clara, *Morse, Charles Copeland, House*, 981 Fremont St.

Santa Cruz County

Scotts Valley, *Scott, Hiram D., House*, 4603 Scotts Valley Dr.

Tulare County

Long Pine vicinity, *Smithsonian Institution Shelter*, W of Lone Pine.
Mineral King vicinity, *Quinn Ranger Station*, S of Mineral King.
Three Rivers vicinity, *Hospital Rock*, NE of Three Rivers.
Three Rivers vicinity, *Squatters Cabin*, NE of Three Rivers.
Three Rivers vicinity, *Tharp's Log*, NE of Three Rivers.

Tuolumne County

Lee Vining vicinity, *McCauley Cabin*, W of Lee Vining at Tuolumne Meadows.

Yuba County

Marysville, *Decker-Jewett Bank*, 212 D St.
Marysville, *Ellis Building*, 100 D St.

GEORGIA

Fulton County

Atlanta, *Candler Building*, 127 Peachtree St., NE.
Atlanta, *Capital City Club*, 7 Harris St., NW.
Atlanta, *Healey Building*, 57 Forsyth St.

MISSOURI

Jackson County

Kansas City, *Scarritt, Edward Lucky, House*, 3500 Gladstone Blvd.
Kansas City, *Warner, Maj. William, House*, 1021 Pennsylvania Ave.

St. Louis (independent city)

Campbell, Robert G., House, 1508 Locust St.

Vernon County

Nevada, *Vernon County Jail, Sheriff's House and Office*, 229 N. Main St.

NEBRASKA

Dodge County

Fremont, *Nye House*, 1643 N. Nye Ave.

NEW JERSEY

Essex County

Newark, *Cathedral of the Sacred Heart*, 89 Ridge St.

Middlesex County

East Brunswick, *Old Bridge Historic District*, NJ 18.

Monmouth County

Atlantic Highlands, *Alexander Hamilton*, off NJ 36.

NORTH CAROLINA

Alamance County

Alamance vicinity, *Holt, L. Banks, House*, NC 62.

Wayne County

Goldsboro, *Weil, Solomon and Henry, Houses*, 204 and 200 W. Chestnut St.

TENNESSEE

Franklin County

Cowan vicinity, *Cumberland Mountain Tunnel*, SE of Cowan.

Montgomery County

Clarksville, *Smith-Hoffman House*, Beech and and A Sts.

[FR Doc.76-35665 Filed 12-6-76;8:45 am]

Office of the Secretary

TETON DAM FAILURE INTERIOR REVIEW GROUP

Meeting

Notice is hereby given that the Teton Dam Failure Interior Review Group will meet at 9 a.m. on Thursday and Friday, December 9 and 10, 1976, in Room 6071, Main Interior Building, Washington, D.C. The working sessions are open to the public.

The Review group is a six-member interagency committee appointed by the Secretary of the Interior to primarily investigate the causes of the Teton Dam failure.

In the December 9 and 10 meetings, the Interior Review Group will hear reports from its several subgroups and briefings on the procedures of the Bureau of Reclamation and other dam-building agencies, and review a draft outline of a summary report to be transmitted in January 1977.

DENNIS N. SACHS,
Deputy Assistant Secretary.

[FR Doc.76-35920 Filed 12-6-76;8:45 am]

BOARD FOR INTERNATIONAL BROADCASTING

PRIVACY ACT OF 1974

Payroll Records System Notice

NOVEMBER 26, 1976.

On October 27, 1976 (41 FR 47201) there was published in the FEDERAL REGISTER, notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a. The Board for International Broadcasting hereby publishes for comment an additional routine use for the system designated "Payroll Records—BIB-2." Any person interested in commenting on the additional routine use contained in this notice may do so by submitting comments in writing to the Budget and Administrative Officer, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Comments must be submitted on or before January 6, 1977. This routine use will become effective January 6, 1977, unless the Board publishes notice to the contrary.

Dated at Washington, D.C. on November 26, 1976.

WALTER R. ROBERTS,
Executive Director.

BIB-2

System name:

Payroll Records—Board for International Broadcasting.

System location:

General Services Administration, Region Three Office; copies held by the Board for International Broadcasting. (GSA holds records for the Board for International Broadcasting under contract.)

Categories of records maintained 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 Board for International Broadcasting and GSA employees to maintain adequate payroll information for the Board for International Broadcasting employees, and otherwise by the Board for International Broadcasting and GSA employees who have a need for the record in the performance of their duties.

Authority for the system:

31 U.S.C., generally. Also, Pub. L. 93-129, as amended.

Routine use of records:

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 the Treasury Form W-2, Wage 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 the 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 Budget and Administrative Officer, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. 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 Budget and Administrative Officer of the Board for International Broadcasting.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Pub. L. 93-579.

Policies and practices for storing and retrieving, assessing, retaining and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability and accessing:

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:

Budget and Administrative Officer; Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, N.W., Washington, D.C. 20005.

Notification procedures:

Refer to Board for International Broadcasting access regulations contained in 1 CFR Part 415.

Record access procedures:

Refer to Board for International Broadcasting access regulations contained in 1 CFR Part 415.

Contesting records procedures:

Refer to Board for International Broadcasting access regulations contained in 1 CFR Part 415.

Categories of sources of records in the system:

The subject individual; the Board for International Broadcasting.

APPENDIX—BOARD FOR INTERNATIONAL BROADCASTING

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 of 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.76–35820 Filed 12–6–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 29001, etc.; Order 76–12–1]

SOUTHERN AIRWAYS, INC. ET AL.

Order Regarding Application for Approval of a Route Exchange Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of December 1976.

Application of Southern Airways, Inc., and Trans World Airlines, Inc., Docket 29001, for approval of a route exchange agreement; application of Delta Air Lines, Inc., and Ozark Air Lines, Inc., Dockets 29104 and 29099, for new or amended certificates of public convenience and necessity.

On March 17, 1976, Southern Airways and Trans World Airlines filed a joint application requesting approval, with as much speed as possible, of a route transfer agreement. The agreement provides for the transfer to Southern of TWA's authority (segment 6 of Route 2) to engage in air transportation between Nashville, Tennessee, on the one hand, and St. Louis, Missouri, Atlanta, Georgia, Tampa-St. Petersburg-Clearwater (Tampa), Florida, and the coterminal points Ft. Lauderdale and Miami, Florida, on the other, and the concurrent deletion of TWA's authority at Nashville.[1] The transfer is subject to the requirements that (a) Southern shall serve Nashville on all flights utilizing the transferred authority between St. Louis, on the one hand, and Atlanta, or the Florida points mentioned above, on the other hand; and (b) Southern shall not enplane or deplane passengers at Tampa who deplane or enplane at either Ft. Lauderdale or Miami.[2] The agreement does not include any transfer of employees or aircraft; however, Southern agrees to purchase, and TWA agrees to sell to Southern, TWA's related good will, developmental and marketing efforts at Nashville and to furnish to Southern any improvements and facilities at Tampa International Airport necessary to enable Southern to start up operations at that point. TWA agrees that it shall not apply for Board authority to operate between Nashville, on the one hand, and St. Louis, Atlanta, or the named Florida points, on the other, for five years following the effective date of the transfer. Southern agrees to pay TWA $250,000. The agreement further states that either party may terminate the agreement, inter alia, if approval has not been granted by March 16, 1977.

Answers in support of the joint application have been filed by the Tampa Bay Area Parties,[3] the St. Louis Parties[4] and the Metropolitan Nashville Airport Authority. Petitions to intervene have been filed by Delta Air Lines and the Metropolitan Nashville Airport Authority.

Answers in opposition to the joint application have been filed by Eastern Air Lines and Ozark Airlines. The former argues that the application should be denied because it includes many of the drawbacks and adverse impacts inherent in the Delta-TWA route transfer proposal,[5] including the addition of a new third carrier in the St. Louis-Atlanta/Florida markets. Ozark urges that (1) the St. Louis-Nashville portion of the application be denied and TWA suspended or deleted in that market, or, in the alternative, that a full investigation be ordered to determine the needs of that market and how they can best be met; and (2) that the remaining portion of the application be treated as a deletion request by TWA and a usual route application by Southern and all other applicants.

Motions to consolidate have been filed by Ozark and Delta. Ozark argues that its application for Nashville-Tampa-Miami/Ft. Lauderdale authority in Docket 29099 should be consolidated with the instant application, as they are mutually exclusive, and that consolidation will be conducive to the proper dispatch of the Board's business and not unduly delay the proceedings. Delta requests that: the TWA/Southern application be set for hearing in which, at a minimum, all carriers serving the markets proposed for transfer will be allowed to participate as full intervenors; the issues be expanded to include section 401(g) issues; and the Board consolidate Delta's application in Docket 29104.[6] In support of its motion, Delta states that recent Board policy has recognized the necessity, as well as basic fairness, of considering competing route applications together with route transfer arrangements.[7] In addition, Delta filed a petition for expansion of the issues and an advance ruling, requesting (a) that the issues be expanded to include whether TWA's authority for segment 6 of route 2 should be altered, amended, deleted, modified, or suspended pursuant to section 401(g) and (b) a ruling as to whether or not TWA may transfer Tampa/St. Petersburg/Clearwater-Miami/Ft. Lauderdale authority to Southern while at the same time retaining such authority itself. In support of its petition, Delta asserts that a section 401(g) proceeding would not significantly enlarge the issues and would give the Board the option of deleting Nashville from TWA's certificate, without replacement. Delta also argues that TWA may not, as a matter of law, transfer Tampa-Miami operating authority to Southern, yet retain that very authority for itself.

On April 21, 1976, Eastern filed an answer to various motions and petitions, asserting that the Board should avoid an improvident and unproductive retrial of issues decided in the "Delta-TWA Route Transfer Agreement" case by disapproving the Southern-TWA agreement. Southern and TWA filed a joint con-

[1] The parties suggest that the transfer be effectuated by the addition of a new subsidy ineligible segment to Southern's route 98 "between the terminal point St. Louis, Missouri, the intermediate point, Nashville, Tennessee, and (a) beyond Nashville the terminal point Atlanta, Georgia, and (b) beyond Nashville the intermediate point Tampa-St. Petersburg-Clearwater, Florida, and the terminal Miami-Ft. Lauderdale, Florida," and the deletion of "Nashville, Tennessee" from segment 6 of TWA's certificate for route 2.

[2] Condition (4)(a) in Southern's currently effective certificate requiring Southern to serve a minimum of two intermediate points between St. Louis and Miami-Ft. Lauderdale would not apply to the transferred authority.

[3] The Counties of Hillsborough and Pinellas, Florida, the City of Tampa, and the Greater Tampa Chamber of Commerce.

[4] St. Louis Airport Authority and the City of St. Louis.

[5] See Order 75–9–6, served September 3, 1975.

[6] Delta has applied for authority "between the terminal point St. Louis, Missouri, the intermediate points Nashville, Tennessee, and (a) beyond Nashville to the terminal point Atlanta, Georgia, and (b) beyond Nashville to the terminal point Tampa/St. Petersburg/Clearwater, Florida, and (c)—beyond Nashville to the coterminal points Ft. Lauderdale and Miami, Florida. A restriction that flights over the foregoing route which serve St. Louis, Missouri, shall also serve Nashville, Tennessee, would be applicable.

[7] Delta cites the "Chicago-New Orleans Nonstop Route Proceeding," Order 75–7–131, July 28, 1975, and the "Service to Tri-City Case," Order 76–2–138, March 18, 1976, in support of its argument.

solidated reply and answer,[8] opposing, inter alia, the various motions for consolidation and expansion of issues, and arguing that the proposed route transfer meets the applicable standards articulated in the "American-Airwest Route Exchange Agreement" case.[9] Delta has filed a reply to the joint consolidated reply and answer of Southern and TWA,[10] and the applicants have filed a joint contingent rejoinder to Delta's unauthorized reply.[11]

Upon consideration of the pleadings and all the relevant facts, we have decided to institute a proceeding to consider the following issues:

(1) Whether the Southern-TWA route transfer agreement in Docket 29001 should be approved;

(2) Whether any carrier (including Southern) should be certificated under section 401 of the Act between Nashville, on the one hand, and St. Louis, Tampa, Miami and/or Ft. Lauderdale, on the other hand; [12] and/or

(3) Whether TWA's authority between Nashville, on the one hand, and Atlanta, St. Louis, Tampa, Miami, and/or Ft. Lauderdale, on the other hand, should be deleted under sections 401(g) and/or (j) of the Act.[13]

It has been our policy to give prompt consideration to route transfer applications. Further, we have consistently maintained that applications for certificate authority filed by other carriers need not be consolidated under "Ashbacker" principles,[14] although the Board may consolidate such applications as a matter of discretion.[15] Here, in order to give the Board maximum flexibility in tailoring the ultimate route awards which may result from this proceeding, we have decided to consider, as a matter of discretion, the certification of Southern or any other applicant under section 401 in the Nashville-St. Louis/Tampa/Miami/Ft. Lauderdale markets since the agreement actually contemplates the transfer of TWA's authority in those markets. We will not, however, consider the issue of new nonstop Nashville-Atlanta authority. Since Southern already holds unrestricted nonstop authority between Nashville and Atlanta, the carrier would not receive any additional authority in this market by virtue of approval of the Southern-TWA agreement. As to the Nashville-Atlanta market, therefore, unlike the other markets in issue, the instant agreement is correctly characterized as contemplating only the deletion of TWA and not the transfer of any authority to Southern. It is our view that a route transfer which does not contemplate the introduction of a new nonstop carrier into a given market should not serve as a predicate for hearing certificate applications which cover similar city-pair authority. Moreover, no showing has been made here that the question of three carrier competition for the Atlanta-Nashville market, which currently receives nonstop service from both Eastern and Southern, should be set down for hearing at this time.[16]

Finally, consistent with our desire for maximum flexibility in fashioning route awards in this proceeding, we will also include the issue of deletion of TWA's authority under sections 401(g) and/or (j) in the Nashville-Atlanta/St. Louis/Tampa/Miami/Ft. Lauderdale markets.

Delta's request for an advance ruling that TWA may not transfer Tampa-Miami operating authority to Southern while retaining some portion of that authority for itself will be denied. This issue should properly be argued in the course of the proceeding, and should be addressed by the administrative law judge.

The carriers have not submitted sufficient information for us to determine the environmental consequences of their applications at this time. Therefore, we will require Delta, Ozark, and Southern to file the information set forth in Part 312 of the Board's Procedural Regulations.[17] We will allow these carriers and all other carriers filing applications in this proceeding 30 days from the date of service of this order to file their environmental evaluations.

Accordingly, it is ordered, That:

1. The application of Southern Airways, Inc. and Trans World Airlines, Inc., Docket 29001, be and it hereby is set for hearing before an Administrative Law Judge of the Board at a time and place to be hereafter designated, as the orderly administration of the Board's docket permits;

2. The proceeding instituted above will include consideration of the following issues:

a. Should the application in Docket 29001 be approved;

b. Do the public convenience and necessity require the authorization of nonstop service between Nashville, on the one hand, and St. Louis, Tampa-St. Petersburg-Clearwater, Miami, and/or Ft. Lauderdale, on the other; and/or

c. Do the public convenience and necessity require the alteration, amendment, modification, or suspension of TWA's certificate for route 2 pursuant to section 401(g) of the Act, or does the public interest require the alteration, modification, or amendment of TWA's certificate for route 2 pursuant to section 401(j), so as to suspend or delete the carrier's authority between Nashville, on the one hand, and Atlanta, St. Louis, Tampa-St. Petersburg-Clearwater, Miami, and/or Ft. Lauderdale, on the other?

3. To the extent consistent with the issues outlined in paragraph 2 above, the motions of Ozark Air Lines, Inc. and Delta Air Lines, Inc. for consolidation of their applications in Dockets 29099 and 29104, respectively, be and they hereby are granted; otherwise they are denied;

4. To the extent they are consistent with the issues outlined in paragraph 2 above, the applications in Dockets 29099 and 29104 be and they are hereby consolidated with the proceeding instituted herein and the nonconforming portions be and they hereby are dismissed without prejudice;

5. The petition of Delta Air Lines, Inc. to expand the issues and for an advance ruling be and it hereby is granted to the extent it requests an expansion of the issues, and denied insofar as it requests an advance ruling;

6. The motion of Delta Air Lines, Inc. and the joint motion of Southern Airways, Inc. and Trans World Airlines, Inc. for leave to file otherwise unauthorized documents be and they hereby are granted;

7. The petitions of Delta Air Lines, Inc. and the Metropolitan Nashville Airport Authority for leave to intervene be and they hereby are granted; in addition, the Tampa Bay Area Parties, the St Louis Airport Authority-City of St. Louis, Ozark Air Lines, Inc., Southern Airways, Inc., Trans World Airlines, Inc., and Eastern Air Lines, Inc., be and they hereby are made parties to the proceeding instituted herein;

8. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed 20 days from the date of service of this order and answers thereto shall be filed 10 days thereafter; and

9. Delta Air Lines, Inc., Ozark Air Lines, Inc., Trans World Airlines, Inc. and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of service of this order.

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[8] This document is a reply to the answers in opposition to the joint application, and is an answer to the motions to consolidate of Delta and Ozark and Delta's petition for expansion of this issues and an advance ruling.

[9] Order 75-8-93, April 18, 1975.

[10] Delta's reply was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

[11] The Southern/TWA contingent rejoinder was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

[12] To the extent consistent with this issue, the applications of Delta in Docket 29104 and Ozark in Docket 29099 will be consolidated with the proceeding instituted herein.

[13] All persons who have filed pleadings in Dockets 29001, 29099, or 29104 will be made parties to this proceeding.

[14] Delta-TWA Route Transfer Agreement, Order 74-5-30, May 6, 1974.

[15] Chicago-New Orleans Nonstop Route Proceeding, Order 75-7-131, July 28, 1975.

[16] During the year ended September 30, 1975, the Nashville-Atlanta market consisted of 215 true O&D plus connecting passengers per day in each direction. Southern and Eastern provide it with nine nonstop round trips. O.A.G., November 15, 1976. Furthermore, the Board reviewed the service in the Atlanta-Nashville market as recently as March of 1976 in connection with the Delta-TWA Route Transfer Agreement, Orders 75-9-6, Sept. 3, 1975 and 76-3-2, March 1, 1976.

[17] Note that the Southern/TWA application may result in substantially greater service in a market within the meaning of § 312.9(a)(2)(ii).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-35940 Filed 12-6-76;8:45 am]

CIVIL SERVICE COMMISSION

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

Charter Renewal

Pursuant to section 14 of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 Revised, March 27, 1974, notice is hereby given of the renewal of the charter of the Committee on Private Voluntary Agency Eligibility. The Committee was established under the authority of Executive Order 10927. Its objectives are to insure through prior review of applications and supplementary financial and accounting data, that only responsible and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations regarding certain other matters relating to fund-raising activities.

The Civil Service Commission certifies that the renewal of this advisory committee is in the public interest. A new charter for the Committee has been approved and filed as required.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-35749 Filed 12-6-76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket Nos. S-524 and S-525, Sub. 1]

MULTIPLE APPLICATIONS

Amendment to Notices

On November 26, 1976 (41 FR 52098) and December 2, 1976 (41 FR 52898), Notices of Multiple Applications, titled Dockets Nos. S-524 and No. S-525, respectively, were published in the FEDERAL REGISTER listing those companies that sought to renew their Operating-Differential Subsidy Agreements for the carriage of bulk raw and processed agricultural commodities to the Soviet Union. The service area description contained in the Notices reads as follows:

* * * in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.). Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Notice is hereby given that the above service area description is amended by the addition of the phrase "or other permissible ports of discharge" and now reads as follows:

* * * in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargo may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

General Order 116, 2nd Rev., Part 294.1 states: "The regulations in this Part prescribe rules in accordance with Title VI of the Merchant Marine Act, 1936, as amended (Act), governing the payment of operating-differential subsidy for United States-flag bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from ports in the United States (U.S.) to ports in the Union of Soviet Socialist Republics (U.S.S.R.) *or other permissible ports of discharge*, including the return voyage. (Emphasis supplied).

Annex III, "AGREEMENTS REGARDING NATIONAL FLAG CARGO CARRIAGE", of the "AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING CERTAIN MARITIME MATTERS" (AGREEMENT) defines bilateral cargo as "any cargo, the shipment of which originates in the territory of one Party and moves in whole or in part by sea to a destination in the territory of the other Party, whether by direct movement *or by transshipment through third countries.*" (Emphasis supplied).

The amended Notices will conform the allowable service area to the provisions of General Order 116 and the AGREEMENT and will permit transshipment of bulk cargo to the U.S.S.R. via third country ports.

Any person having an interest in the granting of any of the applications and who would contest a finding by the Maritime Subsidy Board (Board) that the service now provided by vessels of U.S. registry is inadequate, must on or before December 13, 1976 notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition to intervene with regard to any application shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the applications for renewal, the purpose of such hearing will be to receive evidence relevant to (1) whether the applications herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: December 6, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-36132 Filed 12-6-76;11:25 am]

National Bureau of Standards

MAGNETIC MEDIA

Three Proposed Federal Information Processing Standards

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. Three proposed standards on magnetic media are being recommended for Federal use. They represent Federal adoption of voluntary standards developed under the auspices of the American National Standards Institute.

Prior to the submission of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability, implementation and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. Only the announcement section of each proposal is provided in this notice.

Interested parties may obtain copies of the specification sections from and submit their comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be submitted on or before February 15, 1977.

Date: December 1, 1976.

ERNEST AMBLER,
Acting Director.

Federal Information
Processing Standards Publication __

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(Date)

Announcing the Standard for
MAGNETIC TAPE CASSETTE FOR INFORMATION INTERCHANGE, CO-PLANAR, 0.150 in (3.81 mm), 800 bpi (32 bpmm), PE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Magnetic Tape Cassette for Information Interchange, Co-Planar, 0.150 in (3.81 mm), 800 bpi (32 bpmm), PE (FIPS PUB __).

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the physical, magnetic, and recorded characteristics of a 0.150 in (3.81 mm) magnetic tape cassette in order to provide for data interchange between information processing systems at a recording density of 800 bits per inch (32 bits per millimeter) using phase encoding techniques. The magnetic tape cassette consists of a twin hub coplanar type cassette containing 0.150 in (3.81 mm) wide magnetic tape. It is one of a series of Federal Standards implementing the Federal Standard Code for Information Interchange (FIPS 1) on magnetic tape media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index.

a. FIPS PUB 1, Federal Standard Code for Information Interchange.

b. FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.

c. American National Standard X3.48-1976, Magnetic Tape Cassette for Information Interchange, Co-Planar, 0.150 in (3.81 mm), 800 bpi (32 bpmm), PE.

d. At the time of publication of this FIPS PUB, a standard for dual track complementary return-to-bias four state recording (CRB) for a 0.150 in (3.81 mm) magnetic tape cassette was being developed by the American National Standards Institute. This voluntary industry standard, when available, will be considered for Federal adoption as a FIPS.

Applicability. This standard is applicable to the acquisition and use of all magnetic tape cassette recording and reproducing equipment employing 0.150 inch (3.81 millimeter) wide magnetic tape at recording densities of 800 bits per inch (32 bits per millimeter) using phase encoding. Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded magnetic tape cassettes in compliance with the requirements set forth in this standard.

Specifications. This standard adopts the requirements set forth in the American National Standard X3.48-1976, Magnetic Tape Cassette for Information Interchange, Co-Planar, 0.150 in (3.81 mm), 800 bpi (32 bpmm), PE.

Implementation Schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the date of this FIPS PUB.

Special Information. Federal standards and/or specifications for unrecorded magnetic tape cassettes will be developed and issued by the General Services Administration. Until such time as these are available, American National Standard X3.48-1976, Magnetic Tape Cassette for Information Interchange, Co-Planar, 0.150 in (3.81 mm), 800 bpi (32 bpmm), PE, should be cited in Federal procurements.

Also, GSA will provide terminology for use of this standard in Federal ADP acquisitions. This terminology will be incorporated in the Federal Property Management Regulations (Title 41, Subtitle C, Chapter 101, Subpart 101-32.13, Code of Federal Regulations).

Qualifications. None.

Waiver Procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of nonconforming equipment will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for granting the waiver is a responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication __ (NBS-FIPS-PUB-__), title, and Accession Number. Payment may be made by check, money order, or deposit account.

Federal Information
Processing Standards Publication __

_____
(Date)

Announcing the Standard for
RECORDED MAGNETIC TAPE FOR INFORMATION INTERCHANGE,
6250 cpi (246 cpmm), GROUP CODED RECORDING

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Recorded Magnetic Tape for Information Interchange, 6250 cpi (246 cpmm), Group Coded Recording (FIPS PUB __).

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the recorded characteristics of 9-track, one-half inch (12.7 mm) wide magnetic computer tape, including the format for implementing the Federal Standard Code for Information Interchange (FIPS 1) at the recording density of 6250 characters per inch (246 characters per millimeter). It is one of a series of Federal Standards implementing the Federal Standard Code for Information Interchange on magnetic tape media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index.

a. FIPS PUB 1, Federal Standard Code for Information Interchange.

b. FIPS PUB 3-1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI).

c. FIPS PUB 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Encoded).

d. FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.

e. American National Standard X3.40-1976, Unrecorded Magnetic Tape for Information Interchange.

f. American National Standard X3.54-1976, Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording).

Applicability. This standard is applicable to the acquisition and use of all 9-track magnetic tape recording and reproducing equipment employing one-half inch (12.7 mm) wide tape at recording densities of 6250 characters per inch (246 characters per millimeter). Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in this standard.

Specifications. With one exception, this standard adopts the requirements set forth in the American National Standard X3.54-1976, Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), which was developed and approved by the American National Standards Institute. The exception changes paragraph 5.4.3 of X3.54-1976 to read: "Bit Z shall be zero or treated as a bit of higher order than the ASCII bits." This is interpreted as:

. Bit Z shall be a zero when recording the ASCII (FIPS 1) characters

. Bit Z can be other than zero when recording dense numeric, binary, or extended ASCII (FIPS 35) code representations.

Implementation Schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the date of this FIPS PUB.

Special Information. For the acquisition of unrecorded magnetic tape, Interim Federal Specification W-T-0051C, Tape, Electronic Data Processing, One-half Inch, Magnetic Oxide-Coated, is applicable. This specification is issued by the Federal Supply Service of the General Services Administration (GSA).

Also, GSA will provide terminology for use of this standard in Federal ADP acquisitions. This terminology will be incorporated in the Federal Property Management Regulations (Title 41, Subtitle C, Chapter 101, Subpart 101-32.13, Code of Federal Regulations).

Qualifications. None.

Waiver Procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of nonconforming equipment will be coordinated in advance with the National Bureau

of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for granting the waiver is a responsibility of the agency head.

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Federal Information
Processing Standards Publication __

(Date)

Announcing the Standard for
RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE, 4-TRACK, 0.250 in (6.30 mm), 1600 bpi (63 bpmm), PHASE ENCODED

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 in (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded (FIPS PUB __).

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the recorded characteristics for a 0.250 in (6.30 mm) wide magnetic tape cartridge with either one, two, or four serial data tracks in order to provide for data interchange between information processing systems, communication systems, and associated equipment at a recording density of 1600 bits per inch (63 bits per millimeter) using phase encoding techniques. It is one of a series of Federal Standards implementing the Federal Standard Code for Information Interchange (FIPS 1) on magnetic tape media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index.

a. FIPS PUB 1, Federal Standard Code for Information Interchange.

b. FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.

c. American National Standard X3.55-1976, Unrecorded Magnetic Tape Cartridge for Information Interchange.

d. American National Standard X3.56-1976, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 in (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded.

e. At the time of publication of this FIPS PUB, a standard for parallel, 4-track, recording on a 0.250 in (6.30 mm) magnetic tape cartridge was under development by the American National Standards Institute. This voluntary industry standard, when available, will be considered for Federal adoption as a FIPS.

Applicability. This standard is applicable to the acquisition and use of all magnetic tape cartridge recording and reproducing equipment employing 0.250 inch (6.30 millimeter) wide magnetic tape with one, two, or four independent serial data tracks at recording densities of 1600 bits per inch (63 bits per millimeter) using phase encoding. Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in compliance with the requirements set forth in this standard.

Specifications. With one exception, this standard adopts the specifications set forth in American National Standard X3.56-1976, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 in (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded. This exception changes the last sentence of paragraph 4.3.1 to read: "The eighth position shall be a zero when recording ASCII (FIPS 1) characters and can be other than zero when recording dense numeric, binary or extended (FIPS 35) code representations.

Implementation Schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the date of this FIPS PUB.

Special Information. Federal standards and/or specifications for unrecorded magnetic tape cartridges will be developed and issued by the General Services Administration. Until such time as these are available, American National Standard X3.55-1976, Unrecorded Magnetic Tape Cartridge for Information Interchange, should be cited in Federal procurements.

Also GSA will provide terminology for use of this standard in Federal ADP acquisitions. This terminology will be incorporated in the Federal Property Management Regulations (Title 41, Subtitle C, Part 101, Chapter 101-32.13, Code of Federal Regulations).

Qualifications. None.

Waiver Procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of nonconforming equipment will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for granting the waiver is a responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication __ (NBS-FIPS-PUB-__), title, and Accession Number. Payment may be made by check, money order, or deposit account.

[FR Doc.76-35914 Filed 12-6-76;8:45 am]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL AND MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a joint meeting of the Mid-Atlantic and New England Regional Fishery Management Councils established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Regional Fishery Management Councils will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the constituent States. The Councils will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within their areas of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This joint meeting will be held on December 15 and 16, 1976, convening at 10 a.m. and adjourning by 5 p.m. on the 15th, and 9 a.m. to 3 p.m. on the 16th at the Coast Guard Station on Governors Island, New York.

PROPOSED AGENDA

1. Selection of species to be managed by the Councils and development of coordinating procedures between Councils.
2. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-serve 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. Interested members of the public should contact:

Mr. Donald G. Birkholz, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, State Fish Pier, Gloucester, Massachusetts 01930.

on are about ten days before the meeting to receive information on changes in the agenda, if any.

At the discretion of the Councils, 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 provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion to these comments in the record of the meeting, typewritten statements should be received within ten days after the close of the Council meeting.

Dated: December 2, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-36025 Filed 12-6-76;8:45 am]

PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Amendment to Public Meeting

Notice is hereby given that the announcement pertaining to the Pacific Fishery Management Council's Scientific and Statistical Committee published in the FEDERAL REGISTER November 30, 1976, Volume 41, No. 231, 41 FR 52512, is amended to reflect a change in the meeting dates. The Council will convene on December 13, 1976 at 1:30 p.m. and on December 14, 15, and 16, at 8 a.m. and will adjourn at approximately 5 p.m. each day. The location and agenda have not been changed.

Dated: December 3, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-36026 Filed 12-6-76;8:45 am]

Office of the Secretary

[Dept. Organization Order 25-5A, Amdt. 6]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organization and Functions, Delegation of Authority

This order effective November 11, 1976 further amends the material appearing at 39 FR 27486 of July 29, 1974, 40 FR 36608 of August 21, 1975, 40 FR 42764 of September 16, 1975, 40 FR 58882 of December 19, 1975, and 41 FR 50317 of November 15, 1976 Department Organization Order 25-5A, dated July 9, 1974, is hereby further amended as shown below. The purpose of this amendment is to qualify the delegation of authority to the Administrator of NOAA with respect to the functions prescribed by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

In Section 3. *Delegation of authority.* Subparagraph .01v. is revised to read as follows:

"v. The functions prescribed by the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), except that the Secretary reserves the authority to provide general policy guidance to the Administrator, to consult with the Administrator prior to the issuance of final regulations under 16 U.S.C. 1373(d), and from time to time on his own initiative or at the request of the Administrator to consult with the Administrator concerning other functions delegated by this subparagraph 3.01v."

Effective date: November 11, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary
for Administration.

[FR Doc.76-35951 Filed 12-6-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "ELECTRONIC TEST EQUIPMENT"

Advisory Committee Meeting

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Defense Science Board Task Force on Electronic Test Equipment will meet in open session on January 10 and 11, 1977 in Room 9W67, National Center Building No. 1, 2511 Jefferson Davis Highway, Arlington, Virginia. Each session will commence at 9:00 a.m. The meeting on the second day will adjourn at noon.

The mission of the Defense Science Board is to advise the Secretary of Defense and Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The primary responsibility of the Task Force is to examine the greater use by the Department of Defense of privately developed, commercially available off-the-shelf electronic test equipment, including modifications thereof, with the goal of achieving economy and reliability benefits for the several armed services to recommend policies and procedures which will maximize these benefits.

This will be the last Task Force meeting to review implementation of the Task Force recommendations prior to the submission of a final Task Force report to the Defense Science Board on the status of the implementation program.

Telephone inquiries should be directed to Mr. Rudolph J. Sgro, Task Force Executive Secretary at (202) 695-7915.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 2, 1976.

[FR Doc.76-35927 Filed 12-6-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PLUTONIUM-238 PRICES

The U.S. Energy Research and Development Administration proposes to revise the base charge for 80% and 90% plutonium-238 and establish a base charge for >97% plutonium-238 and <40% plutonium-238. This notice further amends a prior notice entitled, "Thorium, Uranium, and Plutonium, Isotopically Enriched Quantities," published by the AEC in the FEDERAL REGISTER at 34 FR 11386, as amended by a notice published by the AEC in the FEDERAL REGISTER at 35 FR 8300 on May 27, 1970 by deleting from paragraph 1 the items "Plutonium-238, greater than 89% containing not more than 0.30 parts per milligram Pu-236, $1.25 per milligram and plutonium-238, 80%-89%, $.70 per milligram" and adding:

Element and isotope	Enrichment range percent	Price per milligram
Plutonium-238	>97 pct	$13.00
Plutonium-238	>89 pct to <95 pct	1.75
Plutonium-238	>79 pct to <89 pct	1.10
Plutonium-238	<40 pct	.60

The new prices will become effective on December 7, 1976.

Dated at Germantown, Maryland, this 30th day of November 1976.

For the Energy Research and Development Administration.

ROBERT W. FRI,
Deputy Administrator.

[FR Doc.76-35849 Filed 12-6-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21024-21025; File Nos. 7671-CM-P-72, 9442-CM-P-72]

GOLDEN PESO AND KLOTZ, HOWARD S./CORBUS, WILLIAM

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: November 23, 1976.

Released: December 1, 1976.

In regard applications of Golden Peso, Docket No. 21024, File No. 7671-CM-P-72, and Klotz, Howard S./Corbus, William, Docket No. 21025, File No. 9442-CM-P-72, for construction permits in the Multipoint Distribution Service for a new station at Albuquerque, New Mexico.

1. The Commission has before it the above-referenced applications of Golden Peso (File No. 7671-CM-P-72), filed on April 18, 1972; and Klotz, Howard S./Corbus, William (Klotz), filed on June 29, 1972. Both applications proposed Channel 1 operation in the Albuquerque, New Mexico area, and thus are mutually exclusive and require comparative consideration. Both applications have been amended as a result of informal requests of the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been received.

2. Golden Peso also has MDS construction permit applications in Omaha, Nebraska and Tulsa, Oklahoma. Klotz has twenty-one MDS construction permit applications pending and is permittee in San Bernadino, California; New Haven, Connecticut; and Atlantic City, New Jersey.

3. Upon review of the captioned applications, we find that both applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

4. *Accordingly, it is hereby ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 0.291 of the Commission's rules, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience, and necessity. In making such a determination, the following factors shall be considered:[1]

[1] Consideration of these factors shall be made in light of the Commission's discussion in Peabody Telephone Answering Service, et. al., 55 FCC 2d 626 (1975).

(a) The relative merits of each proposal with respect to service area and efficient frequency use;

(b) The nature of the services and facilities proposed, and whether they will satisfy service requirements known to exist or likely to exist in the Albuquerque, New Mexico area.

(c) The anticipated quality and reliability of the service proposed, including selection of equipment, installation, subscriber security, and maintenance.

(d) The charges, regulations and conditions of the service to be rendered and their relation to the nature, quality and costs of service; and

(e) The managerial and entrepreneurial qualifications of the applicants.

5. *It is further ordered,* That Golden Peso and Klotz, Howard S./Corbus, William and the Chief, Common Carrier Bureau, are made parties to this proceeding.

6. *It is further ordered,* That parties desiring to participate here in shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

JOSEPH A. MARINO,
Deputy Chief for Chief, Common Carrier Bureau.

[FR Doc.76-35934 Filed 12-6-76;8:45 am]

[FCC 76-1064]

NATIONAL ASSOCIATION OF BUSINESS AND EDUCATIONAL RADIO

Memorandum Opinion and Order (Proceeding Terminated Denying Petition for Rulemaking)

Adopted: November 17, 1976.

Released: November 29, 1976.

In the matter of amendments to Parts 2, 74 and 91 of the Federal Communications Commission's rules and regulations, RM-2475.

INTRODUCTION

1. On November 8, 1974, the National Association of Business and Educational Radio filed a petition (RM-2475) in the above captioned matter. A Public Notice was duly issued by the Commission.[1] Comments were filed in opposition to the petition by CBS, Inc. (CBS), National Association of Broadcasters (NAB), and Association of Maximum Service Telecasters, Inc. (AMST). No comments were filed in support of the petition. Reply comments were filed by NABER.

SUMMARY OF THE PETITION

2. In its petition NABER requested that the Commission:

(a) Reduce the bandwidth of the radio channels allocated to the Remote Pickup Service in the 450-451 MHz and 455-456 MHz bands from 100 kHz to 25 kHz.

(b) Reallocate the 78 channels made available by using 25 kHz channel spacing as follows:

(1) Allocate 30 channels to the Remote Pickup Broadcast Service.

(2) Allocate 18 channels to a "reserve" for future allocation based on demonstrated need.

(3) Allocate 30 channels to the Business Radio Service.

3. Three primary arguments were presented by NABER in support of its request:

Frequency shortages and congestion exist and are worsening in the Business Radio Service;

Utilization of frequencies allocated by Docket No. 18262 seems unlikely in the forseeable future;

Channel loading is light in the Remote Pickup Broadcast Service with only a small growth potential evident.

4. The claim of frequency shortages and congestion was supported by a statement that, "[b]ased on data accumulated in the course of performing its frequency coordination duties, NABER estimated that within approximately one year [from November 8, 1974] there will be no frequencies available in such cities as Chicago, Detroit, and Atlanta."

5. NABER agreed that frequencies allocated in Docket No. 18262 would provide long term relief for the Business Service. However, the availability of those frequencies appeared uncertain to NABER because of litigation in progress. NABER questioned the availability of even basic 900 MHz equipment for conventional systems and felt that the more complex equipment required for trunked and cellular systems was even farther in the future.

6. To support its claim that broadcast remote pickup frequencies are lightly used, NABER cited a count of licenses issued as of August 1, 1974. When NABER computed the "loading" on a per channel basis in New York City, it determined that there was "an average occupancy of 38 mobiles per 100 KHz channel", and this figure dropped to 16.4 mobiles per channel in Los Angeles and 10.5 mobiles per channel in Chicago. The numbers were contrasted with 126 UHF channels available to Business Radio in New York where, according to NABER, only two channels had a "loading factor" of less than 90.

7. NABER pointed out that effectively broadcasters have "exclusive use" of frequencies in the 450 to 451 and 455 to 456 MHz bands. It argued that since the major networks and independents operate multi-channel equipment in the larger metropolitan areas, they can spread out their mobiles with the result that each broadcaster has essentially a private frequency.

8. The probability of growth in the Remote Pickup Broadcast Service is small, according to NABER, because the number of new broadcast licensees is small. Additionally, NABER felt that the number of broadcast licensees requiring extensive remote pickup operations is small because most broadcasters find the high quality, relatively low cost and ease of editing offered by compact tape recorders satisfies the requirement for "on location" material.

COMMENTS IN RESPONSE TO RM-2475

9. AMST challenged NABER's claim of frequency congestion in the Business Service, and argued that a 1974 Stanford Research Institute report to the Commission indicated substantial excess channel capacity in the industrial services in Chicago, Detroit, Los Angeles, and New York.

10. NAB did not discuss the frequency requirements of the Business Radio Service, except to note that in its opinion, those requirements had been resolved by Commission action in Docket Nos. 18261 and 18262.

11. CBS argued that the 25 kHz band width channel, as proposed by NABER, is not sufficient to meet the needs of broadcasters. According to CBS, the highest baseband frequency required in FM broadcasting is 15 kHz and since a peak deviation of ± 5 kHz is regarded as the minimum, the minimum occupied bandwidth indicated by Carson's rule is 40 kHz. Reduction in channel bandwidth to 25 kHz was also opposed by NAB as being inappropriate for broadcast use.

12. On the matter of growth in the broadcast industry, CBS cited statistics from FCC annual reports over a 10 year period indicating a steady growth rate in the number of new authorizations for facilities in the Remote Pickup Broadcast Service in relation to the growth pattern of licenses for broadcasting facilities of all types. According to CBS, the licensing figures indicate that there is reason to believe more stations are making use of mobile equipment for providing live coverage of events. Growth in the Remote Pickup Service on 161.67 and 450.15 MHz was also noted by NAB from a check of authorizations in August, 1966 and again in February 1972. CBS indicated that most of the expansion for remote pickup broadcast services will be in the 450 to 451 and 455 to 456 MHz bands because of increasing interference in the 26 and 150 MHz bands.

13. In reply, NABER argued that many of the frequencies in the Remote Pickup Broadcast Service are being used in the same fashion and essentially for the same reasons as the Business Radio Service. The proportion of business type operation to program transmission was alleged to be very high. Further, the need for FM broadcast standards in all remote pickup operations was questioned by NABER.

DISCUSSION AND DECISION

14. The Commission has carefully considered all of the arguments presented in the petition and the comments concerning the reallocation proposed by NABER. While we are persuaded that channel congestion is again becoming a problem in the Business Radio Service in certain major cities in bands below 512 MHz, including channels provided in Docket 18261, we are not persuaded that a reallocation of spectrum from the remote pickup service is the proper solution to that congestion.

15. Some limited relief has been and is being provided to the Business Service

[1] FCC Public Notice, Report No. 929, dated November 19, 1974.

through the re-distribution of channels among the private land mobile services in the 470–512 MHz band. However, we recognize that these steps, although desirable, provide at best very limited and temporary relief. The Business Service is by nature of its broad eligibility a large and fast growing service. In a little more than 4 years after the new channel became available in the 470–512 MHz band (Docket 18261), the instant petition was filed, claiming that even those new channels would soon be filled to capacity. This does not come as a surprise to the Commission as it had long recognized the rapid growth potential of this service.

16. In providing for shared use of the lower UHF TV Channels in Docket 18261 in major urban areas, the Commission recognized that action to be a short term solution to land mobile frequency congestion. It was well understood that the Commission intended these additional allocations in the lower UHF range to serve only as a stop-gap solution until regulations and equipment could be developed which would allow for the use of the large blocks of spectrum allocated in Docket 18262 in the 806–947 MHz band. It was in this higher range of the spectrum that the Commission said land mobile services would have to look for long term future growth beyond that accommodated in Docket 18261.

17. At the time the NABER petition was filed (November 1974), there were still many uncertainties about the schedule for implementing the 900 MHz allocations. Since then, the Commission's rules have become effective and system applications are now being received and granted in most parts of the country on a regular basis in the private services.[2] Two manufacturers have a range of 900 MHz land mobile equipment type accepted and available. Several more applications for type acceptance have been submitted to the Commission's Laboratory Division. The variety of available equipment can be expected to grow as the demand for equipment increases.

18. Thus, we can see no major impediments to, and in fact expect, immediate and rapidly increasing use of 900 MHz by the private land mobile services. There will undoubtedly continue to be a preference for 450 MHz channels for some time to come because of the somewhat higher projected costs of 900 MHz equipment and the normal hesitancy to move into a new band. However, this preference is not, in our judgment a compelling reason to reallocate spectrum at 450 MHz, particularly when such reallocation could create channel shortage in remote pickup service for which the 450 MHz channels hold the only potential for future growth. Moreover, even assuming some channels were reallocated, they would not provide any meaningful degree of relief to the fast-growing Business services. In a short time those channels, too, would be congested in major cities and the service would again face the choice of utilizing 900 MHz or seeking yet additional channels in the lower bands. The only real solution to congestion in the Business and other private land mobile services lies at 900 MHz, and that is where the future growth should be directed, starting immediately.

[2] The possible use of the 806–947 MHz band near the Canadian border is being actively discussed by the staffs of the Commission and the Canadian Department of Communications at this time through a joint Canada/USA working group. The Canadian Department of Communications has opened its own inquiry into possible changes in allocations in the 406 to 960 MHz band to accommodate, among other things, expanded growth of land mobile services. Also, correspondence has been exchanged with the Government of Mexico concerning this matter.

CONCLUSION

19. Consequently, we conclude that for the reasons set forth[3] above, the public interest will not be served by rulemaking as proposed in Petition RM–2475.

20. *Accordingly, it is ordered,* Pursuant to authority contained in section 4(i), 303 (c) and 303(r) of the Communications Act of 1934, as amended, that rulemaking petition RM–2475 is denied in all respects.

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

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–35933 Filed 12–6–76;8:45 am]

[3] Commissioner Fogarty absent; Commissioner White not participating.

FEDERAL MARITIME COMMISSION

ASSOCIATED NORTH ATLANTIC FREIGHT CONFERENCES

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 27, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. Manuel Diaz, Executive Director, 17 Battery Place, New York, New York 10004.

Agreement No. 9978–10, among the signatories of the above-named Association, modifies the basic agreement to provide that any number of the signatories may maintain common administrative facilities and to provide that the members may alternatively appoint the Executive Director of the Association or a common independent neutral body as their Enforcement Authority.

By Order of the Federal Maritime Commission.

Dated: December 2, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–35939 Filed 12–6–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI74–144]

AZTEC OIL & GAS CO.

Extension of Time

NOVEMBER 29, 1976.

On November 19, 1976, Aztec Oil and Gas Company filed a motion to extend the date for filing Briefs on Exceptions to the Initial Decision, issued October 29, 1976, in the above-designated proceeding. Aztec states in the motion that all parties to the proceeding have been notified, and there are no objections.

Upon consideration, notice is hereby given that the date for filing Briefs on Exceptions to the Initial Decision is extended to and including December 22, 1976, and the date for filing Briefs Opposing Exceptions is extended to and including January 11, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–35869 Filed 12–6–76;8:45 am]

[Docket No. ER77–63]

BOSTON EDISON CO.

Notice of Filing

NOVEMBER 30, 1976.

Take notice that Boston Edison Company on November 18, 1976, tendered for filing an interconnection agreement with the Braintree Municipal Light Department. The agreement covers the new Webb Farm interconnection which was the subject of a previous agreement between the parties that has now expired.

Copies of the filing were served upon the Braintree Municipal Light Department.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North

Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35879 Filed 12-6-76;8:45 am]

[Docket No ER77-65]

BOSTON EDISON CO.

Tariff Change

NOVEMBER 30, 1976.

Take notice that Boston Edison Company ("Edison") on November 19, 1976, tendered for filing a supplement to its Rate Schedule FPC No. 105. The supplement, which consists of three separate agreements, reflects the fact that two additional parties, the Hudson Light and Power Department of Hudson, Massachusetts and the Massachusetts Municipal Wholesale Electric Company have purchased ownership shares in the Pilgrim 2 nuclear unit and now share in the related transmission costs under Rate Schedule FPC No. 105. It also reflects the fact that Green Mountain Power Corporation has transferred its Pilgrim 2 ownership interest to New England Power Company which, as a result, bears the transmission costs formerly assigned to Green Mountain Power Corporation.

Copies of the filing have been sent to the Hudson Light and Power Department, the Massachusetts Municipal Wholesale Electric Company, Green Mountain Power Corporation and New England Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 C.F.R., 1.8, 1.10). All such petitions or protests should be filed on or before December 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make proteststants 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.76-35878 Filed 12-6-76;8:45 am]

[Project No. 2734]

CAROLINA POWER AND LIGHT CO.

Application for Surrender of Preliminary Permit

NOVEMBER 30, 1976.

Notice is hereby given that Application For Surrender of Preliminary Permit has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by the Carolina Power and Light Company (Correspondence to: William E. Graham, Jr., Esquire, Vice President and General Counsel, Carolina Power and Light Company, P.O. Box 1551, Raleigh, North Carolina 27602 and Mr. P. Howe, Manager-Technical Services, Carolina Power and Light Company, 336 Fayettville Street, Raleigh, North Carolina 27602) for the proposed Madison County Pumped Storage Project No. 2734, which would have been located in Madison County, North Carolina on Sugar Camp Branch of Big Pine Creek and Pawpaw Creek, tributaries of the French Broad River.

On December 12, 1974, the Commission issued an order issuing preliminary permit to Carolina Power and Light Company (Permittee) for a period of 36 months to study the feasibility of the proposed 2,000 MW Madison County Pumped Storage Project. The Permittee states that its studies have revealed that the development of this project would not be economically feasible for the company in the foreseeable future; consequently, on September 3, 1976, Permittee filed an application for surrender of the permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Practice and Procedure (18 CFR 1.8 or Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determing 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 herein must file petitions in any hearing therein must file petitions to intervene rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35870 Filed 12-6-76;8:45 am]

[Docket No. ER77-60]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing of Cancellation of Facility Use Agreement Appendices

NOVEMBER 30, 1976.

Take notice that on November 17, 1976, the Central Illinois Public Service Company tendered for filing pursuant to the Facility Use Agreement between CIPS and Illinois Power Company dated January 15, 1956, letters of cancellation of Appendix "D" and Appendix "S", 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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10. All such petitions or protests should be filed on or before December 13, 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.76-35871 Filed 12-6-76;8:45 am]

[Docket No. ER77-53]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Filing of Interconnection Agreement

NOVEMBER 29, 1976.

Take notice that on November 11, 1976, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing an electric system interconnection agreement between CLECO and The City of Lafayette, Louisiana (City), dated August 25, 1976, providing for service under the following service schedules:

Service Schedule LES—Emergency Assistance.
Service Schedule LRE—Replacement Energy.
Service Schedule LC—Economy Energy.
Service Schedule LSP—Surplus Power Service; Rate Schedule LSP—CLECO to Service Schedule LSP.
Service Schedule LTS—Transmission Service; Rate Schedule LTS—CLECO to Service Schedule LTS.

CLECO has requested waiver of § 35.3 of the Commission's Regulations under the Federal Power Act in order to permit these agreements to become effective in accordance with their terms as of August 25, 1976. CLECO states that early approval of these agreements will also improve system reliability.

CLECO states that copies of the filing were mailed to the City and to the Louisiana 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, 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.76-35865 Filed 12-6-76;8:45 am]

[Docket No. RP74-82]

COLUMBIA GAS TRANSMISSION CORP.

Certification of Settlement Agreement

NOVEMBER 30, 1976.

Take notice that on November 22, 1976, the Presiding Administrative Law Judge certified to the Commission a settlement agreement intended to resolve the issue of cost of service treatment for new lease production as that issue and in the captioned proceeding together with the record in support of such agreement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, on or before December 13, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35895 Filed 12-6-76;8:45 am]

[Docket No. RP71-15 (PGA77-1)]

EAST TENNESSEE NATURAL GAS CO.

PGA Rate Filing

NOVEMBER 30, 1976.

Take notice that on November 22, 1976, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Seventeenth Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FPC Gas Tariff to be effective December 1, 1976.

East Tennessee states that the tendered tariff sheet replaces Seventeenth Revised Sheet No. 4 filed on September 27, 1976, in Docket No. RP71-15 (PGA76-5) and Eighteenth Revised Sheet No. 4 filed on October 22, 1976, in Docket Nos. RP75-114, et al. East Tennessee states that it is hereby withdrawing Seventeenth Revised Sheet No. 4 and Eighteenth Revised Sheet No. 4.

East Tennessee further states that the purpose of the revised tariff sheet is to revise the Base Tariff Rates on Eighteenth Revised Sheet No. 4 filed on October 22, 1976, in accord with the terms of the Settlement Agreement dated June 28, 1976, in Docket Nos. RP75-114, et al., to include East Tennessee's Opinion No. 770-A special PGA adjustment (Docket No. RP71-15 (PGA76-5)) for the Opinion No. 770-A PGA rate adjustment filed on November 22, 1976, by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) rather than East Tennessee's PGA adjustment on Seventeenth Revised Sheet No. 4 filed on September 27, 1976, to reflect Tennessee's original Opinion No. 770 PGA adjustment.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35891 Filed 12-6-76;8:45 am]

[Docket No. ER77-66]

EL PASO ELECTRIC CO.

Filing of Notice of Cancellation

NOVEMBER 30, 1976.

Take notice that El Paso Electric Company (El Paso Electric), on November 18, 1976, tendered for filing a Notice of Cancellation of its Export Rate Schedule FPC No. 6, and supplements thereto, with El Paso City Lines, Inc. El Paso Electric requests that the Notice of Cancellation be permitted to become effective on November 18, 1976.

The filing indicates that a copy of the Notice of Cancellation was served upon the City of El Paso, Texas, which has acquired the facilities of El Paso City Lines, Inc. served under Export Rate Schedule FPC No. 6.

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.76-35883 Filed 12-6-76;8:45 am]

[Docket Nos. RP72-155 and RP76-59 (PGA77-1)]

EL PASO NATURAL GAS CO.

Proposed Change in Rate Pursuant to Purchased Gas Cost Adjustments

NOVEMBER 30, 1976.

Take notice that El Paso Natural Gas Company ("El Paso") on November 22, 1976, tendered for filing a revised notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas system. Such service is rendered under rate schedules affected by and subject to El Paso's FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states that on September 27, 1976, it filed a special, one-time PGAC notice of change in rates[1] in order to track increased producer-supplier purchased gas costs resulting from the Commission's Opinion No. 770, issued July 27, 1976, at Docket No. RM75-14. Subsequent to El Paso's Opinion No. 770 special PGAC filing, the Commission by order issued October 21, 1976, and by Opinion No. 770-A and order issued November 5, 1976, has modified and clarified Opinion No. 770. Such referenced modifying and clarifying orders, inter alia, now require: (i) Producer-suppliers to submit revised rate increase filings by November 12, 1976, and (ii) jurisdictional pipeline companies to submit on or before November 22, 1976, revised special PGAC filings to reflect the new producer-supplier rate increases resulting from Opinion No. 770, as amended by Opinion No. 770-A, which revised PGAC filings would become effective on December 1, 1976.

The instant revised notice of change in rates has been determined based upon: (i) Article 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions of El Paso's FPC Gas Tariff, Original Volume No. 1; (ii) the Purchased Gas Cost Adjustment Provision—Clean High Pressure Gas ("PGAC-CHPG"), contained in El Paso's FPC Gas Tariff Original Volume No. 2A; (iii) the impact of Opinion No. 770, as modified by Opinion No. 770-A, upon purchased gas costs; and (iv) the effect of the PGAC adjustment which was filed on August 23, 1976, for which the effectiveness thereof is deferred until the effective date of the instant filing.

El Paso states that the proposed revised special PGAC adjustment aggregates an increase of 9.86 cents per Mcf and is comprised of annualized purchased gas cost increases precipitated by Opinion No. 770, as amended by Opinion No. 770-A, equating to 7.17 cents per Mcf, plus a

[1] Such filing also incorporated changes in rates under El Paso's regular PGAC notice of change filed on August 23, 1976, for which the Commission, by letter order issued September 23, 1976, granted a deferral of the regularly scheduled effective date for such filing of October 1, 1976, to coincide with the effective date of El Paso's special Opinion No. 770 PGAC notice of change then proposed on October 27, 1976.

revised special surcharge adjustment of 2.69 cents per Mcf, representing an estimate of the unrecovered purchased gas costs to be accrued in Account 191 through November 30, 1976, attributable to Opinion No. 770, as amended, and including the 9 percent carrying charge permitted by the Commission's order issued September 22, 1976, at Docket No. RM75-14.[2] El Paso further states that based upon its sales volumes for the twelve (12) months ended June 30, 1976, the adjustment of 7.17 cents per Mcf attributable to annualized purchased gas cost increases will produce additional jurisdictional revenues of $79,269,463 annually and, based upon estimated jurisdictional sales volumes for the proposed recovery period commencing on December 1, 1976, and extending through September 30, 1977,[3] the special surcharge adjustment of 2.69 cents per Mcf will recover an estimated $20,435,120 of the unrecovered purchased gas costs, inclusive of carrying charge, attributable to Opinion No. 770, as amended by Opinion No. 770-A, costs to be incurred by El Paso.

El Paso states that the proposed revised special PGAC-CHPG adjustment is an increase of 5.6509 cents per Mcf applicable to those special rate schedules contained in El Paso's Original Volume No. 2A tariff subject to the provisions of said PGAC-CHPG. El Paso further states that such adjustment is comprised of the increase in the weighted average purchased cost of clean, high-pressure gas precipitated by Opinion No. 770 equating to 4.6047 cents per Mcf, and a special surchage adjustment of 1.0462 cents per Mcf, representing an estimate of the unrecovered purchased gas costs to be accrued in Account 191 through November 30, 1976, and incurred by El Paso up to the proposed effective date of the instant filing. Based upon the sales volumes for the twelve months ended June 30, 1976, under the special rate schedules affected by the PGAC-CHPG, such increase of 4.6047 cents per Mcf will produce additional revenues of $47,954, and based upon the estimated gas sales volumes under the special rate schedules subject to the PGAC-CHPG for the proposed recovery period of December 1, 1976, through September 30, 1977, the special surcharge adjustment of 1.0462 cents per Mcf will recover an estimated $10,464 of the unrecovered gas costs, inclusive of carrying charge, attributable to Opinion No. 770, as amended by Opinion No. 770-A, costs to be incurred by El Paso.

On August 23, 1976, El Paso concurrently filed its regularly scheduled PGAC notice of change and a related motion at Docket No. RP72-155, seeking a one-time deviation from the regularly scheduled PGAC effective date of October 1, 1976. Said motion was filed by El Paso in order that the effectiveness of such PGAC rate change could be deferred to coincide with the effective date prescribed by Opinion No. 770 for the special PGAC rate increase. Such motion was granted by Commission letter order issued September 23, 1976, at Docket No. RP72-155 (PGA76-4). El Paso states that the adjustment to El Paso's rates resulting from the August 23, 1976, PGAC filing, was a net decrease in rates of 4.79 cents per Mcf. The instant filing reflects, as a result of Opinion No. 770-A, a net increase in rates of 9.86 cents per Mcf; however, the said decrease of 4.79 cents per Mcf under the PGAC filing of August 23, 1976, has been netted against the increase of 9.86 cents per Mcf. Consequently, El Paso states that the revised overall net increase in rates proposed by its tendered tariff sheets, resulting from the two PGAC adjustments, is 5.07 cents per Mcf above El Paso's currently effective rates. El Paso further states that, similarly, the revised net increase in rates applicable to the PGAC-CHPG proposed by the instant filing, resulting from the two PGAC-CHPG adjustments, is 2.0153 cents per Mcf above the currently effective rates.

El Paso has requested waiver of all applicable tariff provisions and rules, regulations and orders of the Commission as may be necessary in order that the instant filing may be permitted to become effective on December 1, 1976.

El Paso states that copies of the filing and attachments have been served upon all parties of record in Docket Nos RP72-155 and RP76-59, and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before December 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35882 Filed 12-6-76;8:45 am]

[2] On September 22, 1976, the Commission modified Opinion No. 770, to provide, inter alia, that the special surcharge be designed to recover estimated increased costs incurred during the period July 27, 1976, through October 26, 1976, over a twelve (12) month period with a nine percent (9 percent) carrying charge.

[3] El Paso states that as a matter of administrative convenience to its customers, it has determined the special surcharge rate based upon estimated jurisdictional sales volumes for the period December 1, 1976, through September 30, 1977, is more desirable than the full twelve month recovery period permitted by the Commission's September 22, 1976, order. The proposed 10-month recovery period has been selected for two principal reasons: first, such proposed period is adequate to equitably spread the total unrecovered surcharge amount permitted by Opinion No. 770-A, at a reduced carrying charge expense, to all of El Paso's customers and, secondly, the termination date of the special surcharge adjustment on September 30, 1977, will coincide with the adjustment date provided for by the regular scheduled PGAC adjustment under El Paso's tariff, thus minimizing the number of rate change dates for the administrative benefit of both El Paso and its customers. El Paso states that its principal distributor customers and the Public Utilities Commission of the State of California have expressed support for the proposed shortened surcharge recovery period.

[Docket No. ER76-733]

GULF POWER CO.

Electric Rates: Order Clarifying Prior Order and Denying Petition for Rehearing

NOVEMBER 30, 1976.

By order issued October 4, 1976, in the above-captioned proceeding, the Commission accepted for filing a proposed contract supplement providing for a new delivery point for electric service by Gulf Power Company (Gulf) to Gulf Coast Electric Cooperative, Inc. at Gaskin in Bay County, Florida.[1] The order established an effective date of June 17, 1976, for rate purposes under the supplement. On November 3, 1976, Gulf filed a petition for rehearing requesting the Commission to amend the order of October 4 so as to make the proposed supplement effective as of June 1, 1976, "consistent with the contract between the parties."

The order of October 4, pertained solely to the proper rate treatment for service under the Gaskin supplement. The Commission determined that service commenced at the Gaskin delivery point on June 17, 1976, and therefore established June 17 as the effective date of the supplement for rate purposes. This was in no way a decision as to the possible contract liability of either party for the period June 1 through June 16, 1976. The pleadings filed by the parties in this proceeding set out numerous factual and legal contentions regarding the proper interpretation of and liability under the supplement, which was executed on March 31, 1976. The October 4 order rules on none of these allegations, nor should it be construed to favor either side's claim in any way. The Commission considers the determination of the effective date for rate purposes to be separate and apart from the issue of contract liability under the supplement for the period June 1 through June 16, 1976. The extensive pleadings indicate that a determination of contractual liability requires knowledge of the contract law governing the supplement and the relation of the factual allegations to the applicable law. The order of October 4 therefore advises the parties to bring

[1] The supplement is designated original Sheet No. 29 to Gulf's FPC Electric Tariff, First revised vol. No. 1.

their claims before a court of competent jurisdiction which deals with similar cases arising under the applicable law of contracts. The Commission expressly declines to rule on the liability of either party under the supplement for the period June 1 through June 16, 1976. The Commission's orders therefore should not be relied upon as support for any allegations based on the principles of "res judicata" or collateral estoppel.

The phrase "failure to deliver service prior to June 17" in the October 4, 1976, order should be clarified. In using that phrase the Commission did not mean to give any connotation to the position of either party or to the validity of any of their contentions.

The Commission orders:

(A) Gulf's petition for rehearing is denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35874 Filed 12-6-76;8:45 am]

[Docket No. ER77-62]

KENTUCKY UTILITIES CO.

New Delivery Point

NOVEMBER 30, 1976.

Take notice that on November 18, 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 Husbands Road delivery point, as requested by the Jackson Purchase RECC (Jackson). According to KU Co., the new deliverey 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 January 1, 1977, 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 Commision, 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.76-35884 Filed 12-6-76;8:45 am]

[Project No. 2608]

HAMMERMILL PAPER CO.

Extension of Time

NOVEMBER 29, 1976.

On November 15, 1976, Premoid Corporation and Agawam Canal Company, Inc., filed a motion to extend the time for filing a certified copy of the instrument of conveyance of the West Springfield Project properties and for acknowledging acceptance of the Order, issued September 10, 1976, which approved transfer of the license for the above-designated project.

Upon consideration, notice is hereby given that an extension of time is granted to and including January 10, 1977, within which the new Licensees shall file a certified copy of the instrument of conveyance and acknowledge acceptance of the September 10, 1976, order in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35889 Filed 12-6-76;8:45 am]

[Docket Nos. E-8999; E-9000 and Docket No. E-9001]

ORANGE & ROCKLAND UTILITIES, INC., AND ROCKLAND ELECTRIC CO.

Filing of Proposed Settlement Agreement

NOVEMBER 30, 1976.

Take notice that on November 24, 1976, Orange and Rockland Utilities, Inc. (O&R), Rockland Electric Company (REC), and Pike County Light and Power Company (Pike), affilated public utilities, filed with the Commission a proposed settlement agreement in the above-referenced dockets. O&R, REC and Pike state that it is the purpose of the proposed settlement agreement to resolve all outstanding issues in said dockets, and that copies of the subject agreement have been served upon all parties to these proceedings.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington D.C. 20426, on or before December 14, 1976. Comments will be considered by the commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35881 Filed 12-6-76;8:45 am]

[Project No. 2735 and Project No. 1988]

PACIFIC GAS & ELECTRIC CO.

Extension of Time

NOVEMBER 29, 1976.

On November 26, 1976, the Northern California Power Agency and the California Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and the Plumas Sierra Rural Electric Cooperative, Portola, California, filed a motion to extend the time to respond to Pacific Gas and Electric Company's "Motion To Sever And Consolidate Or In The Alternative To Dismiss Without Prejudice Issue Relating To Certain Contracts Already The Subject Of Other Commission Proceedings," filed November 12, 1976. The motion states that Staff Counsel and PG&E have no objection to the extension of time.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 2, 1976, to serve a response to PG&E's November 12, 1976, Motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35868 Filed 12-6-76;8:45 am]

[Docket No. ER77-67]

PUBLIC SERVICE CO. OF OKLAHOMA

Filing of Rate Cancellation

NOVEMBER 30, 1976.

Take public notice that the Public Service Company of Oklahoma (PSO) of Tulsa, Oklahoma, filed with this Commission on November 19, 1976, a Notice of Cancellation. The notice stated that effective December 31, 1976, Supplement No. 26 to Rate Schedule FPC No. 118 will expire on its own terms and should be considered as cancelled at that time.

The service represented in the cancellation notice is between PSO and the Southwestern Electric Power Company of Shreveport, Louisiana.

Any person desiring to be heard or to protest this filing shall file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before December 15, 1976. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Rules of Practice. The filing made by PSO is on file with the Commission and open for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35892 Filed 12-6-76;8:45 am]

[Docket No. RP73-89, (PGA77-1)]

SEA ROBIN PIPELINE CO.

Filing of Revised Tariff Sheet

NOVEMBER 29, 1976.

Take notice that on November 22, 1976, Sea Robin Pipeline Company tendered for filing Twelfth Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information are being filed 30 days before the effective date of January 1, 1977, pursuant to Section 1 of Sea Robin's tariff, and is in compliance with the provisions of Order Nos. 452, 452-A and 452-B, and ordering Paragraph (C) to Opinion No. 770-A.

Copies of the revised tariff sheet and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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.76-35867 Filed 12-6-76;8:45 am]

[Docket No. RP77-6]

SEA ROBIN PIPELINE CO.

Pipeline Rates: Suspension; Order

NOVEMBER 30, 1976.

In the matter of order accepting for filing and suspending proposed tariff sheets, subject to conditions, and establishing procedures.

On October 29, 1976, Sea Robin Pipeline Company (Sea Robin) tendered for filing certain revised tariff sheets to Original Volume No. 1 [1] and Original Volume No. 2 [2] of its F.P.C. Gas Tariff. Sea Robin states that the revised tariff sheets reflect an increase in annual jurisdictional revenue of $6,745,772 to compensate it for a claimed increased cost of service for the 12 months ended June 30, 1976, as adjusted for known and measurable changes through March 31, 1977. Sea Robin seeks to make its increased rates effective on December 1, 1976. For the reasons hereinafter stated, the Commission will accept the revised tariff sheets, subject to condition, and suspend their use for five months, or until May 1, 1977, when they will be permitted to become effective, subject to refund.

Public notice of Sea Robin's filing was issued on November 9, 1976, with comments, protests, and petitions to intervene due on or before November 23, 1976.

Sea Robin states that the increases in rate levels sought herein are necessary to permit Sea Robin to recover its increased jurisdictional cost of service for the test period. Sea Robin states that the cost of service reflects increases in several areas of Sea Robin's jurisdictional operations over costs included in Sea Robin's existing rates. Such increased costs include costs associated with increases in rate base, cost of capital, cost of operation and maintenance, depreciation, and taxes.

We note that Sea Robin has also included costs associated with gas supply facilities for which it has not been issued certificate authority. In the event these facilities [3] are not certificated and placed in service by the end of the test period, March 31, 1977, Sea Robin shall be required to file revised tariff sheets adjusting the proposed rates to reflect the elimination of costs associated with the facilities and to file supplemental cost and revenue data to reflect their elimination from Sea Robin's cost of service.

Moreover, we note that Sea Robin has included costs in operating expenses associated with producer reimbursement agreements. Such costs are also included in Sea Robin's rate filing in Docket No. RP76-39, pending judicial review in *Sea Robin Pipeline Company* v. *F.P.C.*, (D.C. Cir. No. 76-1362, April 15, 1976). Therefore, the proposed rates herein which include the cost effect of this item will be accepted on the condition that they be adjusted to reflect the final determination of the issue of producer reimbursement agreements.

Commission review of the proposed increased rates reveals that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept Sea Robin's revised tariff sheets for filing and suspend their use for five months, or until May 1, 1977, or when they will be permitted to become effective, subject to refund, in the manner provided by the Natural Gas Act, subject to the conditions hereinafter ordered.

The Commission finds: It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by Sea Robin in the instant docket, and that the tariff sheets reflecting such increased rates be accepted for filing and the use thereof suspended for five months, as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the lawfulness and reasonableness of the increased rates as proposed herein.

(B) Pending hearing and decision as to the justness and reasonableness of the increased rates proposed by Sea Robin, the revised tariff sheets filed herein are accepted for filing and suspended for five months or until May 1, 1977, when they will be permitted to become effective subject to refund, in the manner provided by the Natural Gas Act, subject to the condition that Sea Robin file by March 31, 1977, revised tariff sheets reflecting the elimination of costs included in the proposed rates associated with facilities which have not been certificated and placed in service by March 31, 1977, and subject to the condition that they be adjusted to reflect the final determination on the issue of the proper treament to be accorded costs associated with producer reimbursement agreements now pending judicial review.

(C) The Commission Staff shall prepare and serve top sheets on all parties on or before March 18, 1977. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish such further procedural dates as may be necessary and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35873 Filed 12-6-76;8:45 am]

[Docket No. RP76-53; RP76-60 (PGA77-1a)]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Purchased Gas Cost Adjustment Rate Change

NOVEMBER 24, 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 Transcon-

[1] Third Revised Sheet No. 3 and Eleventh Revised Sheet No. 4.

[2] Fourth Revised Sheet Nos. 6, 21, 39, and 64; Fifth Revised Sheet No. 96 and Fourth Revised Sheet No. 97.

[3] Proposed in Docket Nos. CP76-418 and CP76-428.

tinental Gas Pipe Line Corporation of 27.24 cents per Mcf.

Copies of the filing were served by South Texas upon its only effected 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, N.W. 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 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35880 Filed 12-6-76;8:45 am]

[Docket No. ER77-59]

SUPERIOR WATER, LIGHT & POWER CO.

Proposed Changes in Rates and Charges

NOVEMBER 30, 1976.

Take notice that Superior Water, Light and Power Company (SWL&P), on November 15, 1976, tendered for filing proposed changes in its FPC Electric Rate Schedule No. 12. The proposed changes would increase revenues from jurisdictional sales and service by $154,659, based on the 12 month period ending June 30, 1976.

SWL&P states that the proposed rate changes and rate charges are designed to increase the revenue from Dahlberg Light & Power Company, Superior Water, Light and Power Company's only jurisdictional customer sufficiently to recover the proportionate share of the increase in the cost of purchased power from supplier and to raise the rate of return on the investment necessary to serve jurisdictional customer to an acceptable level.

SWL&P states that copies of the filing were served upon SWL&P's jurisdictional customer and Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35872 Filed 12-6-76;8:45 am]

[Docket No. RP76-137]

TENNESSEE GAS PIPELINE CO.

Extension of Time

NOVEMBER 29, 1976.

On November 17, 1976, Staff Counsel filed a motion to extend the date, fixed by order issued August 30, 1976, for service of Staff Top Sheets in the above-designated proceeding. Staff states that the company does not object to this extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including January 3, 1977, within which Staff shall serve Top Sheets on all parties in the above-designated proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35888 Filed 12-6-76;8:45 am]

[Docket No. RP73-114 (PGA77-1)]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Proposed PGA Filing

NOVEMBER 30, 1976.

Take notice that on November 22, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Second Substitute Thirteenth Revised Sheet Nos. 12A and 12B to Ninth Revised Volume No. 1 of its FPC Gas Tariff to be effective on December 1, 1976.

The tendered tariff sheets replace Substitute Thirteenth Ninth Revised Sheet Nos. 12A and 12B filed on September 27, 1976, in Docket No. RP73-114 (PGA76-4), which reflected a rate adjustment based on Tennessee's purchased gas costs resulting from the national rates for producers established by Opinion No. 770. Tennessee states it is withdrawing that filing.

Tennessee states that the sole purpose of these revised tariff sheets is to reflect an increase in its rates of 21.20 cents per Mcf based solely on increases in its purchased gas cost resulting from producer rate increases pursuant to the Commission's Opinion No. 770-A issued November 5, 1976 in Docket No. RM75-14. Tennessee further states that this increase is based on a twelve-month amortization period for its Unrecovered Purchased Gas Cost Account and the inclusion of a 9 percent annual carrying charge on the balance in that account resulting from the producer rate increases in accord with Ordering Paragraph (C) of Opinion No. 770-A.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35890 Filed 12-6-76;8:45 am]

[Docket No. RP73-3 (PGA76-4a) (PGA77-1)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

NOVEMBER 30, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on November 22, 1976 tendered for filing revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 with proposed dates of October 27, 1976 and December 1, 1976. Transco states that the tariff sheets to be effective October 27, 1976 are in substitution for those filed September 27, 1976 to be effective October 27, 1976. In addition to eliminating the Opinion No. 770 increases, these substitute tariff sheets continue to reflect the elimination of the Deferred Adjustment of 6.0 cents which became effective on May 2, 1976, subject to refund, under a regular PGA filing. Those sheets proposed to be effective December 1, 1976 reflect a special "tracking" rate increase of 15.1 cents per Mcf in Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules pursuant to Ordering Paragraph (C) of Opinion No. 770-A and states that the special "tracking" increase is based solely on those producer increases filed pursuant to the procedures specified in Opinion No. 770-A.

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 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.76-35893 Filed 12-6-76;8:45 am]

[Docket No. RP74-52 (PGA77-1)]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

NOVEMBER 29, 1976.

Take notice that Transwestern Pipeline Company (Transwestern) on November 22, 1976, tendered for filing as part of its FPC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Substitute Fifth Revised Sheet No. 5
Substitute Fifth Revised Sheet No. 6

These sheets are being issued pursuant to Ordering Paragraph (C) of the Commission's Opinion No. 770-A issued November 5, 1976 in Docket No. RM75-14. The increase in rates is based upon the Opinion No. 770-A increases in Transwestern's cost of purchased gas including a special surcharge designed to recover over the twelve-month period, December 1, 1976-November 30, 1977, the cost associated with Opinion No. 770-A increases prior to December 1, 1976 with carrying charges at nine percent. The proposed effective date of the above tariff sheets is December 1, 1976.

Copies of the filing were served upon the company's jurisdictional customers and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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.76-35866 Filed 12-6-76;8:45 am]

[Docket No. RP73-35 (PGA77-1)]

TRUNKLINE GAS CO.

Change in Tariff

NOVEMBER 30, 1976.

Take notice that on November 22, 1976, Trunkline Gas Company (Trunkline) tendered for filing Substitute Seventeenth Revised Sheet No. 3-A to its F.P.C. Gas Tariff, Original Volume No. 1, such sheet proposed to be effective December 1, 1976.

The Company submits that this revised sheet is filed in accordance with Paragraph (C) of the Commission's Opinion No. 770-A issued on November 4, 1976, and pursuant to the provisions of the General Terms and Conditions of Trunkline's FPC Gas Tariff. The sheet was filed in substitution for Seventeenth Revised Sheet No. 3-A.

Trunkline states that this revised sheet reflects increases based solely on the increases in gas purchased costs as authorized by the Commission in Opinion Nos. 770 and 770-A to be effective July 27, 1976. No other increases in purchase gas costs are included in the filing. In accordance with Paragraph (C) of Opinion No. 770-A, Trunkline has included a surcharge (including a nine (9) percent carrying charge) to recover costs incurred as a result of Opinion Nos. 770 and 770-A from July 27, 1976 to December 1, 1976, such surcharge to be effective for the twelve (12) month period commencing December 1, 1976. Trunkline shall maintain a separate account relating to such surcharge amounts and any imbalance in the account at the end of the twelve (12) month period shall be transferred to the Deferred Purchased Gas Cost Account maintained in accordance with section 18.3 of the General Terms and Conditions of Trunkline's tariff.

The Company submits that the purchased gas cost increases by reason of Opinion Nos. 770 and 770-A which Trunkline has included in its rates herein have been calculated on the basis of producer filings with the Commission. To the extent that the amounts filed by the producers may be subject to refund, the related amounts included in Trunkline's rates shall also be subject to refund in accordance with section 18.5 of the General Terms and Conditions of Trunkline's tariff.

To the extent required, if any, Trunkline has requested that the Commission waive those sections of the regulations as it may deem necessary for the acceptance of this filing to become effective December 1, 1976.

Copies of this filing were served on Trunkline's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35894 Filed 12-6-76;8:45 am]

[Docket No. ER76-916]

UNION ELECTRIC CO.

Supplement to Boundary Line Agreement

NOVEMBER 30, 1976.

Take notice that on November 18, 1976, the Union Electric Company filed a supplement, dated November 12, 1976, to its Boundary Line Agreement with Illinois Power Company. The supplement sets out the exact terms of Union Electric Company's FPC jurisdictional fuel adjustment and makes such terms part of the Boundary Line Agreement.

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 Sreet, 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 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.76-35887 Filed 12-6-76;8:45 am]

[Docket Nos. RP73-94, (PGA77-1)]

VALLEY GAS TRANSMISSION, INC.

Proposed Change in FPC Gas Tariff

DECEMBER 1, 1976.

Take notice that Valley Gas Transmission, Inc. ("Valley"), on November 22, 1976, tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 1. Valley, in order to track producer rate increases based on Opinion 770-A, has proposed both Cost of Gas Adjustments and Surcharge Adjustments. These adjustments have been made pursuant to the Purchased Gas Cost Adjustment Provision of Valley's Tariff, and pursuant to Ordering Paragraph (C) of Opinion 770-A. The special surcharge adjustments are to be effective from December 1, 1976 through November 30, 1977. The proposed effective date of "Second Substitute Eighth Revised Sheet No. 2A" is December 1, 1976.

The total annual increases will be $1,780,966 pursuant to the Cost of Gas Adjustment and $332,361 pursuant to the Surcharge Adjustment. These compare with increases of $2,636,357 and $601,679 respectively which were reflected in Valley's earlier filing of "Eighth Revised Sheet No. 2A" pursuant to Opinion No. 770.

Valley further indicates that the instant filing reflects a Gathering Charge of 10.93 cents which compares with Valley's currently effective Gathering Charge of 11.36 cents per Mcf. The re-

duced Gathering Charge was filed pursuant to the Commission's October 5, 1976 Order in Docket No. RP76-41 approving a settlement of that case and was submitted by Valley in its filing on November 15, 1976 of "Substitute Eighth Revised Sheet No. 2A."

It is also noted that the instant filing eliminates Valley's Rate Schedule No. 5. This has been done pursuant to the Commission's Letter Order dated June 4, 1976 in Valley Gas Transmission, Inc., Docket Nos. G-19618 et al. All contractual obligations under Valley's Rate Schedule No. 5 were transferred to Valley's Rate Schedule No. 8, and the rates for such service are accordingly reflected under Rate Schedule No. 8 on "Second Substitute Eighth Revised Sheet No. 2A."

Copies of the filing were served upon Valley's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing shall 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 shall 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.76-35885 Filed 12-6-76;8:45 am]

[Docket No. RP72-41 (PGA77-1)]

WESTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 1, 1976.

Take notice that Western Transmission Corporation (Western) on November 22, 1976, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Third Revised Sheet No. 3A, superseding Second Revised Sheet No. 3A

This sheet is issued pursuant to Western's Purchased Gas Cost Adjustment provision as set forth in Section 18 of its FPC Gas Tariff, Original Volume No. 1 and FPC Opinion No. 770-A. This change in Western's rates reflects a Cost of Gas Adjustment to track increased purchased gas costs and appropriate estimated surcharge (including a 9 percent carrying charge) due to FPC Opinion No. 770-A.

The proposed effective date of the above tariff sheet is December 1, 1976.

Copies of the filing were served upon the company's sole jurisdictional customer, Colorado Interstate Gas Company.

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.76-35886 Filed 12-6-76;8:45 am]

[Docket No. RP76-52 et al.]

NORTHERN NATURAL GAS CO.

Tariff Sheets; Filing; Suspension, Consolidation; Petition for Relief; Motion to Reject Denied, etc.

NOVEMBER 9, 1976.

Correction

In FR Doc. 33107, appearing at page 49885, in the issue of Thursday, November 11, 1976, on page 49887, column 2 in paragraph numbered "(3)" and paragraph "(D)", last lines, both paragraphs change Docket No. "RP77-_____-1" to "RP77-10-1".

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35877 Filed 12-6-76;8:45 am]

[Docket Nos. R-393 and RM76-5]

SMALL PRODUCER REGULATION

Order Granting Rehearing for the Purpose of Further Consideration

NOVEMBER 11, 1976.

Correction

In FR Doc. 28752, appearing on page 43466, in the issue of Friday, October 1, 1976, on page 43467, column 1, paragraph 1, line 4, add the name of "Inexco Oil Company," as a party whose application for rehearing was granted for purposes of further consideration, just before "and Texaco, Inc.".

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35876 Filed 12-6-76;8:45 am]

[Docket Nos. CI76-633 and CI76-644, etc.]

TENNECO EXPLORATION, LTD. ET AL.

Order Consolidating Proceedings, Providing Notice Period, Setting Date for Hearing, and Denying Waiver of Section 2.75(o)

Correction

NOVEMBER 3, 1976.

In FR Doc. 31318, appearing at page 47108, in the issue of Wednesday, October 27, 1976, on page 47109, Column 2, in ordering paragraph "(F)" add the following at the end "This date supersedes the previous date set in the order issued September 20, 1976, in the same proceeding. The initial prehearing conference will be convened on November 30, 1976."

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-35875 Filed 12-6-76;8:45 am]

[Docket Nos. RP74-14 and RP74-34, (PGA77-1a)]

MOUNTAIN FUEL RESOURCES, INC.

Tariff Sheet Filing

NOVEMBER 30, 1976.

Take notice that on November 22, 1976, Mountain Fuel Resources, Inc., pursuant to § 154.62 of the Commission's Regulations under the Natural Gas Act, filed First Revised Sheet No. 7 to its FPC Gas Rate Schedule No. 1. Resources states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by the Commission's order issued November 28, 1973 in Docket Nos. RP74-14 and RP74-34. More specifically, the tariff sheet reflects a net increase over that currently being collected of 4.35 cents per Mcf to be effective December 1, 1976.

Any person desiring to be heard and to make any protest with reference to said filing should on or before December 10, 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 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 must file petitions to intervene in accordance with the Commission's rules. Resources' tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36027 Filed 12-6-76;8:45 am]

[Docket No. ER76-301]

PENNSYLVANIA ELECTRIC CO.

Certification of Settlement Agreement

NOVEMBER 23, 1976.

Take notice that on November 15, 1976, the Presiding Administrative Law Judge certified to the Commission a settlement agreement intended to resolve all issues in the captioned proceeding together with the record in support of such agreement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 10, 1976. Comments will be considered by the Commission in de-

termining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36028 Filed 12-6-76;8:45 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK CORP.

Acquisition of Bank

Associated Bank Corporation, Mason City, Iowa, 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 80 percent or more of the voting shares of Cresco National Bank, Cresco, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 29, 1976.

Board of Governors of the Federal Reserve System, November 30, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-35935 Filed 12-6-76;8:45 am]

CB&T BANCSHARES, INC.

Order Approving Acquisition of Banks

CB&T Bancshares, Inc., Columbus, Georgia, 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)) to acquire 51 percent or more of the voting shares of Commercial Bank ("Commercial Bank"), Thomasville, Georgia, and of LaGrange Banking Company ("LaGrange Bank") LaGrange, Georgia (collectively referred to herein as "Banks").

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 in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in Georgia, controls one bank with deposits of approximately $165.2 million, representing approximately 1.3 percent of total deposits in commercial banks in the State.[1] Applicant's acquisition of Banks (aggregate deposits of approximately $50.6 million) would increase Applicant's share of deposits in commercial banks in Georgia by 0.4 percent. Although consummation of the proposed transaction would alter Applicant's ranking from eighth to seventh place among banking organizations in Georgia, Applicant's acquisitions would have no appreciable effect upon the concentration of banking resources in the State.

Commercial Bank, the largest of seven banking organizations in the Thomas County banking market, holds deposits of approximately $36 million, representing approximately 40.1 percent of market deposits. LaGrange Bank, the third largest of five banks in the Troup County banking market, holds deposits of approximately $14.6 million, representing approximately 13.8 percent of market deposits. The closest branches of Applicant's subsidiary bank are located more than 140 miles north of Commercial Bank, and 42 miles south of LaGrange Bank. In view of the substantial distances involved and the number of other banks in the relevant markets, no meaningful competition currently exists between any of Applicant's branches and Banks nor between Commercial Bank and LaGrange Bank. Georgia's restrictive branching and bank holding company laws appear to foreclose the development of significant competition in the future. In addition, no significant competition exists between Applicant's nonbanking subsidiaries and Banks.[2] Accordingly, on the basis of the record the Board concludes that consummation of the proposed acquisitions would have no significant adverse effects on existing or potential competition in any relevant market and that, therefore, competitive considerations are consistent with approval of the applications.

The financial and managerial resources of Applicant, its nonbanking subsidiaries, and Banks are considered generally satisfactory and future prospects are considered favorable. Thus, banking factors are consistent with approval of the applications. Applicant will provide Banks with expertise in the fields of marketing, trust, investment advisory and data processing services. Applicant also proposes to automate the accounts of LaGrange Bank. Furthermore, affiliation with Applicant would also help Banks to meet the larger lending needs of their commercial customers. Thus, considerations relating to the convenience and needs of the communities to be served lend weight toward approval of the applications. It is the Board's judgment that the proposed acquisitions would be 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective November 29, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-35936 Filed 12-6-76;8:45 am]

CRESTWOOD BANKING COMPANY, LTD.

Order Approving Formation of Bank Holding Company

Crestwood Banking Company, Ltd., Crestwood, Kentucky, 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 band holding company through acquisition of 80 percent or more of the voting shares of Crestwood State Bank, Crestwood, Kentucky ("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 recently organized corporation with no operating history, was formed for the purpose of becoming a bank holding company through the acquisition of Bank. Upon consummation of the proposed transaction, Applicant would control the 175th largest banking organization in Kentucky with total deposits of approximately $13.7 million, representing 0.14 percent of total deposits held by commercial banks in the State.[1] Bank is the smaller of two banks competing in the relevant market (approximated by Oldham County) and controls approximately 37 percent of total commercial bank deposits therein. Inasmuch as the proposal to form a bank holding company represents merely a restructuring of the existing ownership of Bank from ownership by individuals to ownership in corporate form, and since Applicant presently has no subsidiaries and engages in no activities, consummation of the proposed transaction would eliminate neither existing nor potential competition nor would it adversely affect the concentration of banking resources within the relevant market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant, which are depend-

[1] All banking data are as of December 31, 1975.

[2] Applicant engages, through two nonbank subsidiaries and one bank subsidiary, in the making of loans secured by first and second mortgages on real estate. Banks also make loans secured by first mortgages. Applicant's nonbanking subsidiaries, however, originated no such loans in either of Banks' service areas during 1975.

[3] Voting for this action: Vice Chairman Garner, and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1975.

ent upon those of Bank, are regarded as satisfactory, and future propsects appear favorable. It appears that Applicant will be able 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, without adversely affecting Bank's capital position. Thus, considerations relating to banking factors are consistent with approval of the application.

While no changes are contemplated in services offered by Bank after consummation of the proposal, 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 consummation of the proposed transaction would be in 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 St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] effective November 29, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-35937 Filed 12-6-76;8:45 am]

T.N.B. FINANCIAL CORP.

Order Approving Acquisition of Bank

T.N.B. Financial Corp., Springfield, Massachusetts, 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 all of the voting shares (less directors' qualifying shares) of the successor by merger to Williamstown National Bank, Williamstown, Massachusetts ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Federal Reserves Bank of Boston 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 tenth largest commercial banking organization in Massachusetts, controls two banks with aggregate deposits of approximately $263.4 million, representing 1.76 percent of total commercial bank deposits in the state.[1] Acquisition of Bank (deposits of $9.1 million as of June 30, 1976) would increase Applicant's share of statewide deposits by 0.06 percent and would not have a significant effect upon the concentration of banking resources in Massachusetts.

Bank is the smaller of the two banks located in the Town of Williamstown[3] and is the smallest of three commercial banking organizations in the Williamstown-North Adams banking market (the relevant market), controlling approximately 20 percent of total market deposits.[4] This proposal represents Applicant's initial entry into the Williamstown-North Adams market. Applicant's closest subsidiary banking office to Bank is approximately 60 miles distant and it appears that no meaningful amount of existing competition between Applicant and Bank would be eliminated by the proposed acquisition. Moreover, it does not appear that the proposed acquisition would have any adverse effect on potential competition in view of the distances separating Applicant's subsidiaries and Bank, and the restrictions placed on branching by State law. Further, Applicant cannot be considered a probable future entrant into the Williamstown-North Adams market since the market is relatively unattractive for de novo entry due to its rural nature and low population. At the same time, Bank does not possess the resources to expand de novo into any market where Applicant presently competes. Accordingly, based upon the foregoing and other facts of record, the Federal Reserve Bank of Boston concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are regarded as satisfactory. Bank's affiliation with Applicant should result in a strengthening of Bank's overall financial condition, as well as providing Bank with additional managerial expertise. Thus, the banking factors lend slight weight toward approval of the application. While there is no evidence in the record to indicate that the banking needs of the community are not presently being met, affiliation with Applicant would enable Bank to expand banking services in the areas of commercial lending, equipment leasing, data processing, trust functions and types of deposit accounts. By its ability to offer expanded services in the Williams town-North Adams market, Bank should be able to compete more effectively with the two larger banks in the market, both affiliated with bank holding companies. Convenience and needs considerations therefore lend weight in favor of approval of the subject application. Accordingly, it is the judgment of this Reserve Bank that consummation of the proposed transaction would be in 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 consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless such period is extended for good cause by the Board, or by this Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Boston, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System effective November 26, 1976.

HERBERT F. WASS,
Secretary.

[FR Doc.76-35938 Filed 12-6-76;8:45 am]

[2] Voting for this action: Vice Chairman Gardner, and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1975 unless otherwise specified and reflect bank mergers and bank holding company formations and acquisitions approved through October 31, 1975.

[3] The Massachusetts Board of Bank Incorporation has approved a Williamstown branch for the market's third banking organization; action by the Federal Deposit Insurance Corporation is pending.

[4] The Williamstown-North Adams banking market is approximated by the northwestern Massachusetts communities of North Adams, Williamstown, Clarksburg, Florida and New Ashford and is bordered to the west by New York and to the north by Vermont. Market share data are as of June 30, 1975.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76P-0301]

ADAMS PACKING ASSOCIATION, INC.

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

The Food and Drug Administration has issued to Adams Packing Association, Inc., a temporary permit to market test tomato juice made from concentrate. This permit is effective for a period of 15 months, beginning no later than March 7, 1977.

In accordance with § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Adams Packing Association, Inc., Auburndale, FL 33823. This permit covers interstate market testing of tomato juice that deviates from the standard of identity prescribed in § 53.1 (21 CFR 53.1). This permit provides for the temporary marketing of 25,000 cases of forty-eight 6-ounce cans of the product in the states of Louisiana and Mississippi and in eastern Texas. The test product will be manufactured by the Adams Packing Association, Inc., in Auburndale, Florida. The product to be temporarily marketed has been prepared

from concentrated tomato liquid, complying with the tomato paste requirements of § 53.30(a)(1) (21 CFR 53.30(a)(1)), except that water and salt are added. The finished product will be equivalent to a single strength tomato juice normally found in the marketplace.

The principal display panel of the labels will declare the product name as "Tomato Juice From Concentrate." Each of the ingredients used, except for the tomato ingredient, will be declared on the label as required by the applicable sections of Part 1 (21 CFR Part 1). The tomato ingredient complying with the requirements of § 53.30(a)(1) will be declared as "tomato concentrate."

This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than March 7, 1977.

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35832 Filed 12-6-76;8:45 am]

[Docket No. 76N-0417; DESI 6470]

CALCIUM GLUCEPTATE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is offering an opportunity for a hearing on indications lacking substantial evidence of effectiveness for the drug calcium gluceptate, and announcing the conditions under which the drug may be marketed for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before January 6, 1977.

In a notice (DESI 6470) published in the FEDERAL REGISTER of March 12, 1969 (34 FR 5126), the Food and Drug Administration announced its conclusions that the drug product described below is (1) effective for the treatment of hypocalcemia, and for the prevention of hypocalcemia during exchange transfusions; and (2) possibly effective for its other labeled indications.

A followup notice published in the FEDERAL REGISTER of August 10, 1972 (37 FR 16115) reclassified the possibly effective indications to lacking substantial evidence of effectiveness. No opportunity for a hearing was offered at that time for those indications. The holder of the new drug application had previously deleted all less-than-effective indications from the labeling of the drug.

NDA 6-470; Calcium Gluceptate Injection, each 5 milliters representing 0.09 gram calcium; Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46206.

Accordingly, the notice of March 12, 1969, is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to the drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug product lacks substantial evidence of effectiveness for all other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in a sterile aqueous solution suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the treatment of hypocalcemia: The parenteral administration of calcium is indicated in those conditions requiring a prompt increase in blood plasma calcium levels, such as neonatal tetany and tetany due to parathyroid deficiency, vitamin D deficiency, and alkalosis. For the prevention of hypocalcemia during exchange transfusions.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before February 7, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s)

and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 6, 1977, a written notice of appearance and request for hearing, and (2) on or before February 7, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approval NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 6470, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (Secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–35828 Filed 12–6–76;8:45 am]

[Docket No. 76N–0256; DESI 9149]

CERTAIN PREPARATIONS CONTAINING PERPHENAZINE; TRIFLUOPERAZINE; TRIFLUPROMAZINE; AND PROMAZINE

Rescission of A Part of Previous Followup Notice and Opportunity for Hearing Pertaining To Trifluoperazine Hydrochloride

In a notice published September 8, 1976 (41 FR 37834), the Director of the Bureau of Drugs offered an opportunity for hearing on indications reclassified as lacking substantial evidence of effectiveness for the following drug:

NDA 11–552; Stelazine Tablets, Concentrate, and Injection, at containing trifluoperazine hydrochloride; Smith Kline & French Laboratories, Division of Smith Kline Corp., 1500 Spring Garden St., Philadelphia, PA 19101.

Other drugs included in that notice are not affected by this notice.

The notice stated that no data concerning effectiveness for these drug products for their less-than-effective indications had been submitted pursuant to a notice published in the FEDERAL REGISTER of April 3, 1971 (36 FR 6447). Data had been submitted, however, and are under review, concerning the less-than-effective indication, anxiety in patients with neuroses. Therefore, that portion of the September 8, 1976 notice dealing with NDA 11–552 is hereby rescinded only insofar as it concerns the indication for trifluoperazine for which data were submitted. This rescission does not apply to the other less-than-effective indications referred to in that notice. After the data submitted have been reviewed, another notice will be published in the FEDERAL REGISTER announcing the Director's conclusions.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–35827 Filed 12–6–76;8:45 am]

[Docket No. 76N–0439; DESI 12486]

CHLORPROTHIXENE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is offering an opportunity for a hearing on indications lacking substantial evidence of effectiveness for the drug chlorprothixene, and announcing the conditions under which drug products containing chlorprothixene may be marketed for the indication for which they continue to be regarded as effective. Persons who wish to request a hearing may do so on or before January 6, 1977.

In a notice (DESI 12486) published in the FEDERAL REGISTER of August 8, 1972 (37 FR 15947), the Food and Drug Administration announced its conclusions that the drug products described below are (1) effective for the management of manifestations of psychotic disorders; and (2) lacking substantial evidence of effectiveness for their other labeled indications. No opportunity for a hearing was offered at that time for the indications lacking substantial evidence of effectiveness.

NDA 12–486; Taractan Tablets; and NDA 12–487; Taractan Injection, each containing chlorprothixene; Roche Laboratories, Division of Hoffmann-La-Roche, Inc., Roche Park, Nutley, NJ 07110.

The following new drug application was not included in the initial notice, but is affected by this notice.

NDA 16–149; Taractan Concentrate containing chlorprothixene; Roche Laboratories.

Roche Laboratories has deleted from the labeling of the products all indications lacking substantial evidence of effectiveness.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indication stated in the labeling conditions below. The drug products lack substantial evidence of effectiveness for all other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug products are in tablet or liquid concentrate form suitable for oral administration or in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug products are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the management of manifestations of psychotic disorders.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before February 7, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methodd facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 6, 1977, a written notice of appearance and request for hearing, and (2) on or before February 7, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions conerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such admissions, ex-

cept for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 12486, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-35830 Filed 12-6-76;8:45 am]

[Docket No. 76N-0437; DESI 5939]

DIMERCAPROL INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 5939) published in the FEDERAL REGISTER of October 21, 1970 (35 FR 16423), the Food and Drug Administration announced its conclusions that the drug product described below is (1) Effective in the treatment of arsenic, gold, and mercury poisoning, and in the treatment of acute lead poisoning when used concomitantly with calcium disodium edetate; and (2) possibly effective for use in the treatment of hemorrhagic encephalitis due to massive arsenotherapy and postarsenical jaundice; as an adjunct in the treatment of agranulocytosis due to arsenic, and other heavy metal poisonings such as antimony and bismuth; and in the treatment of acute lead poisoning when used alone. No person has submitted any data in support of the possibly effective indications and those indications are now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before January 6, 1977.

NDA 5-939; BAL in Oil Ampules containing dimercaprol; Hynson, Westcott, & Dunning, Inc., Charles and Case Sts., Baltimore, MD 21201.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for only the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indications evaluated as possibly effective in the October 21, 1970 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile oil solution suitable for intramuscular administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Dimercaprol injection is indicated in the treatment of arsenic, gold, and mercury poisoning. It is indicated in acute lead poisoning when used concomitantly with calcium disodium edetate.

The following statements should be placed in the Indications section:

Dimercaprol injection is effective for use in acute poisoning by mercury salts if therapy is begun within one or two hours following ingestion. It is not very effective for chronic mercury poisoning.

Dimercaprol injection is of questionable value in poisoning caused by other heavy metals such as antimony and bismuth. It should not be used in iron, cadmium, or selenium poisoning because the resulting dimercaprol-metal complexes are more toxic than the metal alone, especially to the kidneys.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before February 7, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it pur-

ports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing aproval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 6, 1977, a written notice of appearance and request for hearing, and (2) on or before February 7, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 5939, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-35831 Filed 12-6-76;8:45 am]

[Docket No. 76F-0018]

HOFFMANN-LAROCHE, INC.

Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), Hoffmann-LaRoche, Inc., Nutley, NJ 07110, has withdrawn its petition (FAP 6A 3116), notice of which was published in the FEDERAL REGISTER of February 10, 1976 (41 FR 5861), proposing that § 121.1012 Sodium lauryl sulfate (21 CFR 121.1012) be amended to provide for the safe use of sodium lauryl sulfate as an emulsifier with the color additives β-carotene, β-apo-8'-carotenal, and canthaxanthin.

Dated: November 29, 1976.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Drugs.

[FR Doc.76-35824 Filed 12-6-76;8:45 am]

[Docket No. 76N-0157; DESI 4A]

HYDROXYAMPHETAMINE HYDROBROMIDE

Opportunity for Hearing On Proposal To Withdraw Approval of New Drug Application

A notice (DESI 4A) was published in the FEDERAL REGISTER of February 23, 1971 (36 FR 3387), in which the Food and Drug Administration announced its conclusion, after evaluating a report of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS/NRC), that the drug product described below is probably effective for postural hypotension and heart block and possibly effective for the carotid sinus syndrome. Pursuant to that notice revised labeling was submitted but no additional data concerning effectiveness were submitted and this notice proposes to withdraw approval of the product. Persons wishing to request a hearing may do so or before January 6, 1977.

That part of NDA 0-004 pertaining to Paredrine Tablets containing hydroxyamphetamine hydrobromide; formerly marketed by Smith Kline and French Laboratories, Division of SmithKline Corporation, 1500 Spring Garden St., Philadelphia, PA 19101.

On April 22, 1971 Smith Kline and French submitted revised labeling deleting the indication evaluated as possibly effective and modifying the probably effective indications to reflect comments made by the NAS/NRC Panel that reviewed the drug. On August 20, 1974, the Food and Drug Administration approved a supplemental application based upon labeling which qualified the heart block and postural hypotension indications to read as follows:

In heart block: In patients for whom an electronic pacemaker is not appropriate.

In postural hypotension: For the temporary relief of postural hypotension unrelated to drug therapy.

The Bureau of Drugs has reevaluated the information available concerning hydroxyamphetamine, including the report of the National Academy of Sciences/National Research Council (NAS/NRC) Panel that considered the drug and a report by Gill et al. of the National Heart Institute (Gill, J. R. Jr., D. T. Mason, and F. C. Bartter, "Effects of Hydroxyamphetamine (Paredrine) on the Function of the Sympathetic Nervous System in Normotensive Subjects," Journal of Pharmacology and Experimental Therapeutics, 155: 288–295, 1967). The NAS/NRC did not cite well-controlled trials showing that hydroxyamphetamine was effective in either postural hypotension or heartblock. Moreover, Gill and co-workers showed that hydroxyamphetamine can produce a fall of blood pressure in humans. The drug would therefore be expected to be at least useless, and possibly hazardous, in patients with postural hypotension. In light of the Gill report and the absence of any well-controlled trials showing effectiveness, the drug is now concluded to lack substantial evidence of effectiveness for these indications. In a conference on September 3, 1975, representatives of Smith Kline and French were informed of this conclusion.

On the basis of all of the data and information available to him the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug products(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20857.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 6, 1977, a written notice of appearance and request for hearing, and (2) on or before Feburary 7, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions purusant to this notice shall be field in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

All submissions pursuant to this notice except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–35826 Filed 12–6–76;8:45 am]

[Docket No. 76N–0438; DESI 10423]

LEVALLORPHAN TARTRATE INJECTION

Drugs For Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity For Hearing

The Food and Drug Administration is offering an opportunity for a hearing on indications lacking substantial evidence of effectiveness for levallorphan tartrate injection and announces the conditions under which the drug may be marketed for the indication for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before January 6, 1977.

In a notice (DESI 10423) published in the FEDERAL REGISTER of April 9, 1971 (36 FR 6844), the Food and Drug Administration announced its conclusions that the drug product described below is (1) effective for use in the treatment of narcotic-induced respiratory depression; (2) probably effective for use in the treatment of narcotic overdosage; and (3) possibly effective in the prevention of narcotic-induced respiratory depression.

A followup notice published in the FEDERAL REGISTER of June 10, 1972 (37 FR 11698), reclassified the probably effective and possibly effective indications to lacking substantial evidence of effectiveness. No opportunity for a hearing was offered at that time for those indications. The holder of the drug application had previously deleted all less-than-effective indications from the labeling of the drug product.

NDA 10-423; Lorfan Injection containing levallorphan tartrate; Roche Laboratories, Division of Hoffman-La-Roche, Inc., Roche Park, Nutley, NJ 07110.

Accordingly, the notice of April 9, 1971 is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to the drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication listed in the labeling conditions below. The drug product lacks substantial evidence of effectiveness for all other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in a sterile aqueous solution suitable for subcutaneous, intramuscular, or intravenous administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows:

For use in the treatment of significant narcotic-induced respiratory depression.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before February 7, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, the notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including idential, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 210(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 6, 1977, a written notice of appearance and request for hearing, and (2) on or before February 7, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal

of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 10423, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: November 26, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–35829 Filed 12–6–76;8:45 am]

[Docket No. 75P–0260]

LIBBY, MCNEILL & LIBBY, INC.

Tomato Juice Deviating From Identity Standard; Amendment of Temporary Permit For Market Testing

The Food and Drug Administration has granted Libby, McNeill & Libby, Inc., an amendment to their temporary permit for market testing tomato juice made from concentrate. The amendment provides for an increase of the amount of the product to be market tested.

In accordance with § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), the Commissioner of Food and Drugs issued a notice published in the FEDERAL REGISTER of February 10, 1976 (41 FR 5862), that a temporary permit had been issued to Libby, McNeill & Libby, Inc., 200 South Michigan Ave., Chicago, IL 60604, for a period of 15 months. This permit provided for the market testing of 30,000 cases of twelve 46-ounce cans of "Tomato Juice From Concentrate" in the states of Kansas and Missouri.

The tomato juice deviates from the standard of identity prescribed in § 53.1 (21 CFR 53.1) in that the product is prepared from concentrated tomato liquid complying with the tomato paste requirements of § 53.30(a)(1) (21 CFR 53.30(a)(1)), except that water and salt are added. The finished product is equivalent to a single strength tomato juice normally found in the marketplace.

Libby, McNeill & Libby, Inc., has requested that the temporary permit issued to them February 10, 1976, be amended to increase the amount of the product to be market tested. The company stated that the quantity of 30,000 cases of twelve 46-ounce cans of the product, as originally provided for by the permit, would be insufficient to obtain adequate data to assess fully the product's acceptance by a representative segment of consumers in the area of distribution.

The Commissioner concludes that it would be in the interest of consumers to, and hereby does, amend the Libby, McNeill & Libby, Inc. temporary permit to increase the amount of the product to be market tested to a total of 80,000 cases of twelve 46-ounce cans produced at its plant at Kokomo, Indiana.

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–35834 Filed 12–6–76;8:45 am]

[Docket No. 76G–0445]

MILES LABORATORIES, INC.

Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 7G0080) has been filed by Miles Laboratories, Inc., Elkhart, IN 46514, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that the use of a glucose isomerase enzyme, derived from a strain of Streptomyces olivaceus, in the production of high fructose corn syrup is generally recognized as safe (GRAS).

Any petition which meets the format requirements outlined in 21 CFR 121.40 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before February 7, 1977, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 29, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76–35825 Filed 12–6–76;8:45 am]

[Docket No. 76P–0364]

TEXAS CITRUS EXCHANGE

Tomato Juice Deviating From Identity Standard; Temporary Permit For Market Testing

The Food and Drug Administration has issued to Texas Citrus Exchange a temporary permit to market test tomato juice made from concentrate. This permit is effective for a period of 15 months, beginning no later than March 7, 1977.

In accordance with § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Texas Citrus Exchange, P.O. Box 480, Edinburg, TX 78539. This permit covers interstate marketing tests of tomato juice that deviates from the standard of identity prescribed in § 53.1 (21 CFR 53.1). This permit provides for the temporary marketing of a total of 50,000 cases of forty-eight 6-ounce cans of the product to be distributed as follows:

a. Thirty-five thousand cases in the states of Arkansas, Kansas, Oklahoma, and Texas.

b. Fifteen thousand cases in the metropolitan areas of Chicago, Illinois; Denver, Colorado; Kansas City, Kansas; and St. Louis, Missouri.

The test product will be manufactured in the Texas Citrus Exchange plant located in Harlingen, Texas. The product to be temporarily marketed has been prepared from concentrated tomato liquid complying with the tomato puree requirements of § 53.20(a)(1) (21 CFR 53.20(a)(1)), except that water and salt are added. The finished product will be equivalent to a single strength tomato juice normally found in the marketplace.

The principal display panel of the labels will declare the product name as "Tomato Juice From Concentrate."

Each of the ingredients used will be declared on the label as required by the applicable sections of Part 1 (21 CFR Part 1). The tomato ingredient complying with the requirements of § 53.20(a)(1) will be declared as "concentrated tomato juice."

This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than March 7, 1977.

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35833 Filed 12-6-76;8:45 am]

[Docket No. 76N-0002]

DAWES LABORATORIES, ET AL.

Diethylstilbestrol Hearing; Time for Filing Written Notice of Participation and for Disclosure of Data by Participants

The Food and Drug Administration is announcing the date for filing written notice of participation in a hearing on a proposal to withdraw certain approvals for diethylstilbestrol (DES) and is extending the time for submitting certain information for the hearing.

The Food and Drug Administration issued, in the FEDERAL REGISTER of Friday, November 26, 1976 (41 FR 52105), a notice of hearing on the proposal to withdraw approval of new animal drug applications (NADA's) for the use of DES in animals used for human consumption. In accordance with § 2.131 (21 CFR 2.131, published in the FEDERAL REGISTER of Tuesday, November 23, 1976 (41 FR 51724)), any person desiring to participate in the formal evidentiary hearing shall file a written notice of participation by December 27, 1976, with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. The notice also indicated that the submission of data required by § 2.153(b) (21 CFR 2.153(b), published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51726)) would be necessary by December 27, 1976, with requests for extensions being submitted to Administrative Law Judge Daniel J. Davidson. Because of the voluminous material involved and to avoid prejudice to the parties involved, the time for disclosing the data is extended for an additional 30 days to comply with the basic provisions of § 2.153(b). Therefore, all data, information, and views specified in § 2.153(a)(2) through (5) shall be submitted by January 25, 1977, in accordance with § 2.153(b).

Dated: December 2, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35931 Filed 12-2-76;2:57 pm]

[Docket No. 76N-0308]

COMPUTED TOMOGRAPHIC X-RAY SYSTEMS

Open Meeting

The Food and Drug Administration (FDA) announces a meeting to be held December 15, 1976 to discuss possible amendments to the diagnostic X-ray equipment performance standard concerning computed tomographic (CT) X-ray systems.

The purpose of the meeting is to receive and discuss the suggestions of the National Electrical Manufacturers Association (NEMA) concerning the need and possible content of amendments to the diagnostic X-ray equipment performance standard (21 CFR 1020.30); possible amendments would address the performance of X-ray systems designed for computed tomography. Opportunity will also be provided for comments by other interested persons, to the extent that time permits.

The December 15 meeting is a sequel to the public meeting held August 11, 1976, with NEMA, other manufacturers of CT systems, and interested persons. In the notice announcing the August 11 meeting, published in the FEDERAL REGISTER of July 28, 1976 (41 FR 31417), it was noted that the design and performance characteristics of CT X-ray systems, which utilize reconstruction techniques to obtain an image, were not provided for during the development of the diagnostic X-ray equipment performance standard. Therefore, it may be appropriate to develop amendments to the performance standard that would specifically address the radiation safety performance of CT X-ray systems. The Commissioner of Food and Drugs formally announced the consideration of such amendments in the FEDERAL REGISTER of September 30, 1976 (41 FR 43180).

The meeting will be held December 15, 1976, at 1:30 p.m. in Rm. 416 of the Bureau of Radiological Health, 12720 Twinbrook Parkway, Rockville, MD 20857. Any person wishing to attend and/or participate in the meeting should contact Dr. Gregory Barone, Bureau of Radiological Health, (301) 443-3403. A summary of the meeting will be prepared after the meeting and will be placed on display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Dated: December 2, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35930 Filed 12-6-76;8:45 am]

FD&C RED NO. 40; WORKING GROUP FORMATION AND FIRST MEETING

Color Additives

The Food and Drug Administration (FDA) is announcing the formation of an interagency working group composed of scientists from FDA, the National Center for Toxicological Research of FDA (NCTR), and the National Cancer Institute (NCI) to review the results of mouse feeding studies currently being conducted on the color additive FD&C Red No. 40. The working group will hold its first meeting on December 16 and 17, 1976, in Rm. 14-09, FB-8, 200 C St., SW., Washington, D.C., beginning at 9:30 a.m. The morning session on December 16 (9:30 a.m. to 12 noon) will be open to the public for the presentation of data, information, and views by interested persons.

The color additive FD&C Red No. 40, which is principally the disodium salt of 6-hydroxy-5-[(2 - methoxy-5-methyl-4-sulfophenyl)azo] - 2 - naphthalenesulfonic acid, is listed "permanently" for use in food, drugs, and cosmetics under §§ 8.244, 8.4104 and 8.7201 of the color additive regulations (21 CFR 8.244, 8.4104 and 8.7201), having been approved for use in regulations published in the FEDERAL REGISTER of April 10, 1971 (36 FR 6892) and August 6, 1974 (39 FR 28278).

After it was listed in 1971, FD&C Red No. 40 rapidly became a widely used color additive. In fiscal year 1972, for example, the first full year of its listing, FDA certified 892,282 pounds of the color. The amount of FD&C Red No. 40 certified remained reasonably steady until fiscal year 1976, when its use increased substantially; in that year, FDA certified 1,500,760 pounds of FD&C Red No. 40. This increase is, no doubt, attributable to the termination of the provisional listing of FD&C Red No. 2 published in the FEDERAL REGISTER of February 10, 1976 (41 FR 5823). When its provisional listing was terminated, FD&C Red No. 2 was the second most widely used color additive. Before this termination, FD&C Red No. 40 was the fourth most widely used color additive; today it ranks second in usage after FD&C Yellow No. 5.

In late 1974 and early 1975, the Allied Chemical Corporation, Speciality Chemicals Division (hereinafter "Allied"), the patent holder and petitioner for use of FD&C Red No. 40, began two chronic feeding studies, one in the rat and one in the mouse, on FD&C Red No. 40. Both studies are being conducted by Hazleton Laboratories, Inc., Falls Church, Virginia. Allied undertook the studies because neither the British nor Canadian governments would approve use of the color in their countries unless additional chronic studies were conducted. Moreover, FDA had advised Allied that it preferred new chronic studies rather than additional metabolism or reproduction studies if

Allied were going to supplement the data already available on FD&C Red No. 40.

On February 25, 1976, representatives of Allied, Hazleton, and CFR Services, Inc. (a consultant to Allied) met with representatives of the Bureau of Foods of FDA to discuss the results of the studies to that point. Allied reported that the results of the study in the rat were unremarkable; the results of that study have remained unremarkable to this day. However, Allied did report the occurrence of lymphomas in the mice. The lymphomas were appearing earlier than expected, based on historical experience with the strain of mouse used, and they appeared to be dose related. It was suggested to Allied by FDA that an interim sacrifice of some animals in the mouse study might aid in determining whether there were any undetected lymphomas that could confirm or negate the statistical significance of the lymphomas already identified. At approximately the 52-week point in the study, animals were sacrificed in each group, reducing the original 50 animals per group to 30 animals per group. No lymphomas were detected in any of the sacrificed animals.

Allied began, at FDA's suggestion, a second chronic feeding study in the mouse to determine whether the early onset of lymphomas apparently detected in the first mouse study would be duplicated. This second lifetime feeding study, which began in midsummer of this year, is being conducted using larger numbers of animals per group to provide specifically for an interim sacrifice. The Food and Drug Administration has received three interim reports on this study. Although the results thus far are too preliminary for conclusions to be drawn, they do suggest a possible duplication of the early onset of lymphomas noted in the first study.

After it was advised of the preliminary results of the first mouse study, FDA insisted that monthly progress reports on the study be submitted to it. Thus, FDA has been closely monitoring the study since April 1976. These progress reports have been available to the public under the Freedom of Information Act (5 U.S.C. 552) and have been provided to several interested persons each month. Copies of the progress reports are on file in the office of the Hearing Clerk and may be viewed between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Although the studies are incomplete, the Acting Commissioner of Food and Drugs has decided that a review of the results of the chronic studies being conducted on FD&C Red No. 40 by a group of experts from FDA, NCTR, and NCI will aid FDA in determining whether regulatory action on FD&C Red No. 40 is appropriate, and in developing a complete scientific and legal basis on which to base any necessary action. Consideration of the results of these studies by the working group will ensure that any decisions subsequently reached by FDA regarding the safety and use of FD&C Red No. 40 are legally sound and scientifically supportable.

The working group, which will begin its review almost immediately, will be chaired by Dr. Albert C. Kolbye, Jr., Associate Director for Science in the Bureau of Foods, FDA. The other members of the working group and their governmental affiliations are:

1. Dr. Richard Bates, Associate Commissioner for Science, FDA.
2. Dr. Cipriano Cueto, NCI.
3. Dr. Morris Cranmer, Director NCTR.
4. Dr. Gary Flamm, NCI.
5. Dr. Charles Frith, NCTR.
6. Dr. Robert Squire, NCI.
7. Dr. George Wolff, NCTR.

It is not possible to establish a firm date on which the working group will file a final report with the Acting Commissioner and the Director of the Bureau of Foods, because the completion dates for the two mouse studies cannot now be precisely ascertained. The working group will report to the Acting Commissioner and the Director of the Bureau of Foods promptly, following completion of its review of the results currently available. Although such a report is an interagency memorandum, the Acting Commissioner has concluded that the working group's report should be made available to the public as soon as it is received.

The working group will hold its first meeting at 9:30 a.m. on December 16 and 17, 1976, in Rm. 14–09, 200 C St. SW., Washington DC. Although the working group is an internal government body, and not an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. Appendix I), the Acting Commissioner believes that it would be beneficial to provide for public input into the working group's review. Accordingly, the morning session on December 16, 1976 (9:30 a.m. to 12 noon) will be open to the public. At the commencement of the session, representatives from the Bureau of Foods will summarize the results of the studies thus far and offer some preliminary analysis on their significance. The balance of the morning session will be reserved for the presentation of data, information, and views by interested persons. Persons who desire to make a presentation should notify the office of the Director, Bureau of Foods by the close of business on December 15, 1976, and indicate the amount of time they wish to be allocated for their presentation. Persons who are unable to appear in person on December 16, 1976, may submit data, information, and views in writing to the office of the Director, Bureau of Foods (HFF–1), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, by the close of business on December 15, 1976.

Dated: December 3, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76–36031 Filed 12–3–76;1:01 pm]

National Institute of Education

PANEL FOR THE REVIEW OF PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Invitation To Associations To Submit Nominations

Pursuant to the authority of section 403(f)(3)(A) of the General Education Provisions Act as amended by the Education Amendments of 1976 (Pub. L. 94–482) the Director of the National Institute of Education is soliciting written recommendations for nominees for membership on a Panel for the Review of Laboratory and Center Operations. According to statute, these recommendations are to be submitted by (a) educational laboratories (b) research and development centers, and (c) "professional, commercial, scholarly and educational associations, particularly associations or organizations engaged in educational research". Since its inception in 1972, the Institute has developed a list of many such associations, which list the Institute will use to obtain nominations for the Panel. The purpose of this notice is to request any qualified association or organization which wishes to submit nominations and which is uncertain whether it is on the NIE list to contact:

John O'Brien, Chairman, Task Force on Laboratories and Centers, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208.

Since the Director plans to start making appointments by January 15, 1977, interested associations or organizations are advised to act promptly.

RICHARD S. WERKSMAN,
Committee Management Officer.

[FR Doc.76–35861 Filed 12–6–76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA–503(a)–3 and 332–81]

PRESIDENT'S LIST OF ARTICLES WHICH MAY BE DESIGNATED AS ELIGIBLE FOR PURPOSES OF THE GENERALIZED SYSTEM OF PREFERENCES

Investigations and Hearings

On November 22, 1976, in accordance with sections 503(a) and 131(a) of the Trade Act of 1974 (hereinafter referred to as "the act") and pursuant to the authority of the President delegated to him by Executive Order 11947, the Special Representative for Trade Negotiations furnished the United States International Trade Commission a list of articles which will be considered for designation as eligible articles for purposes of the Generalized System of Preferences (GSP) set forth in title V of the act. The list consists of the following articles:

TSUS or TSUSA[1] item No.	*Article*
	Birds (dead), fresh, chilled, or frozen, if whole, or if plucked, beheaded, eviscerated, or cut into pieces (including edible offal), but not otherwise prepared or preserved:
	Birds, whole, or which have been plucked only:
105.30	Other than chickens, ducks, geese, guineas and turkeys.
	Birds which have been plucked, beheaded, and eviscerated (including birds with any edible offal retained in or returned to the abdominal cavity), whether or not the feet have been removed, but not cut into pieces:
105.60	Other than chickens and turkeys.
	Garden and field seeds:
126.71	Pepper.
	Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):
	Onions:
136.91	Other than onion sets
or	or
136.91 (pt.)	Pearl onions 10/16 inch or less in diameter.
	Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):
	Dried, desiccated, or dehydrated:
	Chickpeas or garbanzos:
140.20	Split.
	Cowpeas:
140.25	Black-eye.
140.35	Lentils.
140.38	Lupines.
140.50	Potatoes.
	Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of part 8 of schedule 1 of the Tariff Schedules of the United States):
	Other than beans, cabbage, chickpeas or garbanzos, black-eye cowpeas, onions, pimientos, tomatoes, and waterchestnuts:
141.75	Packed in salt, in brine, or pickled.
146.73	Berries prepared or preserved except in brine or dried:
	Black currants, gooseberries, lingon or partridge berries, and loganberries.
	Citrus fruits, fresh, or prepared or preserved:
147.16	Grapefruit:
	If entered during the period from November 1, in any year, to the following July 31, inclusive.
	Oranges:
147.31	Other than mandarin, packed in airtight containers, and kumquats, packed in airtight containers.
	Fruit flours:
152.05	Other than banana and plantain.
152.7620	Strawberry paste and strawberry pulp.
166.20	Ginger ale, ginger beer, lemonade, and soda water.
	Filler tobacco (whether or not mixed or packed with wrapper tobacco):
	When mixed or packed with over 35% of wrapper tobacco:
170.20	Not stemmed.
170.25	Stemmed.
	When not mixed and not packed with wrapper tobacco, or when mixed or packed with 35% or less of wrapper tobacco:
	Other than cigarette leaf but including cigar leaf:
170.40	Not stemmed.
170.45	Stemmed.
170.60	Scrap tobacco.
170.80	Tobacco, manufactured or not manufactured, not specially provided for.
	Marine-animal oils:
	Fish oils other than liver oils:
177.12	Anchovy.
177.16	Shark.
177.22	Herring.
177.24	Menhaden.
177.26	Other than cod and eulachon.
193.10	Tonka beans.
	Metal-bearing ores and the dross or residuum from burnt pyrites:
601.54	Tungsten ore.
	Gold (including platinum- or silver-plated gold but not rolled gold), unwrought (except bullion, dore, and precipitates) or semimanufactured:
605.27	Platinum- or silver-plated.
	Ferroalloys:

TSUS or TSUSA[1] item No.	*Article*
607.65	Ferrotungsten and ferrosilicon tungsten.
	Brads, nails, spikes, staples, and tacks, all the foregoing, not described in the foregoing provisions of subpart D of part 3 of schedule 6 of the Tariff Schedules of the United States, of base metal:
	Of iron or steel (except articles with heads of nonferrous metals):
	Of one piece construction:
	Made of round wire:
646.25	Under 1 inch in length and under 0.065 inch in diameter.
646.26	1 inch or more in length and 0.065 inch or more in diameter.

[1] Tariff Schedules of the United States. The Tariff Schedules of the United States Annotated (1976) is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402; it is also available for inspection without charge at any field office of the U.S. Customs Service or the Department of Commerce and at depository libraries.

In accordance with section 503(a) and 131 of the act, the Special Representative for Trade Negotiations requested that the Commission provide him with its advice, with respect to each listed article, as to the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the GSP. With respect to item 136.91, advice was requested both as to the effect of designating the item as a whole as an eligible article and as to the effect of designating as an eligible article only pearl onions 10/16 inch or less in diameter.

In providing its advice, the Special Representative for Trade Negotiations requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive-need" limits specified in section 504(c) of the act.

Pursuant to the authority of section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), the Special Representative for Trade Negotiations requested that the Commission also provide advice with respect to whether products like or directly competitive with any products described in the listed tariff categories were being produced in the United States on January 3, 1975.

Investigations

In accordance with the request of the Special Representative for Trade Negotiations and the provisions of section 503 (a) and 131 (b) of the act and section 332(g) of the Tariff Act of 1930, as amended, the Commission has instituted investigations TA-503(a)-3 and 332-81 for the purposes of obtaining information, to the extent practicable, of the kind described in section 131(d) of the act for use in connection with the preparation of the advice requested.

Hearings

Public hearings in connection with the investigations will be held in Atlanta, Georgia, beginning on Tuesday, December 14, 1976, and in Houston, Texas, beginning on Tuesday, January 4, 1977. The time and place of the hearings will be announced later. All interested persons will be given an opportunity to be present, to product evidence, and to be heard at such hearings. Requests to appear at the public hearings should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and should be received not later than noon of the fifth calendar day preceding the hearing at which an appearance is requested.

Written Submissions

In lieu of or in addition to appearances at the public hearings, interested persons may submit written statements. Any business information which a submitter desires the Commission to treat as confidential shall be submitted on separate sheets, each clearly marked at the top "Confidential Business Data." All written submissions, except for confidential business data, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but not later than January 7, 1977. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: December 2, 1976.

Kenneth R. Mason,
Secretary.

[FR Doc.76-35969 Filed 12-6-76;8:45 am]

[No. 332-80]

PROBABLE ECONOMIC EFFECT OF THE PROVISIONS OF H.R. 14600 AND THE NEED TO PROTECT A DOMESTIC INDUSTRY

Rescheduling of Public Hearing

Notice is hereby given that the United States International Trade Commission's public hearing in connection with investigation No. 332-80 will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C., beginning at 10 a.m., e.s.t. on January 25, 1977.

Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in the United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, not later than noon, January 19, 1977.

This notice revokes the date of the subject public hearing as announced in the Notice of Investigation and Hearing issued on October 4, 1976, and published in the Federal Register on October 12, 1976 (41 FR 44756).

By order of the Commission.

Issued: December 2, 1976.

Kenneth R. Mason,
Secretary.

[FR Doc.76-35968 Filed 12-6-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL TAX CREDIT REDUCTION AND DEFERRAL OF FEDERAL TAX CREDIT REDUCTION

Findings of the Secretary of Labor

Section 110 of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Pub. L. 94-45, approved June 30, 1975) amended section 3302(c)(3) of the Federal Unemployment Tax Act so as to authorize the deferral of Federal unemployment tax credit reductions with respect to the years 1975, 1976, and 1977. Section 110 makes such deferral applicable only if the Secretary of Labor finds that the State has studied and taken appropriate action to accomplish substantially the purposes of restoring its unemployment fund's fiscal soundness and of permitting the repayment within a reasonable time of advances made to the State's account pursuant to Title XII of the Social Security Act.

Under section 110 of the Extension Act the Secretary of Labor is directed to promptly prescribe and publish in the Federal Register regulations setting forth the criteria for making a finding with respect to a State. Such criteria have been prescribed by the addition of paragraph (f) to § 601.5 of Title 20, Code of Federal Regulations, effective November 7, 1975, published in volume 40, No. 216 of the Federal Register, November 7, 1975.

Pursuant to section 3302(c)(3) of the Internal Revenue Code of 1954, as amended by section 110 of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975, I hereby make a finding as of November 10, 1976, with respect to each State named below as to whether a Federal unemployment tax credit reduction on account of an outstanding balance of advances made to each, pursuant to Title XII of the Social Security Act, shall apply with respect to the taxable year 1976. I have determined that the States of Vermont and Washington have not taken the required action among the alternatives prescribed as appropriate in § 601.5(f)(2), of Title 20, Code of Federal Regulations, to qualify for deferral of Federal unemployment tax credit reduction. I have also determined that the State of Connecticut has met one of the alternative criteria for deferral of Federal unemployment tax credit reduction for taxable year 1976.

The State of Connecticut first obtained a repayable advance from the Federal Unemployment Account in the Unemployment Trust Fund, pursuant to Title XII of the Social Security Act, in 1972. The State has had an upaid advance on January 1 of the years 1973, 1974, 1975, and 1976 and, as of November 10, 1976, it continued to have an unpaid advance. Its employers were subject to a Federal unemployment tax credit reduction of 0.3 percent on their 1974 taxable payrolls. But for the amendment of section 3302(c)(3) by the Extension Act and a deferral of the Federal unemployment tax credit reduction under the provisions of that amendment, Connecticut's employers would have been subject to a Federal unemployment tax credit reduction on their 1975 taxable payrolls of an additional 0.3 percent.

The State of Connecticut has not satisfied the ceriteria in clause (i) of § 601.5(f)(2), of Title 20, Code of Federal Regulations, for the reason that the average employer tax rate of 1.61 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, does not exceed the State's average annual benefit cost rate of 1.75 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, for the 10 calendar years immediately preceding 1976, the year with respect to which the finding is made. The State has, however, taken appropriate action to satisfy the alternate criteria in clause (ii) of § 601.5(f)(2) of such regulation as follows.

(A) The State of Connecticut amended its unemployment compensation law effective in 1975 by increasing the State's unemployment tax base from $4,200 to $6,000 which I estimate has resulted in increasing contributions to the State's unemployment fund for taxable year 1976 so as to permit the State to allocate from such increased contributions a sum sufficient to make a repayment in an amount and within the time set forth in (B) below; and

(B) The State of Connecticut has repaid to the Treasury of the United States, for credit to the Federal unemployment account in the Unemployment Trust Fund, prior to November 10, 1976, an amount equal to the amount of the additional tax which would have been payable by all taxpayers subject to the unemployment compensation law of the State for 1976 if the reduction in total credits prescribed by section 3302(c)(3) of the Internal Revenue Code of 1954 for that taxable year were applied without regard to the amendment added by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.

I hereby make a finding as of November 10, 1976, that the State of Connecticut has satisfied the criteria specified in § 601.5(f)(2)(ii), of Title 20, Code of Federal Regulations, whereby an incremental reduction in total credits on account of an outstanding balance of advances made to the State, pursuant to Title XII of the Social Security Act, shall not apply with respect to the taxable year beginning on January 1, 1976.

The State of Vermont first obtained a repayable advance in 1974 and the State had an unpaid advance on January 1 of the years 1975 and 1976, which was not repaid by November 10, 1976. The State of Vermont has not satisfied for 1976 the criteria in clause (i) of § 601.5(f)(2), of Title 20, Code of Federal Regulations, for the reason that the average employer tax rate of 1.17 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, does not exceed the State's average annual benefit cost rate of 1.62 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, for the 10 calendar years immediately preceding 1976, the year with respect to which the finding is made.

Furthermore, the State of Vermont has not satisfied for 1976 the alternate criteria in clause (ii) of § 601.5(f)(2) of such regulations. Deferral of a Federal unemployment tax credit reduction is, therefore, not applicable for 1976, and an incremental reduction of 0.3 percent shall apply with respect to the total credits otherwise allowable.

The State of Washington first obtained a repayable advance in 1973 and had an unpaid advance on January 1 of the years 1974, 1975, and 1976, which was not repaid on November 10, 1976. The State met the criteria for deferral of a Federal unemployment tax reduction for 1975.

The State of Washington has not satisfied for 1976 the criteria in clause (i) of § 601.5(f)(2), of Title 20, Code of Federal Regulations, for the reason that the average employer tax rate of 1.78 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, does not exceed the State's average annual benefit cost rate of 1.87 percent, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, for the 10 calendar years immediately preceding 1976, the year with respect to which the finding is made.

The State of Washington also has not satisfied for 1976 the alternate criteria in clause (ii) of § 601.5(f)(2) of such regulations. Deferral of a Federal unemployment tax credit reduction is, therefore, not applicable for 1976, and an incremental reduction of 0.3 percent shall apply with respect to the total credits otherwise allowable.

I hereby make a finding as of November 10, 1976, that the States of Vermont and Washington have not satisfied the criteria specified in clauses (i) or (ii) of § 601.5(f)(2), of Title 20, Code of Federal Regulations. Therefore, an incremental reduction of 0.3 percent in total credits on account of outstanding balances of advances made to each State, pursuant to Title XII of the Social Security Act, shall apply with respect to each of these States for the taxable year beginning on January 1, 1976.

Signed at Washington, D.C., this 30th day of November 1976.

W. J. USERY, Jr.,
Secretary of Labor.

[FR Doc.76-35942 Filed 12-6-76;8:45 am]

[TA-W-551]

MOTOROLA INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Correction

In FR Doc. 76-22786 appearing at page 32925 in the issue of Friday, August 6, 1976, make the following changes:

(1) On page 32925 in the third column, paragraph four, line four, add the words, "Electronics Company" after "Quasar.";

(2) On page 32926 in the first column, paragraph ten, line three, after the word "consumption" add "in each year from 1971 to 1974 and then"; and

(3) On page 32926 in the second column, paragraph one, line four, after the word "and" delete "1915" and substitute the number "19.5".

Signed at Washington, D.C. this 29th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.76-35946 Filed 12-6-76;8:45 am]

[TA-W-1066]

E. J. KEELEY CO., BRISTEX SANITARY WIPING RAGS DIV.

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-1066: investigation regarding certification of eligibility to apply for 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 that date which was filed by the Butex Sanitary Wiping Rags Division on behalf of workers and former workers producing wiping rags at the Butex Sanitary Wiping Rags Division of the E. J. Keeley Company.

The notice of investiagtion was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43971). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Butex Sanitary Rags Division, its customers, the 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 adjsutment assistance, each of the group eligibility re-

quirements 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;

(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 criterion (4) has not been met.

Significant Total or Partial Separations

Employment of production workers at the Butte plant remained unchanged from 1973 through 1975 and in the first six months of 1976 compared to the first six months of 1975. Average weekly hours remained unchanged from 1973 to 1974 and decreased 15.2 percent from 1974 to 1975. Average weekly hours decreased 60.0 percent in the first six months of 1976 compared to the same period in 1975.

Sales or Production, or Both, Have Decreased Absolutely

Production at the Butex Sanitary Wiping Rags Division in terms of quantity increased 12.4 percent from 1973 to 1974 and declined 12.3 percent from 1974 to 1975. Production decreased 35.1 percent in the first six months of 1976 compared to the first six months of 1975.

INCREASED IMPORTS

Imports of cotton wiping rags decreased from 3,353 thousand pounds in 1974 to 3,260 thousand pounds in 1975 and then increased from 1,979 thousand pounds in the first eight months of 1975 to 2,590 thousand pounds in the first eight months of 1976. The ratio of imports to domestic production decreased from 0.94 percent in 1974 to 0.88 percent in 1975 and increased from 0.80 percent in the first eight months of 1975 to 1.0 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that none of the customers of Butex Sanitary Wiping Rags Division switched their purchases to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wiping rags produced by the Butex Sanitary Wiping Rags Division of the E. J. Keeley Company did not contribute importantly to the total or partial separation of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.76-35944 Filed 12-6-76;8:45 am]

[TA-W-1,044]

THE BUTTE, ANACONDA AND PACIFIC RAILWAY CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1,044: 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 25, 1976 in response to a worker petition received on August 25, 1976 which was filed by the United Transportation Union, Local 887 on behalf of workers and former workers of the Butte, Anaconda and Pacific Railway Company, Anaconda, Montana. The petition was submitted with a request that it be considered part of the petition submitted under TA-W-531 for the Butte Operations of the Anaconda Company which was certified with an impact data of December 22, 1974. The Butte, Anaconda and Pacific Railway Company is owned by the Anaconda Company and hauls copper ore and concentrates from the Butte Operations' mines.

The notice of investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38568). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Butte, Anaconda and Pacific Railway Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, 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 but than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers at the Butte, Anaconda and Pacific Railway Company declined 19.6 percent in 1975 compared to 1974, and further declined 18.7 percent in the first six months of 1976 compared to the first six months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Most of the freight transported by the Butte, Anaconda and Pacific Railway Company is in connection with the processing and production of copper products of the Anaconda Company's Montana Mining Division in the Butte area. Total tonnage hauled by the Butte, Anaconda and Pacific Railway Company for the Butte Mining Operation decreased 52.0 percent from 1974 to 1975 and decreased 55.7 percent in the first six months of 1976 compared to the first six months of 1975.

INCREASED IMPORTS

Imports of copper ore concentrates, precipitates, and matte increased 77.4 percent from 1971 to 1972 and then declined 5.5 percent from 1972 to 1973. Imports increased 5.8 percent from 1973 to 1974, increased 40.0 percent from 1974 to 1975, and increased 41.2 percent in the first six months of 1976 compared to the similar period of 1975. The ratios of imports to domestic production and consumption increased from 3.5 percent and 3.2 percent, respectively, in 1974 to 5.2 percent and 5.1 percent, respectively, in 1975. In the first six months of 1976, the ratios of imports to domestic production and consumption increased from 4.7 percent and 6.2 percent, respectively, to 6.2 percent and 6.8 percent, respectively, in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The Montana Mining Division of the Anaconda Company is the major customer of the Butte, Anaconda & Pacific Railway Company, representing from 98 to 99 percent of its total business. Anaconda closed three of the mines in the Montana Mining Division in 1975. At the same time Anaconda's imports of copper concentrates increased 48.1 percent in the first six months of 1976 compared to the first six months of 1975. Since copper ore weighs considerably more than copper concentrates, total tonnage hauled decreased despite the increased imports of concentrate.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by the Montana Mining Division of the Anaconda Company reduced its Butte Mining operations, thus contributing directly and importantly to the total or partial separations of the workers at the Butte, Anaconda and Pacific Railway Company of the Anaconda Company. In

accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the transport of materials at the Butte, Anaconda and Pacific Railway Company of the Anaconda Company who became totally or partially separated from employment on or after December 22, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.76-35943 Filed 12-6-76;8:45 am]

[TA-W-1082]

MOREHOUSE GARMENT CORP.

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-1082: 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 20, 1976 in response to a worker petition received on that date which was filed by the United Paperworkers International Union on behalf of workers and former workers producing men's and boys' slacks at Morehouse Garment Corporation, Bastrop, Louisiana.

The notice of invesfigation was published in the FEDERAL REGISTER (41 FR 43495) on October 1, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Morehouse Garment Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Production employees at Morehouse Garment work interchangeably on the manufacture of men's and boys' slacks. Average total employment increased 22.9 percent from 1973 to 1974 and declined 9.2 percent from 1974 to 1975. In the first three quarters of 1976, average employment declined 17.1 percent compared to the same period in 1975. Employment at Morehouse Garment declined in each quarter of 1976 when compared to the same quarter in 1975. Layoffs at Morehouse Garment began in March 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of men's and boys' slacks at Morehouse Garment is based on orders received. Therefore, sales equal production at Morehouse Garment. Production at Morehouse Garment declined 3.7 percent from 1973 to 1974 and then increased 5.8 percent from 1974 to 1975. In the first three quarters of 1976, production of men's and boys' slacks declined 15.0 percent compared to the first three quarters of 1975. Production increased in the first quarter of 1976 when compared to the same quarter of the previous year and then declined 5.7 percent and 46.9 percent, respectively, in the second and third quarters of 1976 when compared to the same quarter in 1975.

INCREASED IMPORTS

Imports of men's and boys' dress and sport trousers and shorts increased from 39.8 million pairs in 1971 to 55.5 million pairs in 1975. Imports increased relative to domestic production and consumption from 15.7 percent and 13.5 percent, respectively, in 1971 to 30.3 percent and 23.2 percent, respectively, in 1975. Imports increased from 25.1 million pairs in the first six months of 1975 to 35.6 million pairs in the first six months of 1976. Imports increased relative to domestic production and consumption from 28.2 percent and 22.0 percent, respectively, in the first six months of 1975 to 32.0 percent and 24.2 percent, respectively, in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation revealed that customers of the manufacturer for which Morehouse Garment produced men's and boys' slacks, increased purchases of lower-priced imported men's and boys' slacks relative to purchases from that manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' slacks produced at Morehouse Garment Corporation, Bastrop, Louisiana contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Morehouse Garment Corporation, Bastrop, Louisiana who became totally or partially separated from employment on or after February 29, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35945 Filed 12-6-76;8:45 am]

[TA-W-1138]

RCA CORP.

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-1138: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The 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 of the Woodbridge, New Jersey plant of RCA Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

All employment of production workers at the Woodbridge plant was terminated

in early 1975 when the plant closed. RCA has indicated that the remaining security and maintenance personnel will be separated when the Woodbridge facility is sold. All workers currently employed at the Woodbridge plant were employed during the plant's period of operation.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

All production at the Woodbridge plant was terminated in early 1975 when the plant closed.

INCREASED IMPORTS

Imported electronic receiving tubes have increased their share of the declining domestic market for such products in each year from 1972 to 1975. Imports increased relative to domestic production from 27.4 percent in 1971 to 57.6 percent in 1975.

CONTRIBUTED IMPORTANTLY

Increased imports of electronic receiving tubes resulted in the closure of the Woodbridge plant and separation of production workers from that plant in early 1975. Since that time RCA has continued to employ certain workers in security and maintenance operations at Woodbridge pending sale of the plant and production facilities. RCA officials have indicated that the remaining workers at the Woodbridge plant will be separated when the plant is sold. The separation of such workers will, thus, be due to increased imports of electronic receiving tubes, relative to domestic production, and the resultant closure of the Woodbridge plant in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with electronic receiving tubes produced by the Woodbridge, New Jersey plant of RCA Corporation contributed importantly to the threatened separation of workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the Woodbridge, New Jersey plant of RCA Corporation who were employed there on July 29, 1976 and who became totally or partially separated from employment on or after July 29, 1976 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.76-35947 Filed 12-6-76;8:45 am]

[TA-W-1,270]

SPORTABLES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 24, 1976 the Department of Labor received a petition dated October 8, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies' Garment Workers Union on behalf of the workers and former workers of Sportables, Inc., Philadelphia, Pennsylvania (TA-W-1,270). 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 suits produced by Sportables, Incorporated 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 17, 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 17, 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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35948 Filed 12-6-76;8:45 am]

[TA-W-1,271]

SWEETREE MILLS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 24, 1976 the Department of Labor received a petition dated September 30, 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 Sweetree Mills, Inc., Knitting House, Cherryville, North Carolina (TA-W-1,271).

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 ladies' knitted synthetic sweaters & sportswear produced by Sweetree Mills, 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 significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or theatened 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 17, 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 17, 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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35949 Filed 12-6-76;8:45 am]

[TA-W-384T]

THERMATOMIC CARBON CO.

Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 ("the Act") and in accordance with section 223 of the Act, on February 22, 1976 the Department of Labor issued a certification of eligibility

to apply for adjustment assistance applicable to workers and former workers of the Sterlington, Louisiana plant of the Thermatomic Carbon Company engaged in employment related to the production of carbon black. The notice of certification was published in the FEDERAL REGISTER on March 5, 1976 (41 FR 9639).

Pursuant to Section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers of Thermatomic Carbon Co. continue to be attributable to the conditions specified in section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than on or before December 17, 1976.

The record of the certification (TA-W-384), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35950 Filed 12-6-76;8:45 am]

[TA-W-1,269]

BONNIE FASHIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 15, 1976 the Department of Labor received a petition dated October 28, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union on behalf of the workers and former workers of Bonnie Fashions Company, Broomall, Pennsylvania (TA-W-1,269). 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 ladies' wear produced by Bonnie Fashions Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, 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 17, 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 17, 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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-35795 Filed 12-6-76;8:45 am]

[TA-W-1099-1133]

ISBELL SEAFOOD, INC.

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-1099 thru 1133: 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 28, 1976 in response to a worker petition received on that date which was filed by the Isbell Seafood, Inc. at Port Isabel, Texas on behalf of workers and former workers who are engaged in shrimp fishing.

The notices of investigation were published in the FEDERAL REGISTER as follows: On October 22, 1976, TA-W-1127 (41 FR 46066); TA-W-1117 (41 FR 46067); TA-W-1115/1116/1129 (41 FR 46068); TA-W-1121/1124/1128 (41 FR 46069); TD-W-1120/1125/1126 (41 FR 46070); TA-W-1118/1122/1127 (41 FR 46071); TA-W-1119 (41 FR 46072) and on October 22, 1976, TA-W-1132 (41 FR 46666); TA-W-1105 (41 FR 46667); TA-W-1106/1107/1108 (41 FR 46668); TA-W-1109/1110/1111 (41 FR 46669); TA-W-1112/1113/1114 (41 FR 46670); TA-W-1103/1130/1133 (41 FR 46672); TA-W-1101 (41 FR 46675); TA-W-1102/1131 (41 FR 46678); and TA-W-1099/1100 41 FR 46679).

The information upon which the determination is made was obtained principally from officials of Isbell Seafood, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1973-1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on the average number of trips per boat.

The average number of trips per boat at Isbell Seafood declined 26.1 percent from 1973 to 1974 and then increased 17.6 percent from 1974 to 1975. The average number of trips per boat declined 16.7 percent from the third to the fourth quarter of 1975.

The average number of trips per boat declined 20.0 percent in the first six months of 1976 compared to the first six months of 1975.

Crew earnings are based on a percentage of the value of their catch less certain deductions for fuel, food and other supplies. When the crews cannot earn enough to cover expenses, due mainly to prices, it is economically infeasible for them to take the boats out.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The average shrimp catch per boat in terms of quantity at Isbell Seafood increased 2.8 percent from 1973 to 1974 and then declined 0.9 percent from 1974 to 1975. The average catch per boat declined 30.3 percent from the third to the

fourth quarter of 1975. The average catch per boat declined 57.5 percent in the first six months of 1976 compared to the first six months of 1975.

INCREASED IMPORTS

U.S. imports of shrimp in terms of quantity increased from 1971 to 1972 and then declined 9.3 percent from 1972 to 1973. Imports increased 16.1 percent from 1973 to 1974 and then declined 13.7 percent from 1974 to 1975. In 1975, the ratio of imports to domestic production was 111.4 percent which was greater than the 1971–1974 average of 104.7 percent. Imports increased 23.0 percent in the first six months of 1976 compared to the first six months of 1975. The ratio of imports to domestic production increased from 205.0 percent in the first six months of 1975 to 212.6 percent in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

Customers who purchase approximately 90 percent of Isbell Seafood's production indicated either that they increased their purchases of imported shrimp or that they anticipate increasing their purchases of imported shrimp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp produced by the Isbell Seafood, Inc., Port Isabel, Texas contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of shrimp at Isbell Seafood, Inc., Port Isabel, Texas, and its related companies, including Isbell and Isbell, Isbell Enterprises, Inc., Ansel Isbell, Bahia Del Golfo, Tres Compadres, Isbell Brothers, and Isbell Trawlers, who became totally or partially separated from employment on or after September 9, 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 24th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35794 Filed 12-6-76;8:45 am]

[TA-W-1094-1098]

TRAWLER MANAGEMENT, INC.

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-1094-1098: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 27, 1976 in response to a worker petition received on September 27, 1976 which was filed on behalf of workers and former workers engaged in the catching of shrimp with Trawler Management, Inc. and its affiliates, B & M Shrimp Company, M & B Shrimp Company, Jan, Inc., Ge-Ric, Inc., and Tara Lou, Inc., all of Tampa, Florida.

The Notices of Investigation were published in the FEDERAL REGISTER on October 8, 1976 (41 FR 44482; 44483; 44485; 44488). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Trawler Management, Inc., its customer, the 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 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 revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Annual average employment at Trawler Management and its affiliates declined 7.7 percent from 1973 to 1974 and declined 8.3 percent from 1974 to 1975. Employment at Trawler Management and each of its affiliates was terminated in December 1975 when all operations ceased.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Adjusted sales for Trawler Management and its affiliates declined 4.9 percent from 1971 to 1972, 24.6 percent from 1972 to 1973 and 13.2 percent from 1973 to 1974 before increasing 11.7 percent from 1974 to 1975. Adjusted sales for 1975 were below annual levels for 1971–1973. Sales terminated when Trawler Management and its affiliates ceased all operations in December 1975.

INCREASED IMPORTS

U.S. imports of shrimp increased 18.3 percent from 1971 to 1972, declined 9.3 percent from 1972 to 1973, rose 15.9 percent from 1973 to 1974 and fell 13.6 percent from 1974 to 1975. In 1975 the ratio of imports to domestic production was 111.4 percent which was greater than the 1971–1974 average of 104.7 percent.

CONTRIBUTED IMPORTANTLY

The peak levels of U.S. imports and consumption of shrimp in 1974 are attributed to two factors. Japan, the major competitor of the United States in the world market for shrimp, developed an excessive supply and backed off the world market altogether by the end of 1973. Much of the world surplus of shrimp that ensued was diverted to the United States in 1974 which significantly reduced the domestic price.

Trawler Management and its affiliates experienced severe financial sebacks in 1974 as a result of increased operating costs and increased competition from imports of low-priced shrimp.

Business expenses especially fuel oil costs rose sharply during the 1973–1974 period. At the same time, the influx of imported shrimp into the United States in 1974 resulted in sharp declines in the market price for raw shrimp. The sole customer of Trawler Management purchased increased quantities of imported shrimp in 1974 and 1975 compared to 1972–1973.

Although shrimp prices returned to normal levels in 1975, the company did not recover sufficiently to recoup losses suffered the previous year. Trawler Management and its affiliates were forced to cease all operations in December 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by Trawler Management, Inc. and its affiliates, B & M Shrimp Company, M & B Shrimp Company, Jan, Inc., Ge-Ric, Inc. and Tara Lou, Inc., all of Tampa, Florida, contributed importantly to the total or partial separation of the workers of such firms. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Trawler Management, Inc. and its affiliates, B & M Shrimp Company, M & B Shrimp Company, Jan, Inc., Ge-Ric, Inc. and Tara Lou, Inc., all of Tampa, Florida, who became totally or partially separated from employment on or after December 1, 1975 and before January 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-35793 Filed 12-6-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13026; SR-Amex-76-26]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 1, 1976.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

On October 18, 1976, the American Stock Exchange, Inc. filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change would require that options in the same "series of options" have the same unit of trading.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12923, (October 26, 1976)) and by publication in the FEDERAL REGISTER (41 F.R. 48007 (November 1, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on October 18, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-35970 Filed 12-6-76;8:45 am]

[Administrative Proceeding File No. 3-5092; File No. 81-230]

BRISTOL-MYERS INTERNATIONAL FINANCE CO.

Application and Opportunity for Hearing

NOVEMBER 16, 1976.

Notice is hereby given that Bristol-Myers International Finance Company ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for a finding that an exemption from the requirements to file reports pursuant to section 13 of the 1934 Act would not be inconsistent with the public interest or the protection of investors.

Section 12(b) of the 1934 Act provides that an issuer may register securities on a national securities exchange by filing a registration statement with both the exchange and the Securities and Exchange Commission which registration statement contains information as to the issuer and any person directly or indirectly controlling or controlled by the issuer as the Commission may require for the protection of investors or in the public interest.

Section 13 of the 1934 Act requires that issuers of securities registered pursuant to section 12 must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration or periodic reporting provisions under sections 12 and 13, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states in part:

1. Applicant, a Delaware corporation, is a wholly-owned subsidiary of Bristol-Myers Company ("Bristol"). Applicant was organized for the purpose of making investments in connection with Bristol's foreign operations.

2. In 1965, Applicant issued $15,000,000 aggregate principal amount of 4½% Guaranteed Debentures due 1980 (the "Debentures").

3. The Debentures are unconditionally guaranteed as to payment of principal and interest and are convertible into the common stock of Bristol.

4. The Debentures were offered in accordance with procedures designed to prevent their sale in the United States or its territories or to nationals or residents thereof.

5. The Debentures are listed on the New York Stock Exchange and are registered pursuant to section 12(b) of the 1934 Act.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to section 13 of the 1934 Act because the Debentures are registered with both the New York Stock Exchange and the Commission.

Accordingly, Applicant believes that the exemptive order requested by it is appropriate in view of the fact that only two transactions involving trades of the Debentures on the NYSE have occurred since 1970, and that since the Debentures are guaranteed by Bristol and convertible into the common stock of Bristol, it is the reports of Bristol and not those of Applicant, in which investors would be primarily interested.

Notice is further given that any interested person not later than December 13, 1976 may submit to the Commission in writing his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature and the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[ER Doc.76-35971 Filed 12-6-76;8:45 am]

[Rel. No. 19784; 70-5848]

CONSOLIDATED NATIONAL GAS CO.

Post-Effective Amendment Regarding Proposed Acquisition of Capital Stock of Subsidiary Company and Open Account Advances to Subsidiary Companies

DECEMBER 2, 1976.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020; Consolidated Gas Supply Corporation, Consolidated System LNG Company, CNG Producing Company, CNG Research Company, The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, West Ohio Gas Company; (70-5848).

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and certain of its subsidiary companies, Consolidated Gas Supply Corporation, Consolidated System LNG Company ("LNG Company"), CNG Producing Company ("CNG Producing"), CNG Research Company ("CNG Research"), The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, and West Ohio Gas Company, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated June 1, 1976, and August 2, 1976 (HCAR Nos. 19550 and 19636), the Commission authorized Consolidated and certain subsidiary companies to engage in various transactions in connection with the Consolidated System's financing program for 1976. Further financing for the subsidiaries is now proposed as follows.

It is stated that LNG Company will require short-term financing for construction of $11,000,000 in 1977 prior to the authorization of its financing program for that year. Therefore, Consolidated proposes to make open account advances to LNG Company for construction in amounts aggregating not more than $11,000,000 from time to time through May 31, 1977, such open account advances to bear interest at the prime commercial rate of interest (presently 6.50%) at The Chase Manhattan Bank, N.A., in effect from time to time. The advances will be repaid through long-term financing which will be a part of an application-declaration requesting approval for the Consolidated System's financing program for 1977.

Consolidated also proposes to make open account advances of up to $15,500,000 to CNG Producing, principally to finance exploration and development of Gulf offshore leases. Such advances will be made from time to time through May 31, 1977, and will bear interest at the prime commercial rate of interest at The Chase Manhattan Bank, N.A., in effect from time to time. The advances, to

the extent outstanding, will be repaid through long-term financing to be requested in the System's 1977 financing program.

Finally, it is stated that CNG Research will require financing of $1,300,000 from Consolidated during the period January through May 1977. Consolidated intends to acquire for cash 6,000 shares of common stock of CNG Research, $100 par value, aggregating $600,000, pursuant to the Commission's order of December 22, 1975, approving Consolidated's acquisition of CNG Research (HCAR No. 19307). To complete said required financing, Consolidated and CNG Research now propose that CNG Research issue and sell 7,000 shares of its common stock, $100 par value, and Consolidated acquire for cash such shares at an aggregate par value of $700,000 prior to May 31, 1977. Any financing required by CNG Research subsequent to May 31, 1977, will be included in the Consolidated System's filing with the Commission for its 1977 financing program.

Consolidated also proposed that the Rule 24 certificates of notification regarding the proposed transactions be filed on a quarterly basis.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $500.

Notice is further given that any interested person may, not later than December 27, 1976, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed:

Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applicant-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem application-declaration, as now amended ing or advise as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-35972 Filed 12-6-76;8:45 am]

[Release No. 34-13027]

RULES OF SELF-REGULATORY ORGANIZATIONS

Section 31(b) Review

Section 31(b) of the Securities Acts Amendments of 1975 (the "1975 Amendments")[1] essentially provides that if it appears to the Commission, at any time within one year of the effective date of any of the 1975 Amendments to the Securities Exchange Act of 1934 (the "Act"),[2] that the organization or rules[3] of any national securities exchange or association registered with the Commission on June 4, 1975, do not comply with the Act as amended, the Commission shall notify the self-regulator in question, specifying the respects in which it is not in compliance with the Act. On or after the 180th day following receipt of such notice, and after notice and opportunity for hearing, the Commission may by order suspend the self-regulatory organization's registration, or limit its activities, functions or operations, if it appears to the Commission that the self-regulator's organization or rules do not comply with the Act. Section 31(b) stipulates that any such sanction shall subsist until the Commission, by order, declares that the self-regulatory organization is in compliance with the Act.

In March, 1976, the Commission announced that it was undertaking a general inquiry with respect to rules of national securities exchanges relating to membership and association with members in light of the amendments to the Act made by the 1975 Amendments.[4] In that connection, the Commission gave written notice to each national securities exchange concerning certain of their rules which might not be consistent with sections 6(b)(2), 6(b)(5) and 6(b)(8) of the Act, as amended. The Commission at that time invited each exchange to make a presentation of views, data and arguments. Attached to the letters sent to the exchanges was a staff memorandum describing the particular exchange rules which raised questions under the Sections of the Act cited in the letters.[5]

In its action today, the Commission is completing notice to exchanges under Section 31(b) and is also giving notice under Section 31(b) to the National Association of Securities Dealers, Inc. (the "NASD"), which is the only securities association registered under the Act. To that end, the Commission today sent to the exchanges and the NASD a letter describing in general terms the types of exchange and NASD rules that appear not to be consistent with the Act, as amended, and attached to each letter an enumeration specifically citing the rules concerned and identifying also particular Sections of the Act which the rules appear to contravene.[6]

Text of Notice. The text of the Commission's letter of notice is as follows:

The Commission has recently concluded a review of the rules of certain self-regulatory organizations intended to identify those rules which appear not to comply with the provisions of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"). It appears that, as indicated in the enclosed materials, your rules may not be consistent with the Act, as amended.

Under the Act, the Commission is permitted to elect to pursue one or more courses with respect to particular rules of national securities exchanges or national securities associations found to be incompatible with provisions of the Act. Under section 19(c) the Commission may, for example, abrogate or amend such rules if necessary or appropriate to insure the fair administration of a self-

[1] Pub. L. No. 94-29, § 31(b) (June 4, 1975) [hereinafter cited by section as 1975 Amendments]. § 31(b), which derives from proposed legislation antedating the 1975 Amendments, evolved as a means of conforming the rules of existing self-regulatory organizations to the Act, as amended, without requiring the re-registration of these organizations. See H.R. 4111, 94th Cong., 1st Sess. §§ 102(r), 107(m) (1975) (national securities exchanges and national securities associations respectively); H.R. 5050, 93d Cong., 1st Sess. §§ 202(r), 207(m).

[2] Pursuant to § 31(a) of the 1975 Amendments, the amendments to §§ 3(a)(12), 6(a)-(d), 11A(b), 15(a), 15A, 15B(a), 17A(b), (c) & 19(g) of the Act became effective on December 1, 1975, and the amendments to § 31 of the Act became effective on January 1, 1976.

[3] The term "rules," when used hereinafter with reference to the rules of a national securities exchange or a national securities association, carries the meaning set forth in § 3(a)(27) of the Act and 17 CFR § 240.19b-4 under the Act. The rules of the national securities exchanges and associations have heretofore been filed with the Commission. Prior to the 1975 Amendments, such rules were filed pursuant to the former §§ 240.17a-8 (national securities exchanges) or 240.15A j-1 (national securities associations). Since the enactment of the 1975 Amendments, pursuant to § 240.19b-4, any change in, addition to or deletion from such rules is filed with the Commission for its approval. In certain cases, exchange rules may antedate the adoption of former § 240.17a-8; these rules, however, were reflected in official publications of exchange rules.

[4] Securities Exchange Act Release No. 12157 (March 2, 1976), 41 FR 10662 (March 22, 1976).

[5] The Commission published the staff memorandum at *id.*, Appendix B.

[6] The discussion of particular rules of exchanges and the NASD is not intended to cover all issues arising from the Commission's review of self-regulatory rules, but merely to outline some of the salient considerations involved. The additional materials transmitted to the NASD and each national securities exchange have been placed in the Commission's public files. While certain other exchange rules governing trading, e.g., those imposing affirmative and negative trading obligations upon specialists, also appear to raise significant questions under the Act, the Commission believes that action with respect thereto should be deferred in order that structural changes in the securities markets now occurring or contemplated my be duly assessed in light of the objectives of the Act. The Cincinnati Stock Exchange and the Spokane Stock Exchange are in the process of developing comprehensive proposed amendments to their rules and their current rules will therefore be superseded in their entirety.

regulatory organization, to conform its rules to the requirements of the Act and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of the Act. Alternatively, the Commission is authorized under section 31(b) of the 1975 Amendments, among other things, to impose limitations on the activities, functions and operations of a national securities exchange or association if the Commission finds, after written notice specifying the respects in which such self-regulatory organization is not in compliance with the Act, and after notice and opportunity for hearing, that the rules of such organization are not in compliance with the Act. Moreover, the Commission could determine, in appropriate cases, to adopt directly its own substantive rules or to invoke other remedies appropriate to secure compliance with the provisions of the Act.

In March, 1976, the Commission sent to each national securities exchange written notice of exchange rules relating to membership and association with members that appeared not to be consistent with sections 6(b)(2), 6(b)(5) and 6(b)(8) of the Act, as amended. In that notice, the Commission also invited each exchange to make a presentation of views, data and arguments concerning whether the specified rules comply with the Act. Today, the Commission is giving written notice as to additional rules of exchanges that appear not to comply with the Act, as amended. The Commission is also giving notice to the National Association of Securities Dealers, Inc. (the "NASD"), concerning NASD rules that appear not to comply with the Act, as amended.

While the Commission is specifying in the enclosed materials the rules of your organization which do not appear to comply with particular provisions of the Act, the Commission has not yet drawn final conclusions concerning these rules or any of them; nor should the identification in the enclosed materials of particular rules of your organization be construed to indicate that there may not be questions with respect to the compliance of other such rules with the Act.

For your convenience, we outline below some of the salient concerns precipitated by the rules of certain self-regulatory organizations, including your own. Our discussion encompasses matters relating to (i) a national market system for securities and exchange rules regulating trading patterns or practices, (ii) the provisions of sections 6 and 15A of the Act regulating the conduct of national securities exchanges and associations and the scope and content of their rules, and (iii) rules of such organizations regarding the processing of securities transactions.

I. National Market System and Rules Restricting Trading Practices

Section 11A of the Act directs the Commission to facilitate the establishment of a national market system for securities in accordance with certain congressional findings and objectives.[7] In addition, sections 6(b)(5) and 15A(b)(6) provide that the rules of national securities exchanges and associations, respectively, must be designed, among other things, "to remove impediments to and perfect the mechanism of a free and open market and a national market system." A major basis underlying the 1975 Amendments was the congressional judgment that "because of excessive and unnecessary regulatory restraints, competition in the securities industry has not been as vigorous and as effective in advancing the public interest as it could be."[8] The Congress, therefore, charged "the Commission with an explicit obligation to eliminate all present and future competitive restraints that cannot be justified by the purposes of the * * * Act."[9]

Certain exchange rules relating to trading patterns or practices appear not to comply with the Act, as amended. Some of these areas of concern are summarized below.

(a) *Exchange Rules Prohibiting Specialists from Dealing Directly with Certain Persons.* Certain exchange rules prohibit specialists from dealing directly with institutions, as well as certain affiliates of a listed company.[10] Historically, such rules arose out of concerns as to potential conflicts of interest operating in derogation of a specialist's general market making obligations and his fiduciary duty to public limit orders on his book. However, these rules require exchange members to choose between conducting a business with or for institutional customers and engaging in specialist activities. Further, such rules appear inconsistent with section 6(b)(5), which proscribes unfair discrimination between dealers or customers. For these reasons, it appears that the protections which investors may derive from such rules may be outweighted by their apparent inconsistency with the Act, as amended.

(b) *Parity, Priority and Precedence in Order Execution.* Exchange rules governing priority and precedence in the execution of bids and offers uniformly grant price priority. However, certain of these rules as queuing devices for orders at a particular price, have been fundamentally criticized for preferring size precedence over time priority, especially in the context of limit orders.[11] It appears that to the extent size precedence operates to defeat a limit order's time priority, such rules may unfairly discriminate between customers.

(c) *Obsolete Exchange Rules Pertaining to Trading Practices.* Our review of the rules of the self-regulatory organizations has disclosed instances where, as a result of changing business practice or statutory evolution, particular provisions appear to require revision or elimination at this time.

For instance, certain exchange rules require members to obtain approval before engaging in specified forms of off-board trading activity,[12] or require prior exchange approval of certain deviations from normal trading practices, without specifying the circumstances under which such approval will be granted or denied.[13] Such rules appear to impose in-

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[7] Specifically, Congress determined that the securities markets are an important national asset to be preserved and strengthened; that new data processing and communications systems create the opportunity for more efficient and effective markets; that it is in the public interest to assure (i) economically efficient mechanisms for the execution of transactions; (ii) fair competition among brokers and dealers, among markets and between exchange markets and over-the-counter markets; (iii) the availability of information with respect to quotations for, and transactions in, securities; (iv) the practicability of brokers executing investors' orders in the best market; and (v) an opportunity for investor orders to be executed without the participation of a dealer, so long as such opportunity would be consistent with clauses (i) and (iv); and that the linking of all markets for qualified securities through communications and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers and investors, facilitate the offsetting of investors' orders and contribute to the best execution of such orders. See § 11A(a)(1)(C) of the Act.

[8] Senate Committee on Banking, Housing and Urban Affairs, Report to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Sess. 18 (1975) [hereinafter cited as Senate Report]; see House Committee on Interstate and Foreign Commerce, Report to Accompany H.R. 4111, H.R. Rep. No. 94-123, 94th Cong., 1st Sess. 49 (1975).

[9] Senate Report, supra note 2, at 13; see, e.g., §§ 6(b)(8), 19(b), 19(c), 19(e), 19(f) and 23(a) of the Act. The Senate Report, however, indicated that this directive should be implemented within the context of other statutory objectives:

> This explicit obligation to balance, against other regulatory criteria and considerations, the competitive implications of self-regulatory and Commission action should not be viewed as requiring the Commission to justify that such actions be the least anti-competitive manner of achieving a regulatory objective. Rather, the Commission's obligation is to weigh competitive impact in reaching regulatory conclusions. The manner in which it does so is to be subjected to judicial scrutiny upon review in the same fashion as are other Commission determinations, with no less deference to the Commission's expertise than is the case in other matters subject to its jurisdiction.

Id. at 13.

[10] See American Stock Exch. R. 190(b); New York Stock Exch. R. 113(a).

[11] See New York Stock Exch. R. 72; cf. American Stock Exch. R. 126(g). See also American Stock Exch. R. 108, governing priority and parity at openings. This rule appears to discriminate against limit order customers at the opening, both by according priority to subsequently placed market orders and by granting parity to previously undisclosed limit orders held in the crowd.

[12] See, e.g., New York Stock Exch. R. 437 (requiring exchange approval to conduct off-board international arbitrage activities).

[13] See, e.g., New York Stock Exch. R. 391 (requiring exchange approval to effect a retail distribution of a block through the facilities of the exchange away from the regular auction market).

appropriate restraints upon fair competition between exchange members and non-members and may unduly hinder the economically efficient execution of securities transactions. Rules prohibiting members from transacting business with non-members while on the floor of the exchange also appear to erect obstacles to the attainment of the statutory objectives of fair competition among brokers and dealers and the economically efficient execution of securities transactions.[14]

II. Conduct and Rules of Self-Regulatory Organizations

Prior to the 1975 Amendments, Section 6 of the Act did not prescribe the substantive contours of exchange rules, other than to stipulate that such rules must be "just and adequate to insure fair dealing and to protect investors." [15] The 1975 Amendments added—as Section 6(b) of the Act—express requirements pertaining to the scope, substance and effect of exchange rules.[16] Certain of these provisions incorporate by reference sections 6(c) and 6(d) of the Act, respectively dealing with restrictions upon membership on an exchange, and procedural safeguards pertaining to disciplinary action by an exchange.[17] In addition, section 6(e) of the Act prohibits a national securities exchange from imposing any schedule (or otherwise fixing rates) of commissions, allowances, discounts or other fees to be charged by its members.

We summarize below some of the apparent instances of non-compliance with these sections of the Act disclosed by our review of the rules of the NASD and the several national securities exchanges.

(a) *Restrictions Upon Membership, Access or Association.* In the Commission's general inquiry into rules of national securities exchanges pertaining to membership and association with members,[18] the Commission discussed, among other things, exchange rules dealing with eligibility for membership, regulation of foreign persons, restrictions on the formation and operation of member or associated corporations, partnerships and other business organizations, restrictions on business affiliations, and rules on sponsorship. This letter of notice expands the Commission's inquiry to encompass certain rules of the NASD relating to such matters, and brings to the attention of all the self-regulators certain additional rules regarding these matters which appear not to comply with one or more provisions of the Act, as amended.[19]

(b) *Fair Representation of Members and the Public.* Sections 6(b)(3) and 15A(b)(4) together require the rules of each exchange and the NASD to assure fair representation of their members in the selection of directors and the administration of the affairs of the self-regulatory organization, and further stipulate that one or more directors shall be representative of issuers and investors and not associated with any member, broker, or dealer.

Questions appear to exist concerning whether rules pertaining to the governance of certain exchanges conform to these standards. For instance, it would seem that the statutory requirement of fair representation not only encompasses the initial selection of directors, but also inquires whether, pursuant to certain exchange rules,[20] fair representation is thereafter maintained on such bodies as board committees to which an exchange's board of directors may delegate its functions.

(c) *Allocation of Dues, Fees and Other Charges.*[21] Sections 6(b)(4) and 15A(b)(5) together require that the rules of national securities exchanges and associations provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using their facilities. These provisions seem to call into question, for example, the rules of certain exchanges imposing charges upon members measured by their net commission income from floor transactions; it appears that such rules may inequitably burden floor members effecting primarily brokerage transactions.[22]

(d) *Procedural Safeguards in Disciplinary Proceedings.* Sections 6(b)(7) and 15A(b)(8) of the Act require that the rules of national securities exchanges and associations, respectively, provide a fair procedure for the disciplining of their members and associated persons, the denial of membership or association with a member, and the prohibition or limitation of access to services offered by the self-regulator or a member thereof. These provisions incorporate by reference sections 6(d) and 15A(h), which prsecribe procedural norms controlling in any proceeding by the exchanges or the NASD to determine whether a member or associated person should be disciplined, or whether any person should be denied membership or association with a member, or prohibited or limited respecting access to services offered by that self-regulator or a member thereof. Summary proceedings are authorized—subject to Commission review—only in limited instances primarily involving persons either subject to subsisting sanctions imposed by another self-regulator, or experiencing financial or operational difficulty which endangers the safety of investors, creditors, other members or the self-regulator.

These procedural safeguards, incorporated into the Act by the 1975 Amendments, spring from congressional concern that the self-regulators' exercise of such "governmental-type" powers conform to "fundamental standards of due process." [23] Congress was also troubled by the then existing disparity between the provisions of section 15A prescribing procedural norms respecting NASD disciplinary proceedings.[24] Consequently, the 1975 Amendments subject the exchanges and the NASD to virtually congruent regulatory schemes concerning procedural safeguards and right of Commission review.

In this connection, the rules of exchanges and the NASD appear to include a number of disciplinary provisions which do not yet fully incorporate the procedural safeguards now prescribed by the Act. Most frequently, these rules appear to provide for summary suspension or termination of membership in situations not within the boundaries of permissible summary action demarcated by the Act.[25]

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[14] E.g., New York Stock Exch. R. 54; see note 4 supra and accompanying text. In addition, such rules appear to be at odds with Rule 19c-1 under the Act, which delineates the permissible scope of exchange restrictions upon off-broad agency trades. See also American Stock Exch. R. 6; New York Stock Exch. R. 396 (restricting off-board transactions in bonds).

[15] 15 U.S.C. § 78f(d) (1970), as amended, 1975 Amendments § 4.

[16] Substantially conforming amendments to § 15A(b) of the Act created similar requirements applicable to the rules of national securities associations. *See* 1975 Amendments § 12(2).

[17] Accord, § 15A(b)(3), (8) (incorporating §§ 15A(g), (h) which impose similar restraints upon registered securities associations).

[18] Securities Exchange Act Release No. 12157 (March 2, 1976), 41 FR 10662 (March 12, 1976).

[19] For instance, through their regulation of certain communications mechanisms, some exchange rules appear to deny, restrict or condition the access of a registered broker or dealer to services offered by such exchange or its members. E.g., American Stock Exch. Const. art. II, § 2 & RR. 220–22, 500–05 (authority to disapprove or discontinue, without reference to specific standards, non-member access to ticker or quotation services, or electronic communications between members and other persons). Other exchanges have similar rules. E.g., New York Stock Exch. RR. 36, 356; Philadelphia Stock Exch. R. 444. See also Midwest Stock Exch. art. XII, R. 4; id. art. XVI, R. 1.

[20] E.g., New York Stock Exch. Const. art. III, § 1 (board committees). See also Midwest Stock Exch. Const. art. IV, § 4; Pacific Stock Exch. Const. art. III, § 2(b); Philadelphia Stock Exch. By-Laws art. V, § 5–3 (all reserving positions on governing boards and committees to particular classes of members).

[21] See also notes 20–22 infra and accompanying text.

[22] E.g., Midwest Stock Exch. art. XXVII, R. 2, New York Stock Exch. Const. art. X, § 2.

[23] Senate Report, supra note 2, at 24–25.

[24] Id. at 25.

[25] E.g., American Stock Exch. R. 112 (suspension of registered traders); National Association of Securities Dealers By-Laws art. I, § 13(b) (summary cancellation of membership by reason of statutory disqualification); New York Stock Exch. Const. art. XIII, §§ 1–8 (summary suspension on account of insolvency or failure to perform contracts; procedures regarding reinstatement). See also American Stock Exch. Const. art. V, § 3; Boston Stock Exch. Const. art. XVI, §§ 9 & 10; Midwest Stock Exch. Const. art. XII, § 3; id. [Rules] art. XIII, RR. 1–6; id. art. XVI, R. 9 id. art. XXI, R. 3; New York Stock Exch. Const. art. XI, § 13; id. art. XIII, §§ 1–8; id. R. 345; Pacific Stock Exch. Const. art. VI, § 3; id. art. VIII, § 6(b); Spokane Stock Exch. Const. art. XIV; id. art. XVI, § 2.

(e) *Rules Related to Fixed Commission Rates or Fee Schedules.* Section 6(e) of the Act now prohibits any national securities exchange from imposing any schedule or fixing any rate of commission, allowance, discount, or other fee to be charged by its members. Nonetheless, many exchange rules still contain references to former schedules of fixed rates of commissions[20] while other rules reflect assumptions to the effect that members are required to charge a fee.[21] Such rules appear to be inconsistent with the statutory prohibition to the extent that they perpetuate the former environment of prescribed fee schedules and fixed rates of commission. Such rules may also pose unnecessary burdens on competition inconsistent with section 6(b)(8).

Other exchange rules provide that odd-lot limit orders are to be executed at the limit price plus or minus any odd-lot differential which is assessed.[22] Aside from their apparent incompatibility with section 6(e), these rules appear to militate against fair competition among brokers and dealers, and may inhibit the execution of odd-lot orders in an economically efficient manner.

RULES REGARDING THE PROCESSING OF SECURITIES TRANSACTIONS

Section 17A(a)(2) of the Act directs the Commission "to use its authority under [the Act] to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities * * *" having due regard for, among other things, the maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents.

Consistent with the mandate of section 17A, sections 6(b)(5) and 15A(b)(6) of the Act require that the rules of a national securities exchange and of a national securities association be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling * * * and facilitating transactions in securities, * * *" and sections 6(b)(8) and 15A(b)(9) of the Act prohibit the rules of national securities exchanges and associations from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In addition, section 11A(c)(5) of the Act stipulates that "[n]o national securities exchange or registered securities association may limit or condition the participation of any member in any registered clearing agency." These sections of the Act together contemplate that relationships, if any, between the several securities marketplaces and registered clearing agencies will facilitate the prompt and accurate processing of securities transactions, raise no unnecessary barriers to competition and, engender no unfair discrimination among brokers and dealers, clearing agencies, and transfer agents.

The historical role of clearing agencies as adjuncts to the securities markets led to the development of rules and procedures which, while initially descriptive of necessary securities processing relationships, have lost with the passage of time much or all of their original purpose. These rules and procedures have become restraints on competition by tying the clearance and settlement of securities transactions to the market in which those transactions occur and have impeded the development of efficient methods of clearance and settlement by discouraging technological innovation. For example, the rules of several national securities exchanges and of the NASD subject securities contracts to the requirements of the by-laws and rules of clearing agencies affiliated with those organizations, even though members of such exchanges and the NASD might prefer to utilize other clearing agencies.[23] The rules of several exchanges appear to afford affiliated clearing agencies priority over other creditors of a member, including other clearing corporations, in the distribution of proceeds arising from the sale of the member's exchange seat.[24]

The foregoing and similar rules of the exchanges and the NASD, including those dealing with purely functional and clerical matters (such as signature guarantees[25] and required office locations for transfer agents[26]), appear, among other things, to discourage or preclude an exchange or NASD member from (i) using a clearing agency not affiliated with the exchange or the NASD, (ii) exploring clearance and settlement alternatives not involving any clearing agency, and, (iii) directly or through agents, utilizing clearing agencies for only a limited part of the clearing and settlement process. In addition, such rules appear to limit inappropriately the range of entities which may act as transfer agents for transactions in a given marketplace.

REQUEST FOR SELF-REGULATORY REVIEW

Prior to any further action by the Commission, we request that your organization review carefully those of its rules discussed above and cited in the enclosed materials in light of the provisions of the Act specified therein. To the extent that you concur that one or more of these rules are inconsistent with the provisions of the Act cited in connection therewith, we request your organization, as promptly as possible and without the commencement of further proceedings by the Commission, to take all action necessary to effect appropriate amendments thereto.

In addition, we request that on or before February 1, 1977, you make a preliminary written presentation to the Commission detailing, with respect to all rules which are the subject of this notice, the amendments and proposed amendments to your rules which you have filed or intend to file, and, as to those rules which you believe to be in compliance with the Act, listing the basis upon which you conclude that further action by your organization is necessary.

* * * * *

Dated: December 1, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-35973 Filed 12-6-76;8:45 am]

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[20] E.g., Boston Stock Exch. ch. VII, § 4; id. ch. XII-A; id. ch. XIV; Midwest Stock Exch. art. XXIII, R. 2; Philadelphia Stock Exch. RR. 459, 671.

[21] E.g., Boston Stock Exch. Const. art. XXV, § 4; New York Stock Exch. R. 115A Supplementary Material .20; Philadelphia Stock Exch. By-Laws art. XXVI, § 26-4.

[22] E.g., American Stock Exch. R. 205; Boston Stock Exch. ch. XII-A; Midwest Stock Exch. art. XXV, RR. 6 & 7; Pacific Stock Exch. R. II, § 8(b). See also Midwest Stock Exch. art. XXVIII, R. 4; New York Stock Exch. R. 440 Supplementary Material H.10; Philadelphia Stock Exch R. 676; Pacific Stock Exch. R. IX, § 19(b) (requirement that members pass statutory registration fee on to customers).

[23] See, e.g., New York Stock Exch. Const. art. XII, § 3; Boston Stock Exch. Const. art. XVII, § 3; Philadelphia Stock Exch. By-Laws § 16-4; National Association of Securities Dealers By-Laws art. XVII (proposed amendment pending before the Commission).

[24] See, e.g., American Stock Exch. Const. art. IV, Sec. 4(d) (Second); Midwest Stock Exch. art. I, R. 14(a)-2; Chicago Bd. Options Exch. R. 3.15(b); Pacific Stock Exch. Const. art VII, § 4(a).

[25] See, e.g., American Stock Exch. R. 774; Midwest Stock Exch. art. VI, R. 34.

[26] See, e.g., American Stock Exch. R. 891; New York Stock Exch. R. 496.

SMALL BUSINESS ADMINISTRATION

[License No. 09/12-0007]

SMALL BUSINESS ENTERPRISES CO.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Small Business Enterprises Company (SBEC), 555 California Street, San Francisco, California 94104, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed with the Small Business Administration (SBA) an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

SBEC will invest $500,000 in Paradyne Corporation (Paradyne), 8550 Ulmerton Road, Largo, Florida 33540. After the transaction SBEC will own 6.7 percent of Paradyne's outstanding common stock. This transaction falls within the purview of § 107.1004 of regulations because Western Investment Associates (WIA) is an associate of SBEC, and WIA owns more than ten percent of the outstanding equity capital of Paradyne and is represented on Paradyne's Board of Directors. SBEC and WIA are associates due to SBEC being a wholly owned subsidiary of Bank of America National Trust and Savings Association which is wholly owned by BankAmerica Corporation. BankAmerica Corporation is a general partner in West Ven Management, a

partnership which acts as general partner and investment advisor for WIA.

Notice is hereby given that any person may, not later than December 21, 1976, submit to SBA in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in both San Francisco, California, and Clearwater, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 1, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-35896 Filed 12-6-76;8:45 am]

SUSQUEHANNA RIVER BASIN COMMISSION

GANG MILLS, NEW YORK LOCAL FLOOD PROTECTION PROJECT AND BINGHAMTON WASTEWATER MANAGEMENT STUDY

Public Hearing

DECEMBER 6, 1976.

Notice is hereby given that the Susquehanna River Basin Commission will hold a public hearing at 2:30 p.m. on Thursday, January 13, 1977, at the Penn Harris Motor Inn, U.S. Routes 11 and 15, Camp Hill, Pennsylvania immediately following its regularly scheduled meeting. The purpose of the hearing is to gather data and public reaction on two individual projects: the Gang Mills, New York Local Flood Protection Project; and the Binghamton Wastewater Management Study. Hearing results will aid Commission action on these projects with respect to adoption as part of the SRBC's Comprehensive Plan.

The Gang Mills Local Flood Protection Project is designed to provide protection from a 100-year flood upon completion of the Tioga-Hammond Lakes Project by the Corps of Engineers. The New York Department of Environmental Conservation sponsored project consists of the following features:

1. Construction of 11,900 linear feet of new levee, height 12-15 feet, along the Tioga River.

2. Rehabilitate 4,400 linear feet of existing levee.

3. Diversion of Beartown Creek, a major tributary of Gang Mills Creek, to a point outside the line of protection. This work includes 8,200 linear feet of new creek channel, 7,200 linear feet of levees, and twin structural plate pipe arch culverts for South Hamilton Street.

4. In addition to the creek diversion, permanent easements were obtained to provide over 500 acre-feet of temporary storage for interior drainage.

5. Levees of homogeneous rolled earth fill construction for the project are designed to include 3-foot freeboard with 10-foot top width and 1 or 3 sideslopes.

6. Hamilton Street will be raised to the levee top elevation to avoid a closure structure. Utility lines will be relocated and a culvert replaced on Beartown Road.

7. Medium stone filling will be provided in all sections where design flow exceeds 6 fps.

The Binghamton Wastewater Management Study, a cooperative endeavor supported by Federal, State, local and interstate agencies as well as concerned citizens in Broome and Tioga Counties, was a two-year effort that resulted in developing a planning tool for the continuing assessment and evaluation of water quality and related resources. The study, as sponsored and led by the Baltimore District, Corps of Engineers, made a systematic comparison of major alternatives in terms of technical feasibility; environmental social economic impacts; implementation arrangements; and public acceptability.

The Commission has determined that Plan of Choice No. 2 satisfies the minimum requirements of the SRBC Comprehensive Plan. Plan No. 2 provides secondary treatment of wastewaters within the central urban core in Broome and Tioga Counties from the City of Binghamton downstream to the Village of Owego, New York to maintain a minimum dissolved oxygen level between 4 and 5 mg/l at the 7-day, 10-year flow in the Susquehanna River. The plan represents a course of minimum action and financial impact for complying with New York State Department of Environmental Conservation water quality standards. Three options were provided under Plan No. 2 with major differences in the options being the number, location and construction timing of wastewater treatment plants. Option 2C, as noted by Commission staff, provides the apparent optimum Plan of Choice because it provides a large degree of flexibility for achieving more stringent water quality standards on an incremental basis in a cost-effective manner.

Information regarding the Gang Mills Project is available from the SRBC at 5012 Lenker Street, Mechanicsburg, Pennsylvania 17055 and from the New York DEC office at P.O. Box 57, Avon, New York 14414. Information on the Binghamton Wastewater Management Study is available from the SRBC and from the New York DEC office at Room 880, State Office Building, Binghamton, New York 13901.

Persons wishing to participate in the hearing may present oral and/or written testimony, and are requested to contact the Secretary of the Commission, in writing, prior to the hearing. The hearing record will remain open for three weeks following the hearing and written comments may be submitted during this period.

ROBERT J. BIELO,
Executive Director.

[FR Doc.76-35912 Filed 12-6-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

PRIVACY ACT OF 1974

Additions, Changes and Deletions to Notices of Systems of Records

The Department of Transportation herewith deletes 22 systems of records, publishes 5 new proposed systems, and republishes 3 systems notices which have been substantially changed.

Any person or agency may submit written comments on the proposed systems to the Privacy Act Officer (TAD-20), Room 10320, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Comments must be received by January 6, 1977, to be considered.

If no comments are received, the proposed systems will become effective on January 6, 1977. If comments are received, the comments will be considered and where adopted, the system will be republished with the changes.

This notice supplements the Notices of Systems of Records to be republished by the Office of the Federal Register under the title "Privacy Act Issuances, 1976 Compilation, Volume 2." Deletions and changed systems should be noted in that compilation which contains all systems of records reported by the Department of Transportation as of August 15, 1976.

Issued in Washington, D.C. on November 26, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

DELETIONS OF NOTICES

The following notices of systems of records should be deleted from the notices previously published by the Department and compiled in the annual FEDERAL REGISTER publication "Privacy Act Issuances, 1976 Compilation, Volume 2". The reason for deletion is listed with each system to be deleted:

DOT/OST-007—Contracts are with business entities or proprietorship; not retrived by names of individuals; no personal information.
DOT/OST-017—File no longer maintained.
DOT/OST-033—File no longer maintained.
DOT/OST-047—No longer maintained.
DOT/OST-052—No longer maintained.
DOT/OST-053—No longer maintained.
DOT/TSC-705—Inadvertently retained in computerized Privacy Act file, after deletion was announced in Volume 41, FR 28051 of July 8, 1976; system was abolished May 26, 1976.
DOT/TSC-710—Files discontinued.
DOT/CG-562—Can not be retrieved by name or identifier of individuals.
DOT/CG-563—Same as 562 above.
DOT/CG-631—No longer maintained separately.
DOT/NHTSA-439—Statistical data, not traceable to individuals.
DOT/NHTSA-440—Duplicate or records published elsewhere.
DOT-NHTSA-441—Statistical data, not traceable to individuals.
DOT/NHTSA-445—Maintained and reported by GSA, Motor Equipment Services Division.

DOT/NHTSA-448—Records are reported in another system.
DOT/NHTSA-453—Previously reported in another system.
DOT/NHTSA-462—Records reported previously.
DOT/FRA-107, 108, 110, 117—These four personnel records convenience files no longer maintained as of May 26, 1976.

CHANGES TO SYSTEMS NOTICES

DOT/OST-13—change the title to "Employee Management Convenience Files-Audit"

System Location:

Delete the first location listed beginning with "Department of Transportation" and ending several lines later with "Washington, D.C. 20590."

Categories of Records:

Delete "Time and attendance records."

DOT/OST-027, DOT/CG-589, DOT/CG-624—are republished in total because of extensive changes:

DOT/OST 027

System name:

Personnel Reference Files DOT/OST.

System location:

Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Room 10101, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590.

Categories of individuals:

TES employees.

Categories of records:

Standard Form 52. Position descriptions. TES Personnel Printout. Key Executive Book. Copies of Commendations and awards. Payroll and Leave Records. Training Records. Travel Records (includes travel orders, travel vouchers, change of official duty station records, claim for reimbursement).

Routine uses:

For the individual's use none of the above records are kept in individual folders, but are filed chronologically, or by organization or subject for general reference only. To review travel records to prepare corrections or prepare statistics of travel performed. To review in relation to personnel actions. To prepare time and attendance cards. Budgetary information and reports. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Records consist of copies or original documents and are maintained in official filing systems.

Retrievability:

The personnel records are indexed chronologically; and travel and training records are indexed by subject or organization. Payroll and leave records are indexed by organization.

Safeguards:

Physical security is maintained by locked file cabinets. Any individuals requesting personnel files are screened by administrative personnel.

Retention and disposal:

Personnel records are retained during employment and up to one year after employee resigns, retires, or is transferred. Payroll and leave records are retained during employment and up to three years after employee resigns, retires, or is transferred. Records for budgetary purposes are retained indefinitely. All records are disposed of as trash.

System managers:

Executive Officer, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Room 10101 Department of Transportation, 400 7th Street SW., Washington, D.C. 20590.

Notification procedure:

The individual may present himself in person or in writing to the System Manager where files are held to inquire about whether records apply to him.

Record access procedure:

The individual may gain access to his records upon request, as under "Notification Procedure."

Contesting record procedure:

Contest of these records will be in writing to the System Manager where the files are located, as listed above. If request is not resolved, the individual may file an appeal to: Office of the General Counsel, Department of Transportation, Room 10428, 400 7th Street SW., Washington, D.C. 20590.

Record source categories:

Information copies provided by the individual. Information copies provided by the Office of Personnel. Information copies from time and attendance cards. Information copies generated from travel and training program.

DOT/CG 589

System name:

U.S. Merchant Seamen's Records.

System location:

Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-MVP), 400 7th Street, SW, Washington, DC 20590. Portions of these records may be located at the Marine Inspection Office or the Marine Safety Office where the seaman was documented.

Categories of individuals:

U.S. Merchant Seamen.

Categories of records:

Personnel File. Shipping Articles. Locator List. Log Books. Seamen's License Records. Fingerprint Records. Disciplinary Records. Security Records.

Routine uses:

Used to determine qualification of individuals for issuance of Merchant Mariners Documents. Used by individual seaman, seamen's representatives, seaman's next of kin, law enforcement agencies, other government agencies, attorneys, welfare agencies and limited use by the general public. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

The personnel file will be stored on updateable microfiche and limited personal data will reside on computer disks and magnetic tapes. The above media will be continuously updated as new or additional data is received. The remainder of the records will be stored in file folders in paper form.

Retrievability:

The personnel file on microfiche will be accessed from its storage cabinet by a coded identifier of the location of the record within the cabinet. The data on the computer record will be retrieved by direct terminal access with the selection of data elements determined by the authorized user. Retrieval will be by name and cross indexed under ID (i.e., "Z", "BK", or Social Security Number).

Safeguards:

Personnel files on microfiche are stored in the locked retrieval cabinet. The data on the computer file can be retrieved only via "password" identifier with users being permitted access only to that portion of the overall file that has previously been determined as meeting their needs. The file folders are maintained in locked rooms.

Retention and disposal:

Personnel files are held 3 years for unlicensed personnel and 10 years for licensed personnel after last activity, then transferred to a holding area where they may be destroyed after 60 years of inactivity. Shipping Articles are held 3 years then transferred to a Federal Records Center where they are considered historical data and are not destroyed. Disciplinary Records are maintained in paper form. Administrative Law Judge's Decisions and Orders and Appeal File are transferred to a Federal Records Center after 5 years. Commandant's Decision on Appeal and National Transportation Safety Board Decisions and Orders are retained. Disciplinary Record Cards are destroyed upon notice of death.

System manager:

Chief, Office of Merchant Marine Safety, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, DC 20590.

Notification procedure:

Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW, Washington, DC 20590. In order to determine if a record for an individual exists, it is necessary that the applicant furnish the complete name in which

the document was issued, the serial number of the document (i.e., "Z", "BK", and/or Social Security Number), and his date and place of birth. A written request must be signed by the individual.

Record access procedure:

Procedures may be obtained by writing Commandant (G–CMA) or visiting at the address in "Notification Procedure" or the Marine Inspection Office or Marine Safety Office where the document was issued for locally maintained portions.

Contesting record procedure:

Same as "Record Access Procedure".

Record source categories:

Personnel File—Date furnished by the seamen, U.S. Coast Guard officials, other Federal Agencies and employer. Shipping Articles—Vessels' operators, seamen, masters of vessels, State Department, and Coast Guard officials. Disciplinary Records—Furnished by the Investigating Officers at the various Marine Inspection and Marine Safety Offices.

Exemptions:

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k)(2), which provide, in part that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT/CG 624

System name:

Personnel Management Information System (PMIS).

System location:

Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G–P), 400 7th Street, SW, Washington, DC 20590.

Categories of individuals:

All regular Coast Guard personnel on active duty. All Reserve Coast Guard personnel on extended active duty and Reserve personnel on initial active duty for training.

Categories of records:

A single computer record which currently contains about 450 data elements on each member. Some data elements are used only for enlisted, others only for officers. The file contains personal information such as name, place of birth, rank, location, etc. The file also contains pay date elements which will form the basis for deriving pay entitlements for Coast Guard military personnel under the Joint Uniform Military Pay System (JUMPS).

Routine uses:

The file is used to produce a number of reports used throughout the Coast Guard. Types of reports are: Locator Listing for Headquarters and Districts, Personnel Roster for the unit to assist in verifying information, Number of personnel in pay grades for advancement levels and budget expenditures, Current reports for this system of rec-Guard for this system, Queires and batch processing are used to recruitment levels, Various Coast Guard offices receive the locator listing and management reports, Government agencies other than Coast Guard categories, See prefatory statement of General Routine Uses.

Policies and practices:

Storage:

The storage is on computer disks with tape backups. The file is updated once a week. Once a month the file is dumped to a tape file for historical purposes.

Retrievability:

Retrieval from the system is by use of name or Social Security Number or a combination of personal and non-personal characteristics.

Users retrieve information direct from the file through card input or direct terminal access. Data elements to be retrieved and method of use are selected by the user.

An extract file containing summary records is produced monthly for use on a "time sharing" system. Retrieval of information from this extract is by direct terminal access only. Data elements to be retrieved and method of use are selected by the user.

Safeguards:

The computer provides privacy and access limitations by requiring a user name and password match. In addition each element of the file has its own level of accessability which must be held by the user. Only those staff components at Headquarters with a need to have access to the file are given user names and passwords. Access to the "Time Share" extract is similarly controlled. The back-up tapes and monthly dumps also have limited access in that users must justify the need before they are provided the tape number.

Retention and disposal:

End-of-Year system backup tapes and day to day transaction tapes are retained indefinitely. Statistical and other report extract tapes are recycled into the system and consequently destroyed. Paper working files are disposed of in accordance with current record disposal instructions.

System manager:

Chief, Office of Personnel, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, DC 20590.

Notification procedure:

Inquiries should be directed to: Department of Transportation, United States Coast Guard Headquarters, Commandant (G–CMA), 400 7th Street, SW, Washington, DC 20590.

Record access procedure

Procedure may be obtained by writing to or visiting Commandant (G–CMA) at the address in "Notification Procedure". Prior written notification of personal visits is required to insure that the records will be available at the time of visit. Proof of identity will be required prior to release of records. A military identification card, driver's license or similar document will be considered suitable identification.

Contesting record procedure:

Same as "Record Access Procedure".

Record source categories:

The data to update the file comes from copies of official service record entries prepared by field units. The data is entered on tape for update of the computer files.

REPORTS ON NEW SYSTEMS OF RECORDS

The following systems of Records are being reported publicly for the first time. This is for the most part as a result of new programs since the Act became effective. Others were overlooked in 1975 and having been found to require reporting are now being published as proposed systems in accordance with the requirements of the Act.

DOT/CG 537

System name:

FHA Mortgage Insurance for Servicemen.

System location:

Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G–F), 400 7th Street, SW, Washington, DC 20590.

Categories of individuals:

U.S. Coast Guard Military Personnel who have applied for Federal Housing Administration Mortgage Insurance.

Categories of records:

Selected aspects of FHA Mortgage Insurance Records for military personnel, including copies of Form DD–802, "Request for and Certificate of Eligibility" and Form DD–803, "Certificate of Termination".

Routine uses:

Used to enable management to verify that billings from FHA are correct, and payable from Coast Guard funds. Users are authorized Coast Guard personnel.

Policies and practices:

Storage:

Records are filed manually in closed file cases.

Retrievability:

Folders are filed by named individual, alphabetically. Copies of documents are filed chronologically in the folders together with a record of payment.

Safeguards:

Access is limited to user staff members. After duty hours the building is patrolled by roving security guards.

Retention and disposal:

Files are maintained as long as a member is covered by an insured mortgage loan; 3 years after, files are forwarded to Federal Records Center. Destroyed 4 years after case files are closed.

System manager:

Chief, Office of Comptroller, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, D.C. 20590.

Notification procedure:

Contact Commandant (G–CMA), U.S. Coast Guard Headquarters, Washington, D.C. 20590. The written request should include the requestors name in full and signature.

Record access procedure:

Procedures may be obtained by writing Commandant (G–CMA), at the address above, or by visiting the Coast Guard Headquarters, 400 7th Street, SW, Washington, D.C. Proof of identity will be required prior to affording an individual access to his records. A military identification card, a drivers license, or similar document will be considered suitable identification.

Contesting record procedure:

Same as "Record Access Procedure".

Record source categories:

From individual concerned and the Federal Housing Administration.

DOT/FHWA 221

System name:

Panel for the Santa Monica Demonstration Project.

System location:

Held by Market Facts, Inc., 100 So. Wacker Dr., Chicago, IL 60606, for the Urban Planning Division, Federal Highway Administration, Department of Transportation, 400 7th Street, SW, Washington, DC 20590.

Categories of individuals:

A random sample of residents from the Los Angeles area.

Categories of records:

Names, addresses and telephone numbers are located on the questionnaire. Information from the questionnaire is stored on magnetic tape and can be accessed by an identifying number (interview number). A list of names, addresses and phone numbers associated with the interview number are separately filed. The questionnaire contains information regarding: Transportation commute patterns, frequency of mode use, trip characteristics, and satisfaction with various ways of traveling, Perceptions and importance ratings of modal attributes; tradeoff data on required service levels, Intentions to alter commuting behavior in response to various transportation system modifications, Perceptions of service changes based on transportation management actions, Perceived similarity of transportation modifications, Sociodemographic information, e.g., age, race, income, sex, children.

Routine uses:

Names are associated with the interview numbers after interviews are recorded. Information from the questionnaire is analyzed statistically without refernce to any specific individual. The Urban Planning Division will use the data obtained from the surveys in the development of mode choice models, to assess transportation system modifications and to calibrate systematically induced mode shift models. Both the statistical analyses and statistical data will be made available to interested administrators in the Department of Transportation, Federal Energy Administration as well as to the California State Department of Transportation and the Southern California Association of Governments. Other researchers interested in the Santa Monica transportation system management evaluation will also be given access to purely statistical information. Names, addresses and telephone numbers are retained for the sole purpose of locating the sample to be re-interviewed a second time.

Policies and practices:

Storage:

The questionnaire is stored in a locked file cabinet in the Chicago Office of Market Facts, Inc. Two individuals have keys to the cabinet, Mr. Frank Griffiths, V.P. of Market Facts, and Mr. Bob Kranz, project analyst. There are three complete copies of the master list with names, afid addresses and phone numbers; one is held by the field supervisor in Los Angeles, one by Mr. Bob Kranz, and by Mr. Frank Griffiths. The names and addresses were placed on labels to be attached to the questionnaires, under the supervision of Mr. Frank Griffiths. No additional copies are to be made without approval of the Urban Planning Division, DOT. Magnetic tapes are stored in the tape libraries at Market Facts, Inc., and at the Department of Transportation. Again data from the tape can only be identified with an individual when the interview number is matched against a master list.

Retrievability:

Questionnaire information is stored on tape and is retrievable only through and identifying number (Interview number). This must be matched with a list of interview numbers if it is necessary to associate with names. The questionnaires themselves can be accessed from the files only under the supervision of Mr. Frank Griffiths.

Safeguards:

All identifying materials are under lock; only two individuals directly working on the project have keys to the files; a guard is on duty 24 hours a day. The list which assign names to interview numbers is kept separately from the data stored on tape.

Retention and disposal:

The record list of names and interview numbers will be retained until Phase II interviewing and coding is completed. The questionnaire will be kept in locked-storage for three years to ensure accessibility if significant errors in transcription were to be determined.

System manager:

Ricardo dePaul Dobson and Mary Lynn Tischer HHP–22, Urban Planning Division, FHWA, DOT, 400 7th Street, SW, Washington, DC 20590.

Notification procedure:

Inquiries should be directed to the System Managers.

Record access procedure:

Contact System Managers for information on procedures for gaining access to records.

Contesting record procedures:

Contact System Managers for information on procedures for contesting records.

Record source categories:

Private list with no transmission expected.

DOT/NHTSA 465

System name:

Improved Motorcyclist Licensing and Testing Project (IMLTP).

System location:

Department of Motor Vehicles, Division of Electronic Data Processing Service, 2415 First Avenue, Sacramento, California 95818.

Categories of individuals:

Applicants for original motorcycle license or endorsement.

Categories of records:

Name, Driver's License Number, Address, Birthday, Sex, Educational level, Previous Experience Riding Motorcycles, Application Data, Knowledge Test Total Scores and Item Scores, Knowledge Test Administration Date, Mini-Skill Test Total Scores and Item Scores, Drive Test Administration Date, Drive Test Total Scores and Item Scores, Remedial Skills Training Data, Date Attended Remedial Skills Training, Accident and Conviction Record Since Date of Application.

Routine uses:

The Evaluation Specialist will use the system for the following: To evaluate the effect of the licensing programs on accidents and convictions. To determine the validity of the tests. To evaluate the ef-

fect of remedial skills training on subsequent acidents and convictions. To evaluate the influence of applicant characteristics on the licensing rate and on the accident reducing effectiveness of the licensing program. To prepare management information system reports.

Storage:

Policies and practices:

Magnetic tape.

Retrievability:

By I.D. Number of drivers license Number.

Safeguards:

The contents of the collected data will not be available to any public source. The Tape Library is in a locked room with controlled access.

Retention and disposal:

The records will be kept on tape until ten years after completion of the study. Then the ID No., Application No. or Drivers License No. will be erased, and the records will be available to other researchers.

System manager:

Chief, Program and Demonstration Management Division, ODPP. Room 5130, 400 7th Street, SW, Washington, DC 20590.

Notification procedure:

Inquiries should be directed to: Department of Transportation, National Highway Traffic Safety Administration, Room 5301, 400 7th Street, SW, Washington, DC 20590. Atten: Director, Office of Contracts and Procurement (N48-30).

Record access procedure:

Write or contact System Manager.

Record source categories:

All of the information in the system comes from the motorcycle subject file, the Driver's License Examiner file, or the driver's license files of the State of California.

DOT/NHTSA 466

System name:

National Highway Traffic Safety Administration Employee Travel Advances and Expense File.

System location:

Room 4103, DOT Headquarters Building, 400 7th Street, SW, Washington, DC 20590.

Categories of individuals:

NHTSA Employees at Headquarters and the ten Regional Offices Intergovernmental Personnel Act Employees of NH TSA Temporary Employees of NHTSA.

Categories of records:

Employee Name Employee Number Travel Order Number Travel Advances Outstanding: Continuing Advance Amount and date issued Trip advance amount and date issued Change of Station advance amount and date issued Payments of advances.

Travel Expense:

Subsistence Transportation of Persons.

Routine uses:

To maintain accountability of travel and transportation costs by object class for each allottee—Budget and Accounting Report—RIC-0031. To control funds advanced to employees for travel and change of station. To record detail of transactions processed for each budget allotment/allowance—Operating Budget—RIC09032.

Policies and practices:

Storage:

Original records are maintained by the Office of Financial Management as follows: Travel Orders, DOT 1500.3 and DOT 1500.4 Travel Vouchers, SF-1012 Travel Advance Record, DOT 1500.5 Data coded from these documents are keypunched to cards and processed for disc storage.

Retrievability:

Job controls (JCL's) for retrieving data for periodic reports are maintained. Each report is identified by Report I.D. and by Report Name.

Safeguards:

JCL's are kept in a locked cabinet under custody of System Manager.

Retention and disposal:

Original Records are retained in accordance with the Comptroller General's requirements for record retention. Punched cards are disposed of three months after processing as input to disc. Hard copies of report are retained for one year.

System manager:

Chief, Accounting Operations Room 4103, Office of Financial Management 400 7th Street, SW National Highway Traffic Safety Administration Washington, DC 20590.

Notification procedure:

Address all inquiries to: Privacy Act Coordinator, Room 4103 Office of Financial Management National Highway Traffic Safety Administration 400 7th Street, SW Washington, DC 20590 Request for data may be made by any employee of NHTSA concerning the employee's own record. Request must be in writing and must identify: System Name: DOT/NHTSA Travel Advances and Expense Employee Number Employee Name.

Record access procedure:

All inquiries as to procedures for gaining access to and Contesting records shall be directed to: Privacy Act Coordinator—Room 4103 Office of Financial Management National Highway Traffic Safety Administration 400 7th Street, SW Washington, DC 20590.

Record source categories:

DOT Form 1500.2 Application and Account for Advance of Funds DOT Form 1500.3 Travel Order for Temporary Duty DOT Form 1500.4 Travel Order for Permanent Change of Station SF-1012 Travel Expense.

DOT/UMTA 181

System name:

Attendees Names and Addressees for R. & D. Priorities Conference.

System location:

UMTA Office of Research and Development and American Public Transit Association (acting as contractor to UMTA).

Categories of individuals:

Persons attending first R. & D. Priorities Conference in February 1976; those to be invited to the second and subsequent annual conferences, and those to whom copies of the proceedings of each conference are to be sent.

Categories of records:

These records contain names, organizational affiliation and addresses only.

Routine uses:

Including categories of users and the purposes of such uses: To communicate plans for planned conferences to likely participants. To distribute to participants and those who have requested, or are likely to benefit from, informational materials, proceedings, and other documents related to UMTA's research, development and demonstration activity. Records are subject to examination by federal officials concerned with the dissemination of research and development information, but are not disclosed to members of the public (except through publication in the proceedings of names of individuals who actually participate in each conference).

Policies and practices:

Storage:

Paper documents in file system.

Retrievability:

Alphabetically by name.

Safeguards:

Access is restricted to officials of UMTA and APTA involved in planning and disseminating information about conferences.

Retention and disposal:

Records are maintained in current status. Deleted names and addresses are discarded completely. The system itself will be discarded within two years after the last R. & D. priorities conference of the current series has been concluded.

System manager:

Official responsible is Executive Assistant to Associate Administrator for Research and Development, URD-3, UMTA, Washington, D.C. 20590.

Maintenance procedures:

Individual names and addresses are added to the list by the system manager or, at his direction, by the contractor. Names are removed when the Postal Service reports an incorrect address with no forwarding address or when individuals request removal.

Record access procedures:

No access permitted individuals since the only personal data concerning them is their current address.

[FR Doc.76-35725 Filed 12-6-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of System of Records

On August 24, 1976, the Office of the Secretary published for comment by interested persons (41 FR 35734-5) a proposal to revise the Treasury Payroll/Personnel Information System—Treasury/OS 00.054.

One comment was received. It was suggested that the notice include the information that former employees are covered. Former employees are not covered by this system. Accordingly, the system is adopted as proposed and is republished below.

Dated: November 30, 1976.

WARREN F. BRECHT,
Assistant Secretary (Administration).

TREASURY/OS 00.054

System name:

Treasury Payroll/Personnel Information System (To be implemented between 26 September 1976 and July 1978)—Treasury/OS.

System locations:

Interenal Revenue Service Data Center, Box 1100, Detroit, Michigan 48232, and U.S. Old Mint Data Center Division, 88 5th Street, San Francisco, California 94103.

Categories of individuals covered by the system:

All Treasury Department employees and employees of other agencies using the system.

Categories of records in the system:

Personnel and payroll data on all Treasury Department employees and employees of other agencies using the system. Minority Group Designator (MGD) in compliance with Civil Service Commission Regulations.

Authority for maintenance of the system:

The Civil Service Commission in the Federal Personnel Manual (Chapter 291), establishes control of the automated personnel information under the agency Director, Personnel. The Department of the Treasury, in the Fiscal Requirement Manual, establishes control of the automated payroll information under the agency Fiscal Assistant Secretary. 5 U.S.C. 301. The use of the social security account number is authorized by Executive Order 9397, November 22, 1943.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To generate the necessary payroll information, deductions and allotments to pay employees biweekly.
2. To furnish the necessary information to concerned agencies and state and city taxing authorities required by law.
3. To provide input to management information systems, and related accounting and budget systems, from the basic payroll and personnel master file.
4. To provide the Civil Service Commission with data on pay, leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions.
5. To supply information to other federal agencies, on properly authorized request, necessary for the fulfillment of programs authorized by statute or executive order.

For additional routine uses, see Appendix AA, 41 FEDERAL REGISTER 45532-45533, October 14, 1976.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records:

Master file is kept on disc and magnetic tape. Information concerning the employee is retrieved through the use of the individual's name and/or Social Security Number. Information is reduced to hard copy in the form of reports and payroll information and documentation. The Director of the computer facility, where the system is located, is the designated Treasury official responsible for the on-site security of the data and the proper and timely processing of the system and to insure that data is maintained and handled in the computer facility in such a manner that will guard against the invasion of privacy of employees as set forth in all pertinent regulations. Disposition not yet authorized by the National Archives and Records Service. A formal request is in progress, proposing erasure in annual increments five years from the end of the calendar year in which the record was created. Should the disposition ultimately approved be materially different from the one outlined here, further notice will be made in this publication.

System manager and address:

Chief, Treasury Employee Data and Payroll Division, Department of the Treasury, Washington, D.C. 20220.

Notification, access and contest procedure:

By written request to the Bureau designee listed below. Requesters must state own name, social security account number, name of employing Bureau, and geographical location of facility or duty station to which assigned.

Bureau designees:

Office of the Secretary. Director, Office of Management and Organization, Department of the Treasury, 15th and Pennsylvania Avenue NW, room 4408, Washington, D.C. 20220.

Bureau of Alcohol, Tobacco and Firearms. Assistant Director for Administration, Federal Building, room 4212, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

Comptroller of the Currency. Director, Finance and Administration, 490 L'Enfant Plaza East SW., Fifth Floor, Washington, D.C. 20219.

U.S. Customs Service. Assistant Commissioner for Administration, 1301 Constitution Avenue NW., room 3124, Washington, D.C. 20229.

Bureau of Engraving and Printing. Assistant Director for Administration, 14th & C Streets SW., room 113M, Washington, D.C. 20228.

Federal Law Enforcement Training Center. Assistant Director for Administration, Glynco Facility, Brunswick, Georgia 31520.

Bureau of Government Financial Operations. Assistant Commissioner for Administration, Annex 1, room 600-E, Washington, D.C. 20226.

Internal Revenue Service. Assistant Commissioner (Administration), 1111 Constitution Avenue NW., room 3308, Washington, D.C. 20224.

Bureau of the Mint. Assistant Director for Administration, Warner Building, room 942, 501 13th Street NW., Washington, D.C. 20220.

Bureau of the Public Debt. Assistant Commissioner, Engraving and Printing Annex, room 648, 14th & D Streets SW., Washington, D.C. 20226.

U.S. Savings Bonds Division. Director of Administration, 1111 20th Street NW., room 219, Washington, D.C. 20226.

U.S. Secret Service. Assistant Director (Administration), 1800 G Street NW., room 850, Washington, D.C. 20223.

Records source categories:

The Processing Clerk enters each new employee's personnel and payroll information on a copy of the SF-50, SF-52, or other standard input documents and transmits it to the processing data center. Subsequent personnel or payroll data is forwarded in this manner also.

[FR Doc.76-35819 Filed 12-6-76;8:45 am]

[Public Debt Series—No. 32-76]

TREASURY NOTES, SERIES F-1980

Interest Rates

DECEMBER 1, 1976.

The Secretary of the Treasury announced on November 30, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 32-76, dated November 23, 1976, will be 5⅞ percent per annum. Accordingly, the notes are hereby redesignated 5⅞ percent Treasury Notes of Series F-1980. Interest on the notes will be payable at the rate of 5⅞ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-35853 Filed 12-6-76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on December 21, 1976, at 9:30 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Shelby State Community College, 1588 Union Avenue, Memphis, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: November 29, 1976.

R. S. Bielak,
Director, VA Regional Office, 110 9th Avenue, South, Nashville, Tennessee.

[FR Doc.76–35913 Filed 12–6–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 654–6]

IMPLEMENTATION OF TOXIC SUBSTANCES CONTROL ACT

Public Meeting

On November 23, 1976, the Environmental Protection Agency (EPA) published in the Federal Register, 41 FR 51648, a notice of public meeting to be held December 14 and 15, 1976, in Washington, D.C., on the implementation of the toxic Substances Control Act (TSCA) Pub. L. 94–469. The purpose of this meeting is to receive comments from all interested parties on issues relevant to the Act and its implementation. A draft list of issues representing various points of view identified so far is included in this notice following the meeting agenda. The Agency is interested in having comments on any of these issues and/or on other aspects of this statute.

The morning of the first day will be a plenary session during which there will be a presentation by EPA on the principal provisions of TSCA and Agency actions to date followed by an opportunity for general comments or questions from attendees. The afternoon of the first day will be divided into four concurrent sessions to provide an opportunity for comments on more specific aspects of the legislation and its implementation. EPA staff members will attend each session to receive comments. The morning of the second day will again be a plenary session at which the moderators will present reports on the subsessions. An opportunity will also be provided for general observations and comments by attendees.

The proceedings will be recorded and a transcript available for public inspection after January 1.

Subject to time limitations, all those wishing to make brief oral presentations will be given the opportunity to do so and are asked to notify, in writing or by telephone, Mr. Richard Somoskey, Office of Toxic Substances (WH–557), Room 711, East Tower, U.S. Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C., 20460, telephone number (202) 755–4880, prior to December 13. Written comments are welcome and may be submitted to the same address.

Dated: December 3, 1976.

Kenneth L. Johnson,
Acting Assistant Administrator for Toxic Substances.

Agenda

December 14

Thomas Jefferson Auditorium, U.S. Department of Agriculture, Room 1072, South Agriculture Building, 14th and Independence Ave., SW., Washington, D.C. (enter Wing Four on Independence Ave.).

9–10:30 a.m.—General overview; review of principal provisions of TSCA; EPA actions to date; TSCA strategy group, integrated toxic strategy group, TSCA implementation activities.

10:30–12 m.—Questions and discussion.

2–5 p.m.—(Concurrent sessions.)

General policy issues, Department of Agriculture Auditorium.

Testing issues, Pierre Room, L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, SW., Washington, D.C.

Premarket/initial inventory issues, Hall of States A, Skyline Inn, South Capitol and I Streets, SW., Washington, D.C.

Other issues including research/data, systems/discretionary reporting/confidentiality/state programs, Hall of States B, Skyline Inn, South Capitol and I Streets, SW., Washington, D.C.

December 15

Department of Agriculture Auditorium

9–10:30 a.m.—Reports on concurrent sessions.

10:30–12 m.—Observations by attendees.

List of Issues Identified Relevant to Implementation of the Toxic Substances Control Act (Pub. L. 94–469)

General Issues

Strategic Policy Issues

1. EPA spokesmen have repeatedly stated that the overall objective of TSCA is to reduce the probability of chemical incidents harmful to man or the environment without unnecessarily raising the costs of products, retarding R&D, distorting the configuration of US industry, or jeopardizing our international competitive position. Should this objective be reaffirmed, modified, or changed? If so, how? Can more precise near-term objectives be specified which will be useful in measuring the favorable and unfavorable impacts of the legislation on societal interests?

2. Implementation activities will impact on industry in at least three ways, namely, imposition of specific requirements under TSCA; support of specific requirements under other authorities; and stimulation of new patterns of industrial R&D, of different industrial approaches to toxic chemicals in general, and of modified buying, selling, and diversification strategies. How important is strict enforcement of specific TSCA regulations in the context of the broader impacts that the legislation will undoubtedly have?

3. In the absence of any TSCA implementation experience, should differing emphases be given to different sections of the law and to different activity areas at the outset? If so, what should be the considerations in determining emphases? How can a mid-course correction capability to adjust these emphases be built into implementation? How should the emphases be manifested (e.g., resource allocations, management attention, public statements). Among the areas of concern are:

(a) Assessment and regulation of old chemicals vs. new chemicals.

(b) Attention to many chemicals vs. more detailed attention to a few.

(c) Preliminary premarket screening of many new chemicals as an "alert" device vs. detailed premarket assessment of a few new chemicals to trigger regulation during the 90-day period.

(d) Chemical-by-chemical approach vs. category-by-category approach.

(e) Information acquisition to support other agencies vs. information acquisition to support EPA.

(f) Information acquisition vs. regulatory actions.

(g) Acquisition of exposure data vs. acquisition of toxicity data.

(h) Developing sound TSCA data system vs. reorientation of Government-wide data systems.

(i) Use of existing test methods vs. development of new test methods.

(j) Use of information acquisition authority to assess specific plants vs. to assess industrial trends.

(k) Systematized approach to chemical prioritization vs. "ad hoc" priority decisions at time resources are committed.

4. How aggressively should EPA at the very outset develop regulations under Sections 4 and 6 taking into account (a) limitations on available resources and uncertainties concerning the most important problem chemicals on the one hand, and (b) at the same time the backlog of unattended known problems, the Congressional interest, and the need for EPA to exert early leadership in setting priorities?

5. To what extent, and how, should flexibility be built into the implementation approach to accommodate unanticipated crisis chemicals and citizen's petitions? What external parties should be involved in determinations as to the priority to be given to such unanticipated developments? In this regard should citizens petitions be subjected to "peer" review?

6. To what extent and how should Government-sponsored research on effects of specific chemicals be reoriented in view of the policy declaration that such testing is the responsibility of industry? Under what circumstances should the Government conduct testing of effects of specific chemicals (e.g., vali-

date new methods, avoid delays in requiring industry tests, confirm suspect data).

7. What types of actions should require formal Environmental Impact Statements? What should be the purpose of these statements? To what extent should the statements be relied upon as the device to gain meaningful public participation? To what extent will they be redundant of the analyses inherent in actions under TSCA? Will they slow down the rulemaking process?

8. Should rules of procedures for hearings for all relevant sections be developed through rulemaking at the outset?

9. How aggressively and through what mechanisms should the United States seek international consistency in the testing and regulation of toxic substances? In the absence of such consistency, what steps can be taken to help insure equal treatment of US manufacturers, importers, and exporters?

Linkages Among Sections

10. Should a section 8 reporting requirement be imposed on all existing chemicals for which testing under section 4 is required? for which a regulatory action short of a ban is taken under section 6? for all new chemicals reported under section 5 subsequent to the 90-day period.

11. Should a "significant new use" premarket notification requirement under section 5 be required for all new uses of chemicals partially regulated by section 6?

12. Should all new chemicals (note: Probably chemical classes) subject to testing under section 4 also be put on the "risk" list under Section 5?

13. Should the "use" categories developed for the routine premarket notification form under section 5 and for the reporting form under section 8 be the same "use" categories as for reporting significant new uses under section 5?

14. To what extent, if at all, should the activities of the Technical Assistance Office be related to inspection activities? to evaluation of the overall impact of the legislation?

15. Should the list of "risk" chemicals under Section 5 include all chemical classes subject to testing under section 4?

16. Are there any linkages between section 6 (regulatory actions) and section 9 (relationship to other laws) that should be addressed in a general sense or is a case-by-case approach more appropriate?

17. To what extent, if at all, should the division of responsibility for research between EPA (Section 10) and HEW (section 27) be clarified?

18. To what extent, if at all should the division of responsibility for data systems between EPA (Section 10) and CEQ (section 25) be clarified?

19. Several definitional questions may affect more than one section of TSCA. In some instances consistency would seem appropriate. Among the issues are:

(a) What type of chemical intermediates should be included in the initial inventory and be subject to premarket notification (e.g., those that leave plant property, leave a building, leave a totally enclosed pipe and kettle system)? Should the same definition delimit the scope of section 4 (i.e., testing)? What are the environmental implications of delimiting coverage of intermediates? the operational implications? the trade secret implications?

(b) Should there be a minimum poundage requirement for chemicals on the inventory and for those subject to premarket notification?

If so, what should the cutoff be? If not, how will research chemicals be defined to exclude them?

(c) Should there be guidelines to determine when the constituents of a mixture react "incidentally"?

(d) Is there a need to clarify what is regulable under FIFRA and the Atomic Energy Act and therefore not regulable under TSCA?

(e) Should there be general ground rules for defining chemical classes or should the definition be addressed on a case-by-case basis?

(f) Can chemical "equivalency" be clarified in the abstract?

SECTION-BY-SECTION ISSUES

Testing

20. What should be the purpose of developing test data? To provide a basis for near-term regulatory decisions? By EPA? By other agencies? To identify potential problem chemicals for further investigations? To delimit the world of problem chemicals? To stimulate additional and improved industry test activities?

21. To what extent should test requirements for specific chemicals be tied with concomitant efforts to develop exposure and economic information so that when test data are received, decisions can be made on appropriate regulatory action?

22. Should more detailed criteria be developed for prioritizing chemicals for testing? What would be the legal and operational implications of such criteria?

23. How can EPA assure that the test data are credible? Can the FDA inspection program service EPA's needs? Will this cover foreign testing labs?

24. Should test requirements be structured largely around chemical classes? How broad can a class be and still be legally defensible?

25. Should test requirements consist of general guidance under which industry must develop and submit detailed protocols for EPA approval? or should EPA initially promulgate definitive requirements?

26. Will testing be required on the pure chemical or the technical grade chemical? or will this be decided on a case-by-case basis?

27. How will OSHA's needs for toxicology data based on 40 hours per week exposure be reconciled with EPA's need for data based on 24 hours per day?

28. How can test data submitted by industry be best formatted to assist in the subsequent decision-making process? (Does this presuppose development of a decision-making framework and/or procedures for evaluating the results of the required tests?)

29. Is any useful purpose served by attempting to define "health risk" in the abstract or should this be more appropriately addressed on a case-by-case basis?

30. What cost-sharing formulae will be used to provide reimbursement? For data which are yet to be developed vs. existing or in development data? Small business considerations?

31. What is the role of the Testing Committee and priority? What reliance should be placed on its recommendations? What level of rationale will be attached to the list of 50? Should EPA propose testing requirements prior to receiving the Committee's initial recommendations? Should the Committee be considered as a source of recommendations for regulatory as well as testing recommendations?

32. Can the Test Committee list for priority attention 50 chemical "classes?"

33. To what extent should TSCA test requirements for specific effects be consistent with FDA and FIFRA requirements for the same effects? How much of a delay can be tolerated in seeking this consistency among the three programs?

34. Should there be a relationship between the extent of testing that is required and (a) the likely exposure, and (b) the value of the chemical?

35. With regard to test petitions concerning new chemicals, what should be the character and product of informal discussions that are required to attempt to avoid the necessity for the petitions?

36. When is it appropriate for the processor rather than the manufacturer to conduct tests?

37. How are the availability of facilities and personnel to be determined? Should test requirements be limited by "existing" facilities or should they be used to stimulate development of additional facilities?

Premarket Notification

38. What can be done to discourage/avoid premarket 'false alarms'? Charge a notification fee? Require subsequent reporting under section 8? Put a time limit on the validity of the notification?

39. How should premarket notifications be formatted to help ensure that the five-day deadline for FEDERAL REGISTER publication will be met? How will claims of confidentiality be handled?

40. Should EPA determine and specify in the abstract what data shall be considered as adequate or adverse and possible EPA responses for the several categories of submissions (e.g., if a testing rule exists: if there is no testing rule, but a chemical is on the list; if there is no testing rule and a chemical is not on the list)? Or is this a case-by-case determination?

41. Should criteria be developed to provide guidance as to when (and what type of) action should be taken under (e) and (f) (e.g., when a court injunction should be sought to prohibit manufacture of a chemical)? What EPA or in-

dustry (or other) actions will follow? What would be the legal and operational implications of such criteria?

42. To what extent, under what circumstances, and for what purposes should EPA require premarket notification of significant new uses of existing chemicals? What will be defined as a "significant new use"? How can "uses" be categorized in an environmentally meaningful way?

43. To what extent, under what circumstances, and for what purposes should EPA place chemicals on the premarket "risk" list? How do chemicals on this list relate to chemicals for which testing is required under Section 4? Should a test protocol be developed for each chemical on the list? How important is this list? What will be the review system (is there a viable matrix?) against which to predict behavior/risk associated with new chemicals?

44. How will exemptions be defined and handled? Should EPA publish guidance for industry on this?

45. When are intermediates subject to premarket notification? If they leave plant property? If they leave a building? If they leave a closed system?

46. What general factors could trigger a justified extension of the notice period? Should these be set forth in the abstract or must they be case-by-case determinations?

47. What on-call capability should EPA have to confirm questionable premarket notification data? Effects data? Other data?

48. Should guidelines be developed to clarify "test marketing"?

49. How will the premarket notification "gap" from July to December 1977 be handled?

50. How will "small quantities" be clarified?

51. In the event that the molecular identity of a new chemical is confidential, will publication in the FEDERAL REGISTER of the generic class allow meaningful public input into premarket deliberations? How will "for commercial purposes" be defined? This delimits the coverage of section 5.

Regulation and Imminent Hazard

52. Is there a need to clarify in the abstract how the authorities in section 6 relate to other authoriites or should this be done on a case-by-case basis? For example:

(a) "Quality control" authority vs. OSHA authority.

(b) "Labelling" authority vs. authority of OSHA, CPSC, and DOT.

(c) "Disposal" authority vs. authority of Resource Conservation and Recovery Act.

(d) "Handling" vs. in-transit storage authority of DOT.

53. Is it the case that for the required PCB regulations, EPA is "not" required to consider and publish a statement on the risks, benefits and costs?

54. Does the authority to regulate chemicals which are contained in their original state in products—including imported products—need clarification or should this be addressed on a chemical-by-chemical basis?

55. Should there be a general policy concerning the desirability of having labelling and disposal requirements apply retroactively to existing products or should this be addressed on a case-by-case basis?

56. Should criteria be developed in the abstract for invoking the different authorities of sections 6 and 7? Or should this be a case-by-case decision? What are the legal implications of such criteria?

Reporting and Recordkeeping

57. A number of questions are important with regard to the initial inventory, including:

(a) Should the initial "straw" list be based on available data and industry required only to supplement the list? Should only Government data be used in this approach or should "unconfirmed" data from SRI and other sources also be used?

(b) What criteria should be used for "basket categories" in the list? How detailed should the description of these categories be?

(c) What happens in terms of publishing the inventory if a manufacturer can show that the molecular structure of an existing chemical, which is not a basket category, is confidential?

(d) Should data in addition to the chemical structure (e.g., use, by-products) be collected when compiling the inventory? What would be the operational implications? What evidence is there that anyone really wants such data?

(e) How will natural products be handled?

58. What evidence should there be that someone is ready to use the data collected under discretionary reporting prior to requiring such data?

59. Should there be general discretionary reporting procedures established by rulemaking with the specific reports on specific chemicals or specific facilities required by subsequent FR notices or by letters comparable to the FWPCA 308 procedure?

60. How can recordkeeping requirements best serve the interests of other Federal agencies (e.g., OSHA) and state authorities?

61. Does notification (section 8e) overlap the spill reporting authority of FWPCA? How should this be sorted out? Is it necessary to clarify "substantial risk"? Does this have implications for other sections?

62. Will "health and safety studies" need clarification?

63. Should "environmental" criteria influence the definition of "small business"?

Relationship to Other Laws

64. If action has been transferred to another agency, but that agency has not acted, should the action be retrieved by EPA if new data are developed?

65. Does reducing the number of agencies involved in regulating a chemical, and presumably improving efficiency of regulation, serve "the public interest"?

66. How can EPA minimize distorting the priorities of other agencies when transferring actions?

67. How strong a case of risk should be made before action is transferred to another agency?

Research and Data Systems

68. How should research priorities be set? for EPA? for the Government? Is general guidance on priorities in addition to that set forth in TSCA desirable?

69. What are the training needs? Who pays the bill?

70. How can access to confidential information collected under TSCA be facilitated without losing secure control of the data?

Inspections

71. Is inspection of a plant appropriate if the plant is not required to comply with a TSCA regulation? What would be the purpose of the inspection?

72. Should the purpose of inspection be to scout problems or insure compliance?

73. Can EPA inspections serve OSHA purposes and vice versa? The needs of States? What are the operational implications?

74. Should chemical samples be taken during inspection?

Exports and Imports

75. How will EPA know that a new chemical poses a risk in the workplace until after the damage is done if exports are exempt from premarket notification? Can section 8 be used to require reporting of all exports at the time manufacture commences?

76. Should the notification of foreign governments about hazardous exports be "pro forma" or should more vigorous steps be taken?

77. Many imported products contain natural products. Where will the line be drawn as to definition of "chemical substance"?

78. Many imported products contain chemicals. Should customs inspection be changed in light of TSCA?

Disclosure of Data

79. Should "confidential" data be segregated from "non-confidential" in industry submissions? What are the operational implications? What penalties should there be if industry does not segregate the data?

80. What will be the mechanism for resolving conflicts over claims of confidentiality prior to judicial review?

81. Should a scheme for aggregating confidential production data into releasable gross production figures be developed along the lines of the ITC scheme?

82. Should "confidential" pre-market test data automatically become non-confidential at the end of the 90-day period? When manufacture commences?

Prohibited Acts, Penalties, Enforcement, and Seizure

83. What might be the impact of current and future case law on interpretations of potential violations? Are there general guidelines in this regard or is this a case-by-case matter?

84. If importers attempt to pass responsibility to foreign manufacturers, is there a jurisdictional problem for the courts?

Preemption

85. Should EPA promulgate a "General Rule," developed in the abstract to handle all applications for exemptions, or simply publish general guidance and handle each application as a separate rule-making in its own right?

86. How could EPA admit that the conditions for an exemption are met, under (b) (1) and (2) without tacitly admitting that its own rule was inadequate?

87. Should "similar" tests or regulations be defined in the abstract or should this be a case-by-case matter?

88. What are the enforcement aspects of States taking inappropriate actions without seeking an exemption?

Judicial Review

89. How can "all" relevant documentation be kept in an easily retrievable form for each type of TSCA action from its inception?

Citizens Civil Action

90. Is clarification needed as to whether any (and if so, which ones) imminent hazard actions are discretionary?

Administration of the Act

91. Should there be a general policy on "fees"? If so, what should it be? What should be the purpose of fees? Collect revenue? Reduce false alarms? Improve credibility of data?

92. To what extent, if at all, should the Office of Technical Assistance be decentralized? What should be the scope of the Office's activities?

93. Are general guidelines for "categories" desirable?

State Programs

94. Is it expected that there will be a significant State-level program? What responsibilities could or should States assume? Should EPA grant funds at 75 percent of the establishment and operation costs, as allowed by the legislation, or at some lower percentage to (1) identify those programs for which the local commitment is substantial, and (2) get the maximum mileage out of the very limited authorization?

95. Should the objective of State programs be to "fill in the gaps" in the Federally directed program(s)? What are these gaps?

96. Should the grant allocation be made on an "institutional" or "project" basis? That is, should EPA develop a nationwide "allocation formula" under which the funds would be allocated among all the States, to be run primarily by the Regions and designed to provide supplemental funding to ongoing programs? Or, alternatively, should each grant application be evaluated on a competitive basis in a program run from Headquarters designed primarily as a source of funding for demonstration projects—with the money divided among relatively a few States?

97. How should any such State program(s) under TSCA tie in with other EPA programs, e.g., 208?

98. How will grant applications be evaluated, and by whom? Will there be external review?

99. To what extent should the criteria set forth in section 28 be amplified or elaborated?

[FR Doc.76-36096 Filed 12-6-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 205]

ASSIGNMENT OF HEARINGS

DECEMBER 2, 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 141701, D & P Trucking, Inc., application dismissed.

MC-F-12313, Whitfield Transportation, Inc.—Purchase (Portion)—Lee Hawkes Transfer; and Whitfield Transportation, Inc.—Control and Merger—Miller Bros. Truck Line and MC 108461 (Sub-No. 123), Whitfield Transportation, Inc., now assigned January 17, 1977, at Salt Lake City, Utah, will be held in Room 1314, Annex Building, 135 South State Street.

No. MC 138274 (Sub-No. 16), Shippers Best Express, Inc., now assigned January 12, 1977, at Salt Lake City, Utah will be held in Room 1314, Annex Building, 135 South State Street.

MC-F-12787, Bowen Trucking Co., Inc.—Control—Dalgarno Transportation, Inc., now assigned January 13, 1977, at Salt Lake City, Utah will be held in Room 1314, Annex Building, 135 South State Street.

MC 61592 (Sub-391), Jenkins Truck Line, Inc., now being assigned January 17, 1977 (1 day) at Chicago, Illinois; in a hearing room to be later designated.

MC 141853, M. A. Creekmore and Jasper V. Bennett, DBA C-B-C Transport Company, now assigned January 18, 1977, at Jackson, Miss. will be held in the Grand Jury Room, U.S. Courthouse and Post Office Building, Corner of Capitol & South West Streets.

MC 107583 (Sub-No. 59), Salem Transportation, Co., Inc., now assigned January 10, 1977, at Philadelphia, Pa. will be held in Room 3240, William J. Green, Jr. Federal Building, 600 Arch Street.

No. 36467, Passenger Fare Increase, November 1976, Rockland Coaches, Inc., now assigned January 10, 1977, at New York, N.Y. will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 142071 (Sub-No. 1), American Terminal, Inc. now being assigned February 1, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135732 (Sub-No. 22), Aubrey Freight Lines, Inc., now assigned January 24, 1977, at New York, N.Y. will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 139614 (Sub-No. 1), Erin Tours, Inc., now assigned January 26, 1977, at New York, N.Y., will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 125777 Sub 174, Jack Gray Transport, Inc., now being assigned January 26, 1977 (1 day), at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 84687 (Sub-4), Veterans Truck Line, Inc., now assigned January 18, 1977 at Madison, Wisconsin; will be held Room 804, Hill Farm State Office Building, 4802 Sheboygan Avenue.

MC 128273 (Sub 207), Midwestern Distribution, Inc. now being assigned February 1, 1977 (1 day) at Memphis, Tennessee in a hearing room to be later designated.

MC 107515 (Sub 1015), Refrigerated Transport Co., Inc. now being assigned February 2, 1977 (3 days) at Memphis, Tennessee in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35957 Filed 12-6-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 2, 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 22, 1976.

FSA No. 43285—Joint Rail-Water Container Rates—South African Marine Corporation (N.Y.) (Safmarine). Filed by South African Marine Corporation (N.Y.) (Safmarine), (No. 1), for itself and interested rail carriers. Rates on general commodities, from and to railroad terminals at U.S. Pacific Coast ports, and ports in South, Southwest and East Africa.

Grounds for relief—Water competition.

Tariffs—South African Marine Corporation (N.Y.) joint rail/water freight tariff No. 1, I.C.C. No. 1, F.M.C. No. 6, and joint water/rail freight tariff No. 2, I.C.C. No. 2, F.M.C. No. 7. Rates are published to become effective on January 1, 1977.

By the Commission,

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35956 Filed 12-6-76;8:45 am]

[Notice No. 163]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

IMPORTANT NOTICE

DECEMBER 2, 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 the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20916 (Sub-No. 21TA), filed November 23, 1976. Applicant: JOHN T. SISK, Route 2, Box 182-B, Culpepper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial pallet, crate and box material*, in lengths not exceeding 160 inches and *wooden shaving*, all in truckload quantities, from the facilities of Everett Jones Lumber Corp., at Spotsylvania Va., to points in Pennsylvania, Ohio, Tennessee and North Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Everett Jones Lumber Corp., Rt. 5, Box 465, Spotsylvania, Va. 22553. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423, Room 1413, W. C. Hersman, District Supervisor.

No. MC 106398 (Sub-No. 761TA), filed November 26, 1976. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, paperboard and paperboard articles*, from Lynchburg Va., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Michigan, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, for 180 days. Supporting shipper: Weyerhaeuser Company, 201 Dexter St., West, Chesapeake, Va. 23324. Send protests to: Joe Green, District Supervisor, Room 204 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 107515 (Sub-No. 1041TA), filed November 26, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk); and (2) *Commodities* dealt in by retail gift shops in mixed loads with foodstuffs, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Swiss Colony Stores, Inc., and Swiss Colony, Inc., Monroe, Wis., to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swiss Colony Stores, Inc., 1112 7th Ave., Monroe, Wis. 53566. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 107544 (Sub-No. 128TA), filed November 26, 1976. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon*, in bulk, in tank or hopper type vehicles, from Catlettsburg, Ky., to points in Alabama, Indiana, Iowa, New York, Tennessee and Wyoming, for 180 days. Supporting shipper: Calgon Corporation, Pittsburgh, Pa. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 111401 (Sub-No. 472TA), filed November 26, 1976. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Borger, Tex., to the plantsite of Woodward Iodine Company and Western Farmers Coop, near Woodward, Okla., and the plantsite of Arkla Gas Company, near Arapahoe, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phillips Petroleum Company, 154 Phillips Bldg., Annex, Bartlesville, Okla. 74004. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 114273 (Sub-No. 271TA), filed November 24, 1976. Applicant: CRST, INC., P.O. Box 68, 3930 16th Ave., Cedar Rapids, Iowa 52496. Applicant's representative: Robert E. Konchar, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products 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 Denver, Colo., to points in Connecticut, Illinois, Kentucky, Maryland, Massachusetss, Michigan, Pennsylvania, Ohio, New York, New Jersey and Wisconsin, for 180 days. Supporting shippers: Litvak Meat Company, 5900 York St., and Colorado Beef Procesors, Inc., 5590 High St., Denver, Colo. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 124383 (Sub-No. 23TA), filed November 24, 1976. Applicant: STAR LINE TRUCKING CORP., 18460 W. Lincoln Ave., New Berlin, Wis. 53151. Applicant's representative: S. F. Schreiter, P.O. Box 78, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in dump vehicles, from points in Walworth and Waukesha County, Wis., to points in Boone, McHenry and Lake Counties, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wheeler Limestone, Route 3, Elkhorn, Wis. 53121. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 133095 (Sub-No. 121TA), filed November 24, 1976. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as appli-

cant). 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 packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsites and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Austin, Minn.; Fort Dodge, Iowa; and Fremont, Nebr., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia, for 180 days. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: A. J. Kirspel, Interstate Commerce Commission, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133119 (Sub-No. 106TA), filed November 23, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products 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 the facilities of Mellman Food Industries, Inc., at or near Sioux Falls, S. Dak., to points in Los Angeles and Orange Counties, Calif., points in the commercial zones of Spokane and Seattle, Wash.; Portland, Salem, and Sulimity, Oreg.; Oklahoma City and Tulsa, Okla.; Dallas and Fort Worth, Tex.; Bryon City, Mich.; Gulfport, Miss.; New Orleans, La.; Tucker, Atlanta and Conyers, Ga., and points in Illinois, Wisconsin and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Les Pucik, Traffic Manager, Mellman Food Industries, Inc., P.O. Box 215, Whitehall, Wis. 54773. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 134112 (Sub-No. 4TA), filed November 23, 1976. Applicant: NATIONAL FREIGHTWAYS, INC., 3204 S. 121st St., Omaha, Nebr. 68144. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides and hide parts*, from the facilities of Milocol, Inc., located at or near Omaha, Nebr., to Salem and Peabody, Mass.; *and materials, supplies and equipment* used in the manufacture, sale and distribution of the above-named commodities, from Salem, Mass., and Philadelphia, Pa., to the facilities of Milocol, Inc., located at or near Omaha, Nebr., under a continuing contract with Milocol, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Milocol, Inc., Guido B. Marsello, Vice-President, Rural Route 3, Bellevue, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134676 (Sub-No. 3TA), filed November 26, 1976. Applicant: H. H. MOORE, JR., P.O. Box 477, Appomattox, Va. 24522. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kyanite, kyanite ore, mullite, mullite ore, and materials, supplies and equipment* used in the manufacture, distribution and sales of kyanite, kyanite ore, mullite and mullite ore (except commodities in bulk, in tank vehicles), between the plantsites of Kyanite Mining Corporation, located in Appomattox, Buckingham and Prince Edward Counties, Va., on the one hand, and, on the other, points in California, Colorado, Indiana, Illinois, Michigan, Kansas, Maryland, Missouri, New York, North Carolina, Ohio, New Jersey, Oregon, Utah, Georgia, South Carolina, Pennsylvania, Texas and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kyanite Mining Corporation, Dillwyn, Va. 23936. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 134755 (Sub-No. 83TA), filed November 23, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St. P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *Common Carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packing houses*, 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 the facilities of Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carrol and Iowa Falls, Iowa, to points in Washington, Oregon, California, Arizona, New Mexico, Nevada, Utah, Wyoming, Montana, Colorado and Idaho, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 403, Denison, Iowa 51442. Send protests to: John V. Barry, District Supervisor Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 134755 (Sub-No. 84TA), filed November 23, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packing houses*, 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 the facilities of Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carroll and Iowa Falls, Iowa, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Tennessee, Alabama, Mississippi, Louisiana, Virginia, West Virginia, South Carolina, Kentucky, Georgia and Florida, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 403, Denison, Iowa 51442. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 135819 (Sub-No. 3TA), filed November 24, 1976. Applicant: WILLIAM H. PHILLIPS AND WILLIAM L. PHILLIPS, doing business as PHILLIPS & PHILLIPS TRUCKING COMPANY, P.O. Box 1304, Storm Lake, Iowa 50588. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. 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* (except hides and commodities in bulk), from the plantsite and facilities utilized by Hygrade Products, Inc., at or near Storm Lake and Cherokee, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donald M. Montgomery, Assistant General Traffic Manager, Hygrade Food Products Corporation, P.O. Box 4771, Detroit, Mich. 48219. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 136774 (Sub-No. 7TA), filed November 22, 1976. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, Wis. 53586. Applicant's representative: Anthony Young, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packing houses* 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 Spencer and Hartley, Iowa, to points in Illinois and Wisconsin. Restriction: The operations authorized herein are restricted to the transporta-

tion of shipments originating at the plantsites or facilities utilized by Spencer Foods, Inc., and destined to points in the states named above, for 180 days. Supporing shipper: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 136897 (Sub-No. 22TA), filed November 24, 1976. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald Fernaays, 4040 E. McDowell Road, Suite 312, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Composition and prepared roofing* (except in bulk), from Los Angeles County and Bakersfield, Calif., to points in Arizona, under a continuing contract with Southwest Roofing Supply Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Roofing Supply Company, 3151 W. Osborn Road, Phoenix, Ariz. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 138000 (Sub-No. 23TA) (correction), filed November 15, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished as corrected this issue. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Louisville, Ky., and its commercial zone, to points in Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Falls City Brewing Co., Louisville, Ky. 40201. Send protests to: W. C. Hersman, District Supervisor, Bureau of Operations, Interstate Commerce Commisison, 12th and Constitution Ave. N.W., Washington, D.C. 20423. The purpose of this republication is to correct the District Supervisor's name and address.

No. MC 139156 (Sub-No. 2TA), filed November 24, 1976. Applicant: FAITH TRUCK LINES, INC., 26 W. 142nd St., Dixmoor, Ill. 60426. Applicant's representative: Charlie Woodard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in rubber lined tank vehicles, from Birmingham, Ala., to Albion, Mich.; Burns Harbor, Ind.; Chicago, Ill., and its commercial zone, Dwight, Ill.; Joliet, Ill.; Juneau, Wis., and Niles, Mich., and from Weeks Island, La., to Chicago, Ill., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thompson Hayward Chemical Company, Jack H. Stitzer, Acid Sales Coordinator, 2501 S. Damen Ave., Chicago, Ill. 60608. 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 140511 (Sub-No. 3TA), filed November 26, 1976. Applicant: AUTO-LOG CORPORATION, 319 W. 101st St., New York, N.Y. 10025. Applicant's representative: Myron Levine (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used passenger automobiles;* and (2) *Baggage, sporting equipment, personel effects* of the owners thereof, when moving with used passenger automobiles, in secondary movements in truckaway service, restricted against the transportation of traffic having a prior or subsequent movement by rail, and restricted against the transportation of used automobiles for dealers, between points in Connecticut and the Counties of Dade, Broward and Palm Beach, Fla., 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. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commisison, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 141124 (Sub-No. 1TA), filed November 23, 1976. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 1709, Hanger Five Greater Wilmington Airport, Wilmington, Del. 19899. Applicant's representative: James W. Muldoon, Suite 1815, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, in mixed shipments with *paper and paper products*, from the plantsite and facilities of The Mead Corporation, at Chillicothe, Ohio, to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, Maine, and the District of Columbia, for 180 days. Supporting shipper: The Mead Corporation, Talbott Towers, Dayton, Ohio 43215. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 142299 (Sub-No. 1TA), filed November 24, 1976. Applicant: TRUCK RAIL TRUCK SERVICE COMPANY, INC., 1000 Leisure Lane, Greenwood, Ind. 46142. Applicant's representative: James A. Rumell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to service which has a prior or subsequent movement by rail and moving in rail controlled or owned trailers, between Chicago, Ill., St. Louis, Mo., rail terminals on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan and Ohio. Applicant intends to interline, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 19 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: William S. Ennis, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-35960 Filed 12-6-76;8:45 am]

[Amdt. No. 1, I.C.C. Order No. 3, under Service Order No. 1252]

BALTIMORE AND OHIO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 3, (The Baltimore and Ohio Railroad Company) and good cause appearing therefor: *It is ordered*, That: I.C.C. Order No. 3 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., November 30, 1976, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 23, 1976.

INTERSTATE COMMERCE COMMISSION.
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-35958 Filed 12-6-76;8:45 am]

ATCHISON, TOPEKA AND SANTE FE RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

[Amdt. No. 4 to Exemption No. 109]

Upon further consideration of Exemption No. 109 issued March 2, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 109 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire February 28, 1977*.

This amendment shall become effective November 30, 1976.

Issued at Washington, D.C., November 23, 1976.

INTERSTATE COMMERCE COMMISSION.
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-35959 Filed 12-6-76;8:45 am]

federal register

TUESDAY, DECEMBER 7, 1976

PART II:

DEPARTMENT OF COMMERCE

National Fire Prevention and Control Administration

■

REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

DEPARTMENT OF COMMERCE

National Fire Prevention and Control Administration

[15 CFR Part 1810]

REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Submission and Determination of Claims

Section 11 of the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278 (f), (g), 42 U.S.C. 290(a)) ("the Act"), authorizes reimbursement to fire services for the direct costs and losses they incur in firefighting on property which is under the jurisdiction of the United States. This is a notice of proposed rulemaking issued by the Administrator, National Fire Prevention and Control Administration, which would implement Section 11 of the Act and would govern the submission and determination of claims under Section 11 of the Act. Although the regulations will not go into effect until final publication in the FEDERAL REGISTER, otherwise eligible claims arising since enactment of Section 11 of the Act (October 29, 1974) will then be cognizable.

Prior to the passage of Section 11 of the Act, the Comptroller General ruled that where Federal property is within the area where a fire service must by law or contract, provide fire protection free-of-charge, Federal agencies may not reimburse a fire service for its costs arising out of the fighting of fires on Federal property. 49 Comp. Gen. 284 (1969). Consistent with this general principle, reimbursement was denied for the costs of fire services participating in the firefighting effort at the Federal Military Personnel Records Center near St. Louis, Missouri, in 1973. 53 Comp. Gen. 410 (1973). The legislative history of Section 11 of the Act discloses that the Records Center fire was a significant factor leading to the inclusion of a reimbursement provision in the Federal Fire Prevention and Control Act of 1974 and that this fire presents a typical situation for reimbursement under Section 11 of the Act. The definitions in § 1810.02 and other provisions of these proposed regulations reflect this legislative history.

Where a potential claimant has been reimbursed for losses by an insurer, the insurer cannot then claim reimbursement in its own name or in the name of the fire service under Section 11 of the Act. The statutory language and the legislative history indicate that Congress intended the class of claimants to be limited to fire services and their parent jurisdictions. See § 1810.03 (c) and (e).

Section 11 of the Act provides that a claim shall include such supporting information as the Administrator may prescribe. Section 1810.11 of the regulations sets out the required documentation for each claim.

Section 11 requires that a claim be reduced by the amount of any payment, including taxes or payments in lieu of taxes, that the United States has made for the support of the claimant fire service. Such payments include categorical and block grants as well as contracts. Where the payments to a fire service's parent jurisdiction are for many purposes, only the amount allocable to fire services for the property in question is to be subtracted from the claim. 18.10.03 (g), 1810.12 (a) and (c).

Mutual aid agreements entered into by a fire service and a Federal agency are not affected by Section 11. However, where such agreements provide equivalent or greater reimbursement than is available under Section 11 of the Act, no reimbursement will be made under Section 11. Likewise, where an agreement by its terms exclusively defines a financial or mutual support relationship between the parties, there is to be no reimbursement under Section 11 of the Act. Where an agreement does not provide reimbursement equivalent to that available under Section 11 of the Act, and it does not by its terms preclude other reimbursement, a claim may be made for eligible costs under Section 11 of the Act, but only for those amounts not reimbursed or covered by services of equivalent value under the mutual aid agreement.

Claims and supporting documentation shall be submitted to the Administrator, NFPCA, as promptly after a fire as possible, but in no event later than 90 days following the fire for which the claim is made (except for fires that occurred prior to promulgation of these regulations in final form). Each claim will then be reviewed and the determination will be made of the amount of loss. Payment will not be made until after the end of the Federal Government's fiscal year in which the fire occurred, however, because Section 11 of the Act acquires that claims be reduced by the amount of any Federal payment for fire protection. Such Federal payments are to be determined on a fiscal year basis. § 1810.12.

Inquiries and comments on these proposed regulations will be received on or before February 7, 1977. Fire service personnel, government officials, insurance representatives, and public administration experts are encouraged to take this opportunity to comment on the regulations. All correspondence relative to these rules should so indicate, and shall be sent on or before February 7, 1977, to:

Chief Counsel, National Fire Prevention and Control Administration, Department of Commerce, P.O. Box 19518, Washington, D.C. 20036.

It is proposed to amend Title 15 of the Code of Federal Regulations by establishing a new Part 1810, as follows:

PART 1810—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Subpart A—Purpose, Scope, Definitions

Sec.
1810.01 Purpose.
1810.02 Scope.
1810.03 Definitions.

Subpart B—Submission, Determination, Appeals

1810.11 Submission of claims.
1810.12 Determination of amount authorized for payment.
1810.13 Reconsideration of amount authorized for payment.
1810.14 Adjudication.

Subpart C—Administration, Penalties

1810.21 Effective date.
1810.22 Audits.
1810.23 Penalties.

AUTHORITY: Secs. 11, 21(b)(5), Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278 f, g, 42 U.S.C. 290(a)).

Subpart A—Purpose, Scope, Definitions

§ 1810.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278 f, g, 42 U.S.C. 290(a)), provides that "each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Administrator [NFPCA] for the amount of direct expenses and direct losses incurred by such fire services as a result of fighting such fire." This Part, 15 CFR Part 1810, implements that provision and governs the submission, determination, and appeal of claims under Section 11.

§ 1810.02 Scope.

All fire services, in any State, suffering losses eligible for reimbursement under these regulations and Section 11 of the Act since the enactment of Section 11 (October 29, 1974) may submit claims pursuant to these regulations. Where there is a mutual aid agreement between the claimant and the United States or any agency thereof, no reimbursement is available under Section 11 if that agreement by its terms exclusively defines a financial or mutual aid relationship between the United States and the claimant or if, under the terms of such agreement, the claimant would be entitled to payments and/or services of equivalent or greater value than that to which the claimant would be entitled under a Section 11 claim.

§ 1810.03 Definitions.

(a) "The Act" means the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278 f, g, 42 U.S.C. 290(a)).

(b) "Administrator" means the Administrator of the National Fire Prevention and Control Administration.

(c) "Claimant" means a fire service.

(d) "Direct costs and losses" means costs and losses which would not have been incurred had not the fire in question taken place. These include salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation.

(e) "Fire service" means any organization in any state consisting of personnel, apparatus and equipment which has as its purpose protecting property and

maintaining the safety and welfare of the public from the dangers of fire, including a private fire-fighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(f) "NFPCA" means the National Fire Prevention and Control Administration.

(g) "Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question" means any Federal monies, including those made available through categorical or block grants, special or general revenue sharing, or contracts, which have been paid during the fiscal year of the fire. Only those portions of payments which are allocable to, and have been allocated for, the provision of fire services for the property in question are to be subtracted from the claim, pursuant to Section 11 (b) and (c) of the Act and § 1810.12 of these regulations.

(h) "Property which is under the jurisdiction of the United States" means real property which the United States owns in fee. This excludes Federal leasehold interests and private improvements on federally-owned land.

(i) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Subpart B—Submission, Determination, Appeal

§ 1810.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under Section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made (except that if the fire(s) occurred between October 29, 1974 and the effective date of these regulations, the claim(s) for those fires shall be submitted within 6 months of that effective date) to the Administrator, National Fire Prevention and Control Administration, Department of Commerce, P.O. Box 19518, Washington, D.C. 20036. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf;

(c) Evidence of claimant's authority to file claim in behalf of fire service;

(d) Name and address of Federal agency having jurisdiction over the property on which fire occurred;

(e) Location of fire (within building or complex);

(f) Description of property burned (contents and/or structure);

(g) Source and time of alarm;

(h) Personnel and equipment committed to fighting of fire (type of equipment and number of items);

(i) Cope of fire report;

(j) Itemized list of direct expenses (e.g., manhours and hours of equipment operation, fuel costs, consumables, overtime, pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting and fire. A statement should be included explaining why each such expense or loss is considered by the claimant not to be a normal operating cost, or to be in excess of normal operating costs;

(k) Proof of Federal ownership in fee of the property on which the fire occurred;

(l) A copy of any mutual aid agreement(s), or in the absence of a copy, other evidence of any binding mutual aid agreement(s) between the claimant and the United States or any of its instrumentalities;

(m) Such other information or documentation as the Administrator considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 1810.12 of these regulations; and

(n) Signed and sworn statement by authorized official of claimant fire service organization that the information and documentation provided in support of the claim are true and accurate to the best of his knowledge and belief.

(o) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United States through any program or agreement including categorical, block or revenue sharing grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the fiscal year in which the fire occurred.

§ 1810.12 Determination of amount authorized for payment.

(a) The Administrator shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of loss"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred.

The reimbursable amount is the amount, if any, by which the amount of loss, determined under subparagraph (1) of this paragraph, exceeds the amount of payments determined under subparagraph (2) of this paragraph. Where more than one claim is filed in a single fiscal year, the aggregate reimbursable amount is the amount by which the total amounts of loss, determined under subparagraph (1) of this paragraph, exceed the amount of federal payments determined under subparagraph (2) of this paragraph.

(b) The Administrator will first determine the amount of loss as contemplated in paragraph (a)(1) of this section. He will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of loss by the claimant in conjunction with the fire for which the claim is submitted.

(2) If the claimant rejects this amount, it must notify the Administrator, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Administrator shall reconsider his determination and notify the claimant of the results of the reconsideration. The amount determined on reconsideration will constitute the amount of loss to be used by the Administrator in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal government has made for the support of fire services on the property in question, the Administrator will, following such verification or investigation as the Administrator may deem appropriate, calculate the full amount to be reimbursed under the Section 11 formula as set forth in § 1810.12(a). This calculation of the reimbursable amount is based upon the amount of loss determined pursuant to § 1810.12(b) and the documentation of Federal payments that the claimant received.

(d) The Administrator's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 1810.12 (a), (b) and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, than the reimbursable amount determined by the Administrator, NFPCA, with respect to the claim under § 1810.12 (a), (b) and (c).

(e) Upon receipt of the Secretary of the Treasury's determination, the Administrator will notify the claimant in writing of that amount of money authorized for payment in full settlement of the claim. The claimant will then have 30 days in which to indicate his acceptance of the authorized amount in full settlement of the claim or to protest such amount to the Administrator.

(f) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Administrator will forward the claim, a copy of the Administrator's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

§ 1810.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, it must within 30 days of receipt of notification of the amount authorized notify the Administrator in writing of its objections and set forth the reasons why the Administrator should reconsider his determination. The Administrator will upon notice of protest and receipt of additional evidence reconsider his determination of the amount of Federal payments under § 1810.12(a)(2) but not his determination of the amount of loss under § 1810.12(a)(1). He shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Administrator, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claim, it must within 30 days (or a longer period of time acceptable to the Administrator) of its receipt of that determination notify the Administrator of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Administrator will forward the claim, a copy of the Administrator's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 1810.14 Adjudication.

If the claimant, after written notice by the Administrator of the amount authorized, upon reconsideration, for payment in full settlement of the claim, elects to dispute the amount authorized, it may then initiate action in the Court of Claims of the United States, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with Section 11(d) of the Act. In any event, a claimant may initiate action in the Court of Claims if, within one year of the end of the fiscal year in which the fire occurred, the Administrator has not determined an amount authorized for payment in full settlement of the claim that is agreeable to the claimant.

Subpart C—Administration, Penalties

§ 1810.21 Effective date.

This part becomes effective on . Claims must be for costs and losses to fire service organizations occurring after October 29, 1974, the date of enactment of Section 11 of the Act.

§ 1810.22 Audits.

At the discretion of the Administrator, all claims submitted under Section 11 of the Act and all records of the claimant will be subject to audit by the Administrator or his designee. In addition, the Comptroller General of the United States or his designee shall have access to all books and records of all claimants making claims under Section 11.

§ 1810.23 Penalties.

Claimant's officials or others who provide information or documentation under this Part are subject to the criminal penalties of Title 18 of the United States Code. Sections 287 and 1001, which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. The official is likewise subject to the civil penalties of 31 U.S.C. 231. Section 231 provides that the person liable "shall forfeit and pay to the United States the sum of $2,000, and, in addition, double the amount of damages which the United States may have sustained by the reason of the doing or committing such act, together with the costs of suit; and such forefeiture and damages shall be sued for in the same suit."

Dated: December 2, 1976.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc.76-35962 Filed 12-6-76;8:45 am]

federal register

TUESDAY, DECEMBER 7, 1976

PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

GRAS SUBSTANCES

Safe Food Ingredients

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N-0132]

PART 121—FOOD ADDITIVES

General Recognition of Safety and Prior Sanctions for Food Ingredients

The Food and Drug Administration (FDA) is issuing regulations defining the criteria for determining whether food ingredients are generally recognized as safe (GRAS) or subject to prior sanctions. These regulations also implement certain procedures related to the agency's current review of the safety of food ingredients and shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34194), the Commissioner of Food and Drugs proposed to revise certain of the existing regulations in 21 CFR Part 121 to clarify the criteria for GRAS status under the Federal Food, Drug, and Cosmetic Act; the differences between GRAS status and food additive status; and the procedures being used to conduct the current review of food ingredients. The proposal allowed comments to be filed until December 23, 1974. The time for filing comments was subsequently extended through January 6, 1975.

The Commissioner proposed to (1) Require that general recognition of safety through scientific procedure must ordinarily be based upon published literature; (2) Recognize that GRAS status based on scientific procedures requires the same quality and quantity of scientific evidence as would be required for approval of a food additive regulation; (3) Define "common use in food" as used in section 201(s) of the act to mean a substantial history of consumption of a substance by a significant number of consumers in the United States; (4) Recognize that GRAS status based upon common use in food does not require the same quality or quantity of scientific evidence that would be required for approval of a food additive regulation; (5) Recognize three categories of ingredients affirmed as GRAS; (6) Recognize that GRAS affirmation proceedings should consider the manufacturing process involved; and (7) Provide for procedures for considering the applicability of prior sanctions.

Twelve comments were received in response to the proposal. A summary of these comments, and the Commissioner's responses thereto, follows:

1. One comment criticized the criteria established in § 121.3 (21 CFR 121.3) for determining whether a substance used before 1958 is GRAS. The comment stated that many such food ingredients should not be affirmed as GRAS because they have not been subjected to the same kinds of safety tests required for newly approved food additives. The comment noted that some of the studies that would be required for newly approved food additives, according to current FDA procedures, have not been performed on the 11 food ingredients proposed for affirmation of their GRAS status and published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34197 et seq.). The comment argued that longtime use by consumers does not establish safety, and that FDA should not permit use of a substance in food unless it has been established as safe by appropriate scientific studies. The comment referred to the legislative history of the Food Additives Amendment of 1958 in contending that at the time the amendment was passed, Congress did not intend to "grandfather" food additives then marketed that experts believed had been insufficiently tested.

The Commissioner notes that the criteria set forth in § 121.3 interpret section 201(s) of the act as requiring the same quantity and quality of scientific evidence to establish that a substance is GRAS as is required to establish the safety of a newly used food additive, if the substance was first used in food after January 1, 1958. For substances in common use in food before January 1, 1958, however, the act is explicit in requiring FDA to consider experience based on such use in determining whether a substance is GRAS. Indeed, the act permits a manufacturer to determine that a substance is GRAS considering only experience based on common use in food if the substance was used in food before January 1, 1958. Thus, for those substances that were widely used before 1958, under the terms of the statute FDA must consider available data and may not prohibit use of a substance merely because tests that would be required for new food additives have not been performed.

The comment's implication that these GRAS ingredients have undergone no safety testing and are improperly affirmed as GRAS is without merit. Newly developed teratogenic and mutagenic testing has been conducted on many of them. In addition, these ingredients have been subjected to a thorough review in the scientific literature and the extent of their prior consumption by American consumers has been estimated. This information was then thoroughly reviewed by independent food scientists of the Federation of American Societies for Experimental Biology (FASEB) and then reviewed again by FDA. If FASEB or FDA scientists were dissatisfied with the quality or quantity of data and information available for each substance, they have been free either to recommend that additional studies be undertaken for the ingredients, or to suggest that insufficient information is available to evaluate the ingredients. Public review and comment have also been solicited in many ways, and all information that has been a part of the FASEB and FDA evaluation of each substance has been made available for public examination. Thus, for those substances that have been affirmed as GRAS, the Commissioner concludes that the GRAS review has been conducted in accordance with the Food Additives Amendment of 1958 and sound science.

2. One comment by a trade association stated that there is no genuine legal issue concerning FDA authority to address with finality the GRAS status of specific substances, and to exclude from that status products that it determines fall short of the parameters it has unilaterally established. The comment contended that FDA authority to determine the GRAS status of substances to be added to food may be implied from its responsibility for the premarketing clearance of food additives under section 409 of the act. The comment cited Supreme Court cases upholding the agency's inherent power with respect to determining new drug status. The comment contended that FDA actions in conferring, withholding, revoking, or conditioning GRAS status are subject to judicial review.

The Commissioner agrees with this comment.

3. One comment questioned the language in proposed § 121.3(a) that "General recognition of safety requires common knowledge about the substance throughout the scientific community knowledgeable about the safety of food ingredients." The comment contended that the regulation deviates from the statutory criteria on which a determination of GRAS status is to be based by placing the role of decision in the hands of a scientific community not all of whom fit the criteria of "experts" as the term is used in section 201(s) of the cat. The comment suggested a return to the statutory language.

The Commissioner has modified § 121.3 (a) to clarify that the definition of "expert" in section 201(s) of the act is applicable to the determination of GRAS status; at the same time, he has retained the language criticized by the comment. This language emphasizes that a substance may not be determined to be GRAS when its characteristics are known to only a few experts. The act requires that the substance be generally recognized as safe, which requires that the substance be known throughout the community of experts qualified by scientific training and experience to evaluate the safety of substances added to food.

4. Comments opposed the criterion in § 121.1(j)(4) (21 CFR 121.1(j)(4)) providing that the benefit contributed by a substance shall be considered in determining whether it is "safe" for use. One comment stated that the social utility of a substance is not to be judged by FDA, but is a determination specifically reserved for the consumer to make in a free and open marketplace. The comment noted that the benefit-to-risk judgment that is made in regulating pharmaceuticals is based on the fact that potent drugs will generally affect organ systems in addition to the one where the therapeutic effect is desired. The comment contended, however, that no such concept exists in food regulation, where a substance is not to be used at levels that may present a hazard to a normal consumer. Another comment questioned whether the term "benefit" in § 121.1(j)(4) means benefit to the con-

sumer of the finished food product containing the substance or benefit to the food itself.

The Commissioner concludes that it is appropriate to recognize that the benefit contributed by a substance is inevitably a factor to be considered in determining whether a particular substance is "safe" (or generally recognized as "safe") for its intended use. The term "safe" is to be given its ordinary meaning, and in its common usage the term is understood to carry an assessment of benefits and risks. It is true, as the comment states, that minor food additives are not approved at levels that may present a hazard to the normal consumer. This result is required by the act because the benefit of a minor food additive is too small to justify the imposition of a known risk to normal consumers; use of such ingredient at levels that may present a hazard to the normal consumer would not be "safe." However, this result does not necessarily follow in the case of important food additives. For example, if it were found that a major food source such as meat or grain was associated with the development of chronic diseases in normal individuals, it would not necessarily follow that the food was unsafe within the meaning of the act. The ordinary understanding of the term "safe" would require some benefit-to-risk analysis in such circumstances.

Another example relates to the incidence of allergic reactions to particular food ingredients. Adverse reactions caused by allergy are clearly a consideration in determining whether a food ingredient is safe. Ordinarily, the incidence of allergic reactions from a food additive cannot be considered because data and test protocols do not exist. When data exist, however, they may be considered, and an assessment of benefits and risks becomes relevant. For example, if it were determined that both a particular emulsifier and a particular fruit resulted in the same unusually high incidence of allergic reactions, one might reasonably conclude that the emulsifier was not safe but that the fruit was safe. Such conclusions would simply represent common understanding of the concept of safety.

The comment questioning whether the benefit to be considered is the benefit to the consumer or to the food appears to raise only a semantic distinction. Ultimately, the benefit to be considered is the benefit to the consumer. However, the benefit to the food inures to the benefit of the consumer.

The Commissioner has, however, deleted from the regulations the reference to consideration of benefits on the ground that this separate consideration is legitimately included within the concept of safety as used in the act. Furthermore, explicitly retaining the criterion of benefit in the regulations might be construed as requiring routine formal analysis of a factor that the agency will only occasionally need to take into account, because the agency's general guidelines will result in disapproval of food additives that may cause toxic effects in normal individuals.

5. One comment opposed the provision in § 121.104(b)(2) (21 CFR 121.104(b)(2)), which provides that any use of an ingredient beyond established limitations would require a food additive regulation. The comment contended that this procedure would result in certain substances approved in GRAS affirmation regulations for some uses, and in food additive regulations for other related but not identical uses. The comment contended that this separation would result in confusion on the part of users of such substances.

The Commissioner advises that the act establishes the distinction between uses of substances that are food additive uses and those that are GRAS. Under the act, if a substance is used in a manner that is not GRAS it is deemed to be a food additive. Because the standards and procedures for approving a food additive use are different from those for determining that a use is GRAS, the Commissioner concludes that food additive uses should not be combined in the same regulation covering uses that are GRAS. Although this may at times present difficulties to users, it would be inappropriate and potentially more confusing to list in the same regulation uses that are subject to different standards and procedures of approval, amendment, and revocation.

6. One comment criticized § 121.104(b)(2), which establishes the permitted conditions of use for ingredients that are affirmed as GRAS with specific limitations. The regulation provides that any use of an ingredient not in full compliance with such a regulation requires a food additive regulation. The comment contended that, under this approach, a subsequently instituted use that may in fact be GRAS would have to be covered by a food additive regulation.

The Commissioner advises that, contrary to the comment's interpretation, the regulation does not require that subsequent uses must be covered by food additive regulations even though they may be GRAS. A regulation affirming a substance as GRAS under certain conditions of use may be amended to cover additional uses that have become GRAS. In the absence of such an amendment, however, any use of a substance not in full compliance with a GRAS affirmation regulation that establishes specific limitations requires a food additive regulation.

7. Comments contended that the format of the proposed regulations was confusing in that use of the term "maximum levels" in the body of the regulations affirming substances as GRAS with no limitation other than good manufacturing practice incorrectly conveys the impression that the levels mentioned are rigid limitations. The comments stated that the "maximum levels" are merely guides to good manufacturing practice as an aid to the good judgment of the processor and in no way restrict effective use. The comments proposed two alternative methods for dealing with this matter to avoid stating the levels in the regulation. The first method suggested was that the regulation should reference the National Technical Information Service publication "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS), Table 17, Edited Maximum Levels of Use," for the particular food ingredient. Alternatively, the comments suggested that the regulation should refer to the preamble to the regulation, and that the preamble should summarize the content of the National Academy of Sciences/National Research Council (NAS/NRC) survey of industry use of the substance.

The Commissioner agrees that the levels of use identified in the regulations affirming substances as GRAS with no limitation other than good manufacturing practice are not rigid limitations. However, they are more than simply "an aid to the good judgment of the processor." The regulations that do not establish rigid limitations are based on a conclusion that the substance evaluated is GRAS under conditions of use that currently exist or that are reasonably foreseeable. If use of the substance should increase significantly, it may no longer be GRAS. At such significantly higher levels, a food manufacturer would have to assure himself that the substance was still GRAS. Thus, the Commissioner concludes that the regulation should specify the levels of use, on the basis of which FDA has concluded the substance is GRAS. On occasion, however, it may not be possible to specify precise levels of use (e.g., regulations on garlic and dill published elsewhere in this issue of the FEDERAL REGISTER). This specification will make prominent the data upon which the GRAS determination was made so that the agency, food manufacturers, and the public may be alert to the possibility of changed legal status should use of the substance significantly change. Because the significance of the levels was unclear in the proposed regulations, the final regulations have been revised to state their significance unambiguously.

8. One comment referred to the provision in § 121.3(d) (21 CFR 121.3(d)) stating that certain food ingredients of natural biological origin widely consumed for their "nutrient properties" prior to 1958 would ordinarily be regarded as GRAS without specific listing in a regulation. The comment urged that the provision be expanded to include products used for their seasoning properties as well as those used for their nutrient properties. The comment stated that it was concerned with the products that fall within the list of substances in § 121.101(e)(1) (21 CFR 121.101(e)(1)). The comment contended that the costs involved in reviewing the safety of these ingredients are out of proportion to any value produced by such a review.

The Commissioner notes that the spices and other natural seasonings and flavorings listed in § 121.101(e)(1) are already under review and that the review is nearing completion. Consequently, it would be inappropriate to adopt the change in § 121.3(d) suggested by the comment.

9. Comments suggested that when a substance of natural biological origin is affirmed as GRAS with no limitations on use other than good manufacturing practice, the regulation should routinely extend to include distillates, isolates, extracts, concentrates of extracts, and reaction products of the substance. The comments suggested that a regulation affirming a substance as GRAS should contain a comprehensive but concise listing that would include explicitly in the body of the regulation the forms or derivatives of principal commercial importance. In addition, the comment suggested that the regulation should provide that other forms and derivatives listed in § 121.3(f)(3) (21 CFR 121.3(f)(3)) may be used at equivalent concentrations to achieve the same technical effect. The comments suggested that those substances posing questions of safety under present or foreseeable use would be excluded and dealt with by other appropriate regulations.

The Commissioner recognizes that essential oils, oleoresins, and other natural extractives of natural GRAS spices have also been traditionally recognized as GRAS. He has therefore affirmed the GRAS status of these derivatives of garlic and dill, based upon the data and information available to him, for use as flavoring ingredients. These regulations may be found elsewhere in this issue of the FEDERAL REGISTER. This same consideration will likewise be given to derivatives of other GRAS ingredients where the derivatives are listed in § 121.101 (21 CFR 121.101) and where affirmation as GRAS is justified by available safety data. Where such derivatives are determined to be GRAS, the regulation will so indicate and will specify the usage levels determined to be GRAS. Reaction products of these or other GRAS substances may not be considered to be GRAS by these regulations, however, because the safety data for a particular GRAS substance would not be applicable to its reaction product.

10. Comments contended that the publications reporting the results of the NAS/NRC survey of food manufacturers provide "average usual" and "average maximum" use levels of food ingredients. The comments contended that these averages are not adequate to define the range of good manufacturing practice. They suggested that FDA request the NAS/NRC to publish a new table presenting for each food category and technical effect the maximum reported use level of a substance, editing out only those levels clearly representing gross mathematical error or improper usage.

The Commissioner advises that the figures reported do not represent average levels of usage but indeed do state maximum levels. Some errors in the reports were made, which may have led to the assumption that average levels were being reported, but these have been corrected in the individual regulations for each ingredient.

11. Comments contended that the NAS/NRC survey of the use of substances was not contemplated by industry to cover those natural substances "most obviously generally recognized as safe." The comment contended that because of this misapprehension of the survey's scope, accurate data on the use of certain substances are lacking. The comments urged that the final regulations be delayed until usage can be resurveyed properly.

The Commissioner agrees that the NAS/NRC survey did not accurately reflect good manufacturing practice (GMP) in the use of dill, garlic and other natural spices in processed foods. Although such use information may be required before other natural spices may be affirmed as GRAS, the Commissioner is of the opinion that this information is not of critical importance to the GRAS status of dill and garlic. These ingredients are known to have wide margins of safety with respect to their consumption by U.S. consumers, and the Commissioner is therefore of the opinion that per capita use of these ingredients, with consideration for variations of individual use, provides sufficient consumer exposure data to affirm the GRAS status of these ingredients. Regulations affirming these ingredients as GRAS, without specific GMP guidelines for use in processed foods, have therefore been promulgated elsewhere in this issue of the FEDERAL REGISTER.

12. One comment objected to the language in § 121.3(h)(2) and (3) (21 CFR 121.3(h) (2) and (3)), implying that components of packaging are expected to perform "an appropriate function in the food * * *." The comment contended that they perform an appropriate function in the packaging material and that the use level is that required to perform the intended function in the packaging.

The Commissioner agrees with the comment and has clarified the final regulation accordingly.

13. One comment objected to inclusion of the word "appropriate" in § 121.3(h)(2) for the same reason that it opposed use of the term "benefit" in § 121.1(i)(4), i.e., that it implied that FDA may engage in a benefit-risk analysis of food additive uses. Section 121.3(h)(2) states that a substance is GRAS only if, among other things, it performs an appropriate function in the food in which it is used.

The Commissioner advises that use of the word "appropriate" in § 121.3(h)(2) is intended simply to require that the ingredient accomplish some technical or physical effect.

14. One comment objected to the use in § 121.105 of the term "food ingredients" for substances used as components of packaging.

The Commissioner notes that this comment is untimely in that § 121.105 was made final on September 23, 1974. The Commissioner concludes, furthermore, that the language objected to is not misleading.

15. One comment objected to language in the proposal that indicated that substances affirmed as GRAS in § 121.105 are being used in food. The comment contended that they are not added directly to food.

The Commissioner concludes that § 121.105 is not ambiguous. The regulation clearly limits its applicability to indirect food additives.

16. One comment contended that § 121.1(m), which defines "food", is inappropriately broader than the statutory definition of food. The comment contended that "substances migrating to foods from food contact articles" may be "food additives" as that term is defined in section 201(s) of the act, but that this is not sufficient to make such substances "food." Furthermore, the comment contended that a new definition for "food" will result in confusion in the regulated industry.

The Commissioner advises that all substances migrating from food-contact surfaces are foods within the meaning of the act. This position has been upheld by the courts in *United States* v. *Articles of Food*, 370 F. Supp. 371 (E.D. Mich., 1974) and in *Natick Paperboard Corp.* v. *Weinberger*, 525 F. 2d 403 (1st Cir., 1975). The Commissioner concludes that no confusion to the regulated industry will result from making clear the scope of the act.

17. One comment contended that the first clause of proposed § 121.3(h) and the statement of proposed § 121.3(i) are contradictory. The comment contended that paragraph (h) states that a substance affirmed as GRAS for a specific use prior to general evaluation does not have to meet paragraph (h) (1), (2), and (3), while paragraph (i) says that it does.

The Commissioner has revised § 121.3 (h) and (i) of the final regulation to make the intent clear. No substantive change is intended by the revision.

18. One comment contended that the requirement in proposed § 121.3(h)(1) that all substances listed in § 121.105 for use in food-contact surfaces meet any applicable food grade specifications of the Food Chemicals Codex is unsound. The comment stated that the consideration of specifications would be more appropriately implemented by provisions such as § 121.2500 (21 CFR 121.2500), which in paragraph (a)(2) requires that "Any substance used as a component of articles that contact food shall be of a purity suitable for its intended use."

The Commissioner has revised the language in § 121.105 of the final regulation to adopt the language now present in § 121.2500(a)(2). The implication in the proposal that all indirect food additives are required to meet Food Chemicals Codex specifications was not intended.

19. One comment referred to § 121.105 (f)(1), which affirmed the GRAS status of locust (carob) bean gum, and contended that the Commissioner has failed to meet the requirements of proposed § 121.3(i) because the specifications listed do not meet the Food Chemicals Codex specifications as required by § 121.3(i).

As stated in paragraph 18 of this preamble, the final regulation has been revised so that Food Chemicals Codex standards are not necessarily applicable to indirect food additives.

20. One comment opposed the provision in § 121.14(d) requiring any person who intends to assert or rely on a prior sanction of which the Commissioner is not aware to submit proof of its existence when that prior sanction is inconsistent with a proposed affirmation of GRAS status or a proposed food additive regulation. The comment cited judicial decisions holding that administrative agencies may not supersede statutes. The comment contended that this provision concerning prior sanctions is not necessary to the orderly conduct of FDA business because the substances that were the subject of prior sanctions are still subject to the adulteration and misbranding provisions of the act. The comment also questioned whether constructive notice of the type afforded by FEDERAL REGISTER publication is adequate to bring about a waiver of "statutory right."

The Commissioner concludes that it is necessary for proper functioning of the agency's ingredient review program to require that persons holding prior sanctions make their existence known when the agency is proposing regulations that are inconsistent with the continued use of an ingredient in accordance with a prior sanction. Thus, the only occasion on which a person must come forward to make known the existence of the prior sanction is when FDA is proposing limits on the use of the ingredient that would foreclose the prior-sanctioned use. As was discussed in the FEDERAL REGISTER of July 26, 1973 (38 FR 20042 et seq.), it is appropriate to place the burden of coming forward on a person who intends to rely on an exemption, such as a prior sanction.

Several factors support the Commissioner's conclusion: First, it is inequitable if one manufacturer who knows of a prior sanction is permitted to take advantage of it, while his competitors are restrained by regulations arising from the agency's review of ingredient safety. If the prior-sanctioned use is safe, all users should be permitted to rely upon it. If it is not safe, it should be brought to the agency's attention so that appropriate conclusions can be made. Second, enforcement would be highly inefficient if defenses to the agency's conclusions made during rule making are not raised until the time of enforcement. After a regulation is promulgated, FDA enforces the limitations that the regulation imposes through analysis of food samples and factory inspection. It would be disruptive for FDA to seize violative food or to initiate other regulatory action and only at that time be advised that the manufacturer holds an applicable prior sanction. Especially if the food is not in the possession of the manufacturer when seized, as is usually the case, disclosure of a prior sanction at the time of enforcement is not timely to prevent unnecessary disruption of commerce. Third, the issue of whether a prior-sanctioned use continues to be safe should be dealt with in an administrative proceeding, in which all relevant data and information may be economically marshaled and considered, rather than in a judicial trial, which requires the testimony of expert witnesses and in which the finder of fact is a layman.

The procedure adopted in the regulations imposes no significant burden on affected persons. Where FDA by regulation imposes limitations on use of an ingredient, all food manufacturers must make themselves aware of these limitations to avoid the legal sanctions for noncompliance. As manufacturers must routinely monitor the FEDERAL REGISTER for such notices, it is little additional burden to require a manufacturer to notify the agency if he holds a prior sanction for different conditions of use. The Commissioner therefore concludes that the procedure required by the regulation is lawful. The regulation has been revised to make clear that it is applicable only to regulations proposed after a general evaluation of the uses of an ingredient. Thus, it is not applicable, for example, to food additive regulations issued in response to petitions. Accordingly, the final regulation indicates that, when FDA completes a general evaluation of the uses of an ingredient, all prior sanctions known to, and recognized by, the agency will be the subject of a regulation.

21. Comments opposed the consideration of manufacturing processes as a factor in determining GRAS status, stating that scientific experts would be expected to base their opinion as to the safety of a substance on the composition of the substance itself, which may be established by specification. A comment thus contended that the GRAS regulations should be based on the composition of each ingredient, its physical properties, and the exclusion of specified impurities.

The Commissioner concludes that it is important to consider manufacturing process in defining the substance that has been determined to be GRAS. The comment correctly states that a determination of GRAS status is based on the composition of the ingredient. It may not be possible, however, to determine the precise composition by analysis. Especially in the case of contaminants present at very low levels, the complete composition of an ingredient will not be known unless it is tested for the presence of every conceivable contaminant. Such a process of complete testing would, of course, be prohibitively expensive. Instead of attempting to ascertain the composition of an ingredient, therefore, it may be more practical to define the substance in terms of its manufacturing process and to treat variations of the ingredient produced by new manufacturing processes as subject to independent review of their safety. A determination that an ingredient produced by one manufacturing process is GRAS does not exclude the possibility that the ingredient produced by a different manufacturing process is not also GRAS. However, a regulation affirming the GRAS status of an ingredient must, under section 201(s) of the act, be restricted to the ingredient that has been in common use in food or that was the subject of scientific tests to determine its safety. The burden is on the manufacturer to demonstrate that the ingredient he is using is of the same composition as the ingredient that has been traditionally used or that has been investigated by researchers. If a manufacturer can establish that a change in manufacturing process has produced no change in the composition of an ingredient, it is eligible for affirmation as GRAS.

In describing manufacturing processes, the Commissioner intends to specify only those parameters found necessary to establish the identity and safety of the ingredient. Thus, whereas synthetic food ingredients will require varying degrees of specificity in describing the method(s) of manufacture, most natural food ingredients will require only identification of the natural source of the ingredient and possibly extraction or distillation methods used in processing the natural ingredient. Many of these processes are already described in individual food ingredient monographs in the Food Chemicals Codex.

22. One comment asserted that, if the composition of a substance made by a new process is substantially the same as that of a GRAS substance, there is no basis for scientific experts to differentiate between the two substances. The comment asserted that this scientific principle was affirmed by FDA in the preamble to the regulation concerning flavors (21 CFR 1.12), which stated that there is no available evidence to indicate any difference in safety between a naturally occurring flavor and its synthetic counterpart (published in the FEDERAL REGISTER of December 3, 1973 (38 FR 33284)).

The Commissioner concludes that consideration of manufacturing processes in GRAS affirmation does not conflict with the earlier discussion about natural and artificial flavors cited by the comment. An artificial flavor does not necessarily differ from its natural counterpart because of a change in processing, but because its composition is different. The statement that artificial flavors are as safe as natural flavors was based on knowledge about each and not on the assumption that their composition is identical.

23. One comment contended that affirmation of GRAS status based upon the manufacturer's adherence to specific manufacturing processes was inconsistent with the position the agency has taken in approving food additive petitions, where no such requirement exists as long as the chemical identity of the finished product is known.

The Commissioner notes that the specification of manufacturing methods in GRAS affirmation regulations represents a basic difference between GRAS affirmation and food additive regulations, but does not represent an inconsistency. Both food additive and GRAS affirmation petitions require that methods of manufacture be carefully evaluated, as this information may be related to the final purity and safety of the product. Any change in the manufacturing process for a food additive requires a new food additive regulation if the process introduces new substances that are not

GRAS into food. Thus, the policy for food additives and GRAS substances is identical. However, in the case of food additives, the manufacturing process is not generally specified in the regulation because under section 301(j) of the act (21 U.S.C. 331(j)) confidential production information may not be disclosed. No such confidentiality exists for GRAS substances. GRAS affirmation regulations supply information on manufacturing methods to permit the food manufacturer to assure himself that the substance used is GRAS, whereas a manufacturer using a food additive must assure himself through other means that the substance used is the same substance as was approved.

24. One comment contended that the specification of manufacturing processes in the GRAS regulations is inconsistent with the Commissioner's recognition, in the public information regulations, that manufacturing methods and processes are considered as confidential trade secrets until publicly disclosed by the manufacturer or abandoned.

The Commissioner concludes that consideration of manufacturing processes in GRAS affirmation proceedings is consistent with the statement in the FDA public information regulations that manufacturing methods and processes are ordinarily trade secrets (21 CFR 4.111 (d)(2)). If the manufacturing process is specified in a regulation to identify the substance being affirmed as GRAS, that process will undoubtedly be well known: it is impossible that the safety of a product could become generally recognized while its method of production remained a secret. Processing information about a substance, as it serves to identify the substance and provide information on its safety, must be part of the generally available information for the substance to be affirmed as GRAS. Accordingly, the Commissioner has previously concluded (by publication in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705)) that GRAS affirmation petitions may not properly contain any trade secret information.

25. A comment argued that the evaluation of manufacturing processes in GRAS affirmation proceedings would require dealing with such questions as: (1) How much specificity is required to establish a manufacturing process; (2) what constitutes a change in a manufacturing process; (3) what is a new manufacturing process; and (4) what is a manufacturing process.

The Commissioner is of the opinion that it is not necessary at this time to define "manufacturing process" in all the aspects suggested as necessary by the comment. The burden of proof is always on the manufacturer to demonstrate that the ingredient he is using is GRAS. Thus, if there is a question whether the ingredient he is using differs from the ingredient identified in the regulation affirming the substance as GRAS because of a change in manufacturing process, it is the obligation of the manufacturer to demonstrate whether the ingredient has been affirmed as, or is otherwise, GRAS. The manufacturer may solicit an advisory opinion from the agency. Thus, the questions posed by the comment need not be answered in the abstract, but may be dealt with on a case-by-case basis.

26. A comment submitted in response to a proposed regulation on two particular ingredients (benzoic acid and sodium benzoate) pointed out that many regulations in Subpart F of Part 121 permit substances that are GRAS as direct food ingredients to be used as components of food-contact articles. The comment reasoned that regulations affirming a substance as GRAS for specified direct ingredient uses would thus indirectly have the effect of prohibiting their use as components of food-contact articles.

The Commissioner advises that the comment's interpretation is not correct. To clarify this matter, § 121.104 has been revised explicitly to permit the use in food-contact articles of substances that are affirmed as GRAS as direct food ingredients. The amounts of the substances added to the diet by use of the ingredients in food-contact articles would be very small compared to those from direct uses, so that the basis for the determination of GRAS status would remain unaffected.

27. The definition of "safe" in § 121.1 (i) has been revised to make clear that the intended conditions of use are considered in determining whether a substance is safe.

28. Several comments addressed § 121.104(f), which is already a final regulation. The regulation requires that the label and labeling of an intermediate mix containing an ingredient affirmed as GRAS bear a statement of concentration of the ingredient. The comments stated that application of this provision to bulk flavoring mixtures would effectively require formula disclosure as more flavoring ingredients become affirmed as GRAS under § 121.104. The comments asserted that the flavor formulations are trade secrets and urged an exemption for flavors. Also, one comment contended that natural flavors tend to vary in composition and that a mixture containing only nautral flavors might by necessity have to be varied in composition from one batch to the next to achieve the desired flavor. In such a case, the comment asserted, conformance with the regulation could require that a new label be prepared for each batch. The comment contended that for the most part flavors are used at extremely low levels in finished food products, well below any expected limitations developed for reasons of safety. However, the comment recognized the importance of providing adequate information to the manufacturer of the final food product to enable him to be certain that his product complies with all applicable laws and regulations. The comment therefore suggested that the regulation be amended to apply only when there is a specific limitation other than good manufacturing practice established in the regulation. In other cases a statement of the concentration of the ingredient of any intermediate mix would be unnecessary under the comment's proposal if the label bore instructions for use that, if followed, would assure that the resulting food product complied with applicable regulations. The comment suggested that the labeling also be required to include the statement "For instructions regarding uses involving other ingredients for the same technical effect, contact the supplier of the product."

The Commissioner is aware of the numerous labeling difficulties asserted by these comments. He is also concerned that food processors must have sufficient information independently to determine that use of GRAS ingredients will be in conformance with these regulations. The Commissioner is therefore proposing to amend § 121.104(f) to permit flexibility in the labeling of GRAS ingredients and intermediate mixes. The proposal takes into account the difficulties identified in these comments and may be found elsewhere in this issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047 as amended, 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 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)), Part 121 is amended as follows:

1. In § 121.1 by revising paragraphs (f), (h), (i), and (k) and by adding new paragraphs (l) and (m) to read as follows:

§ 121.1 Definitions and interpretations.

* * * * *

(f) "Common use in food" means a substantial history of consumption of a substance by a significant number of consumers in the United States.

* * * * *

(h) "Scientific procedures" include those human, animal, analytical, and other scientific studies, whether published or unpublished, appropriate to establish the safety of a substance.

(i) "Safe" or "safety" means that there is a reasonable certainty in the minds of compentent scientists that the substance is not harmful under the intended conditions of use. It is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of the use of any substance. Safety may be determined by scientific procedures or by general recognition of safety. In determining safety, the following factors shall be considered:

(1) The probable consumption of the substance and of any substance formed in or on food because of its use.

(2) The cumulative effect of the substance in the diet, taking into account any chemically or pharmacologically related substance or substances in such diet.

(3) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food and food ingredients, are generally recognized as appropriate.

* * * * *

(k) "General recognition of safety" shall be determined in accordance with § 121.3.

(l) "Prior sanction" means an explicit approval granted with respect to use of a substance in food prior to September 6, 1958, by the Food and Drug Administration or the United States Department of Agriculture pursuant to the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, or the Meat Inspection Act.

(m) "Food" includes human food, substances migrating to food from food-contact articles, per food, and animal feed.

2. By revising § 121.3 to read as follows:

§ 121.3 Classification of a food ingredient as generally recognized as safe (GRAS).

(a) General recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to food. The basis of such views may be either (1) scientific procedures or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food. General recognition of safety requires common knowledge about the substance throughout the scientific community knowledgeable about the safety of substances directly or indirectly added to food.

(b) General recognition of safety based upon scientific procedures shall require the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation for the ingredient. General recognition of safety through scientific procedures shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(c) General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive regulation. General recognition of safety through experience based on common use in food prior to January 1, 1958, shall ordinarily be based upon generally available data and information. An ingredient not in common use in food prior to January 1, 1958, may achieve general recognition of safety only through scientific procedures.

(d) The food ingredients listed as GRAS in § 121.101 or affirmed as GRAS in § 121.104 or § 121.105 do not include all substances that are generally recognized as safe for their intended use in food. Because of the large number of substances the intended use of which results or may reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food, it is impracticable to list all such substances that are GRAS. A food ingredient of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effects, which is subject only to conventional processing as practiced prior to January 1, 1958, and for which no known safety hazard exists, will ordinarily be regarded as GRAS without specific inclusion in § 121.101, § 121.104, or § 121.105.

(e) Food ingredients were listed as GRAS in § 121.101 during 1958–1962 without a detailed scientific review of all available data and information relating to their safety. Beginning in 1969, the Food and Drug Administration has undertaken a systematic review of the status of all ingredients used in food on the determination that they are GRAS or subject to a prior sanction. All determinations of GRAS status or food additive status or prior sanction status pursuant to this review shall be handled pursuant to §§ 121.40, 121.41, and 121.4000. Affirmation of GRAS status shall be announced in § 121.104 or § 121.105. The result of such review shall also be made known by an appropriate reference under the heading for the column "Limitations, restrictions, or explanations" in the tables in § 121.101.

(f) The status of the following food ingredients will be reviewed and affirmed as GRAS or determined to be a food additive or subject to a prior sanction pursuant to § 121.40, § 121.41, or § 121.4000:

(1) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, and which has been modified by processes first introduced into commercial use after January 1, 1958, which may reasonably be expected significantly to alter the composition of the substance.

(2) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, that has had significant alteration of composition by breeding or selection after January 1, 1958, where the change may be reasonably expected to alter the nutritive value or the concentration of toxic constituents.

(3) Distillates, isolates, extracts, and concentration of extracts of GRAS substances.

(4) Reaction products of GRAS substances.

(5) Substances not of a natural biological origin, including those for which evidence is offered that they are identical to a GRAS counterpart of natural biological origin.

(6) Substances of natural biological origin intended for consumption for other than their nutrient properties.

(g) A food ingredient that is not GRAS or subject to a prior sanction requires a food additive regulation promulgated under section 409 of the act before it may be directly or indirectly added to food.

(h) A food ingredient that is listed as GRAS in § 121.101 or affirmed as GRAS in § 121.104 or § 121.105 shall be regarded as GRAS only if, in addition to all the requirements in the applicable regulation, it also meets all of the following requirements:

(1) It complies with any applicable food grade specifications of the Food Chemicals Codex, 2d Ed. (1972)[1]; except that any substance used as a component of articles that contact food and affirmed as GRAS in § 121.105 shall comply with the specifications therein, or in the absence of such specifications, shall be of a purity suitable for its intended use.

(2) It performs an appropriate function in the food or food-contact article in which it is used.

(3) It is used at a level no higher than necessary to achieve its intended purpose in that food or, if used as a component of a food-contact article, at a level no higher than necessary to achieve its intended purpose in that article.

(i) If a substance is affirmed as GRAS in § 121.104 or § 121.105 with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(j) If an ingredient is affirmed as GRAS in § 121.104 or § 121.105 with specific limitation(s), it may be used in food only within such limitation(s) (including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(k) Pursuant to § 121.40, a food ingredient may be affirmed as GRAS in § 121.104 or § 121.105 for a specific use(s) without a general evaluation of use of the ingredient. In addition to the use(s) specified in the regulation, other uses of such an ingredient may also be GRAS. Any affirmation of GRAS status for a specific use(s), without a general evaluation of use of the ingredient, is subject to reconsideration upon such evaluation.

(l) New information may at any time require reconsideration of the GRAS status of a food ingredient. Any change in § 121.101, § 121.104, or § 121.105 shall be accomplished pursuant to § 121.41.

3. By adding a new § 121.14 to read as follows:

§ 121.14 Prior sanctions.

(a) A prior sanction shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was ex-

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

plicit approval by the Food and Drug Administration or the United States Department of Agriculture prior to September 6, 1958.

(b) The existence of a prior sanction exempts the sanctioned use(s) from the food additive provisions of the act but not from the other adulteration or the misbranding provisions of the act.

(c) All known prior sanctions shall be the subject of a regulation published in Subpart E of this part. Any such regulation is subject to amendment to impose whatever limitation(s) or condition(s) may be necessary for the safe use of the ingredient, or revocation to prohibit use of the ingredient, in order to prevent the adulteration of food in violation of section 402 of the act.

(d) In proposing, after a general evaluation of use of an ingredient, regulations affirming the GRAS status of substances added directly to human food in § 121.104 or substances in food-contact surfaces in § 121.105, or establishing a food additive regulation for substances added directly to human food in Subpart D of this part or food additives in food-contact surfaces in Subpart F of this part, the Commissioner shall, if he is aware of any prior sanction for use of the ingredient under conditions different from those proposed in the regulation, concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any food additive or GRAS regulation promulgated after a general evaluation of use of an ingredient constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to a proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E of this part, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

4. In § 121.40 by adding new paragraph (c)(6) to read as follows:

§ 121.40 Affirmation of generally recognized as safe (GRAS) status.

* * * * *

(c) * * *

(6) The notice of filing in the FEDERAL REGISTER will request submission of proof of any applicable prior sanction for use of the ingredient under conditions different from those proposed to be determined to be GRAS. The failure of any person to come forward with proof of such an applicable prior sanction in response to the notice of filing will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice of filing will also constitute a proposal to establish a regulation under Subpart E of this part, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the notice of filing.

5. In § 121.41 by adding new paragraph (d) to read as follows:

§ 121.41 Determination of food additive status.

* * * * *

(d) If the Commissioner of Food and Drugs is aware of any prior sanction for use of the substance, he will concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert to rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E of this part, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

6. In § 121.104 by adding a new sentence to paragraph (a) and by adding new paragraph (b) (1), (2), and (3) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

(a) * * * The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS. Ingredients affirmed as GRAS in this section may also be used as components of articles that contact food, subject to any limitations prescribed in Subpart F of this part or in § 121.105.

(b) * * *

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food only within such limitation(s), including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use. Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, without a general evaluation of use of the ingredient, other uses may also be GRAS.

* * * * *

7. In § 121.105 by adding a new sentence to paragraph (a) and by adding new paragraph (b) (1), (2), and (3) to read as follows:

§ 121.105 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

(a) * * * The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS.

(b) * * *

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food-contact surfaces only within such limitation(s), including the category of food-contact surface(s), the functional use(s) of the ingredient, and the level(s) of use. Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, prior to general evaluation of use of the ingredient, other uses may also be GRAS.

* * * * *

Effective date: These regulations shall be effective January 6, 1977.

(Secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047 as amended, 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371(a)).)

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

NOTE.—Incorportion by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

[FR Doc.76-35835 Filed 12-6-76;8:45 am]

[Docket No. 76N-0133]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

BENZOIC ACID AND SODIUM BENZOATE; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENTS

The Food and Drug Administration (FDA) is affirming that benzoic acid and sodium benzoate are generally recognized as safe as direct human food ingredients. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34197), a proposal was published to affirm that benzoic acid and sodium benzoate are generally recognized as safe (GRAS) for use as direct human food ingredients. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40, relating to to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on benzoic acid and sodium benzoate, data on teratology tests on sodium benzoate, mutagenic experiments on these ingredients, and the report of the Select Committee on GRAS Substances for benzoic acid and sodium benzoate, are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of benzoic acid and sodium benzoate, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of benzoic acid and sodium benzoate approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for benzoic acid or sodium benzoate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of benzoic acid or sodium benzoate under conditions different from those set forth in the final regulation or different from that set forth in Subpart E has been waived.

Five respondents submitted comments in response to the Commissioner's proposal and supporting data and information on benzoic acid and sodium benzoate. A summary of the comments and the Commissioner's conclusions thereon follows:

1. Four comments questioned the specified method of manufacture for sodium benzoate. The comments indicated that sodium hydroxide and sodium carbonate serve equally well as sodium bicarbonate when used as a neutralizing agent for benzoic acid. The comments also requested deletion of the specified purification steps for sodium benzoate, indicating that "charcoal or potassium permanganate, filtration, and drying" are optional steps that are not necessary to identify this manufacturing process or maintain food-grade quality of sodium benzoate.

The Commissioner agrees with these comments. The method of manufacture for sodium benzoate may adequately be described as, "produced by the neutralization of benzoic acid with sodium bicarbonate, sodium carbonate, or sodium hydroxide," and the final regulation so provides.

2. One comment suggested that the method of manufacture for benzoic acid should include the air oxidation of toluence "in the presence of a transition metal salt catalyst." The comment stated that a suitable catalyst was required in this process to achieve a satisfactory yield of benzoic acid.

The Commissioner agrees with this comment and has added this method of manufacture for benzoic acid to the final regulation.

3. One comment expressed concern that the proposal may delete the prior-sanctioned use of sodium benzoate, as currently listed in § 121.2005(b) (21 CFR 121.2005(b)). The comment also expressed concern that affirmation of the GRAS status of benzoic acid, as a direct human food ingredient under § 121.104, may also invalidate its use as an indirect food ingredient as permitted in § 121.2500(d) (21 CFR 121.2500(d)), under Subpart F. For these reasons, the comment requested that both sodium benzoate and benzoic acid be affirmed as GRAS under § 121.105, as indirect food ingredients for use in food-packaging materials.

The Commissioner states that the proposals of September 23, 1974 were not intended to invalidate those prior sanctions that are presently listed in Subpart E. The intent of the proposals was to solicit information on prior sanctions that are not a part of these regulations or otherwise a part of current FDA records. Therefore, the prior-sanctioned use of sodium benzoate, as listed in § 121.2005(b), is not invalidated. This possible confusion has been clarified in this regulation for sodium benzoate.

Affirmation of the GRAS status of a substance as a direct human food ingredient should not be interpreted as revoking approval of the substance for indirect uses or other uses permitted by the regulations. Elsewhere in this issue of the FEDERAL REGISTER, § 121.104 has been amended to clarify this matter.

Subsequent to the September 23, 1974 proposal for GRAS affirmation of benzoic acid and sodium benzoate, an investigation for mutagenicity was conducted on benzoic acid and sodium benzoate. An evaluation of these studies demonstrates no evidence of mutagenicity caused by benzoic acid or sodium benzoate. The Commissioner, therefore, concludes that no change in the proposed affirmed GRAS status of benzoic acid or sodium benzoate is warranted. Copies of these studies are on file with the Hearing Clerk, and may also be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151 (order numbers: Benzoic acid (tier 1 microbial test) PB-245-500/AS, $3.75; sodium benzoate (cytogenetics, host mediated assay and dominant lethal tests) PB-245-453/AS, $4.75).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(d)(2) by revising the entries for "Benzoic acid" and "Sodium benzoate" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions or explanations
* * * * * * *		
(2) CHEMICAL PRESERVATIVE		
* * * * * * *		
Benzoic acid	0.1 pct	Affirmed as GRAS, § 121.104(g)(6).
* * * * * * *		
Sodium benzoate	.1 pct	Affirmed as GRAS, § 121.104(g)(7).
* * * * * * *		

2. In § 121.104 by adding new paragraph (g) (6) and (7) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(6) *Benzoic acid.* (i) Benzoic acid is the chemical benzenecarboxylic acid ($C_7H_6O_2$), occurring in nature in free and combined forms. Among the foods in which benzoic acid occurs naturally are cranberries, prunes, plums, cinnamon, ripe cloves, and most berries. Benzoic acid is manufactured by treating molten phthalic anhydride with steam in the presence of a zinc oxide catalyst, by the hydrolysis of benzotrichloride, or by the oxidation of toluene with nitric acid or sodium bichromate or with air in the presence of a transition metal salt catalyst.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2), and as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(v) Prior sanctions for this ingredient different from those uses established in this section, or different from that set forth in Subpart E of this part, do not exist or have been waived.

(7) *Sodium benzoate.* (i) Sodium benzoate is the chemical benzoate of soda ($C_7H_5NaO_2$), produced by the neutralization of benzoic acid with sodium bicarbonate, sodium carbonate, or sodium hydroxide. The salt is not found to occur naturally.

(ii) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2), and as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(v) Prior sanctions for this ingredient different from the uses established in this section, or different from that set forth in Subpart E of this part, do not exist or have been waived.

* * * * *

Effective date: This regulation shall be effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35842 Filed 12-6-76;8:45 am]

[Docket No. 76N-0138]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

ACACIA (GUM ARABIC); AFFIRMATION OF GRAS STATUS AS A DIRECT HUMAN FOOD INGREDIENT WITH SPECIFIC LIMITATIONS, AND AS AN INDIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that acacia (gum arabic) is generally recognized as safe as a direct human food ingredient with specific limitations, and as an indirect human food ingredient. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34203), a proposal was published to affirm that acacia is generally recognized as safe (GRAS) for use as a direct and indirect human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on acacia, data on the teratology and mutagenic tests on this ingredient, and the report of the Select Committee on GRAS Substances for acacia are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of acacia, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of acacia approved by issuance of an appropriate regulation under Subpart E—Prior-sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for acacia were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set forth in the final regulation has been waived.

Five comments were received in response to the Commissioner's proposal and supporting data and information on acacia. A summary of the comments and the Commissioner's conclusions thereon follows:

1. One firm objected to the labeling requirements of § 121.104(f)(2) (21 CFR 121.104(f)(2)), which requires a statement of the concentration of acacia affirmed as GRAS in any intermediate mix. The comment noted that the functionality variation of the gum as obtained from it various natural sources would make it very difficult to label the percentage of acacia with any consistent accuracy. They also objected to this requirement from a formula disclosure standpoint, arguing that disclosure of percentage composition would create a hardship on current manufacturers of stabilizers containing acacia.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients and the final regulation exempts acacia from § 121.104(f)(2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes is, however, published elsewhere in this issue of the FEDERAL REGISTER.

2. One comment suggested that a clarification be made regarding the basis upon which the usage levels of acacia have been established. It was stated that the reported usage levels in the National Academy of Sciences/National Research Council (NAS/NRC) survey were on an "as served" basis, and the comment therefore requested that limitations set forth in the regulations governing GRAS substances be designated on this same basis.

The Commissioner agrees with the comment that usage levels reported in the NAS/NRC survey were on an "as served" basis. The final regulation has been clarified accordingly.

3. One comment requested that the maximum usage level of acacia in hard candy be increased from 31 percent to 46.5 percent. It was indicated that the NAS/NRC reported maximum usage figure for hard candy was not on an "as used" basis, but rather on the formulation basis. Thus, when water is evaporated from the cooked candy, this final product contains 46.5 percent acacia.

The Commissioner accepts this explanation and has inreased the usage level of acacia from 31 percent to 46.5 percent for hard candy in the final regulation.

4. One comment objected to the omitted use of acacia as a "processing aid" (§ 121.1(o)(24)) in the production of alcoholic beverages. This use was not recognized in the September 23, 1974 proposal, but was included in the 1972 NAS/NRC report of uses.

The Commissioner acknowledges this oversight, which has been corrected in the final regulation by including "processing aid" as a technical effect under "all other food categories."

5. One comment requested that acacia be allowed as a formulation aid in all food categories. The comment contended that acacia is used as an encapsulating agent in connection with flavor uses in various foods and that this change would not require any change in the maximum usage levels permitted for acacia.

The Commissioner acknowledges that this technical effect for use of acacia was reported in the 1972 NAS/NRC survey of GRAS substances but apparently overlooked in the proposal. The final regulation therefore permits the use of this gum as a formulation aid in all food categories.

Additional information from the NAS/NRC regarding the 1972 maximum usage levels of acacia has been received by FDA since publication of the September 23, 1974 proposal to affirm acacia as GRAS. This new information necessitates acknowledgment of slightly higher levels of use of acacia in nonalcoholic beverages and gelatins, puddings, and fillings. These changes have been incorporated into the final regulation.

The Commissioner concludes that the changes from the proposed regulation have been adopted to permit flexibility in labeling, clarify the meaning of the regulation, and allow the use of acacia in a manner and at levels that have already been established. Such changes do not alter his conclusion that acacia is GRAS but must be limited to present levels of use to ensure its continued safe use in foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101 (d)(7) and (i) by revising the entry for "Acacia (gum arabic)" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions, or explanations
* * * * * * *		
(7) STABILIZERS		
Acacia (gum arabic)		Affirmed as GRAS, § 121.104(g)(19)
* * * * * * *		

* * * * * *

(i) * * *

Acacia (gum arabic), affirmed as GRAS, § 121.105(f)(4).		

* * * * * *

2. In § 121.104 by adding new paragraph (g)(19) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * * *

(g) * * *

Maximum usage levels permitted

Food (as served)	Percent	Function
Beverages and beverage bases, § 121.1(n)(3)	2.0	Emulsifier and emulsifier salt, § 121.1(o)(8); flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Chewing gum, § 121.1(n)(6)	5.6	Flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); humectant, § 121.1(o)(16); surface-finishing agent, § 121.1(o)(30).
Confections and frostings, § 121.1(n)(9)	12.4	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28); surface-finishing agent, § 121.1(o)(30).
Dairy product analogs, § 121.1(n)(10)	1.3	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Fats and oils, § 121.1(n)(12)	1.5	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Gelatins, puddings, and fillings, § 121.1(n)(22).	2.5	Emulsifier and emulsifier salt, § 121.1(o)(8); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Hard candy and cough drops, § 121.1(n)(25)	46.5	Flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14).
Nuts and nut products, § 121.1(n)(32)	8.3	Formulation aid, § 121.1(o)(14); surface-finishing agent, § 121.1(o)(30).
Snack foods, § 121.1(n)(37)	4.0	Emulsifier and emulsifier salt, § 121.1(o)(8); formulation aid, § 121.1(o)(14).
Soft candy, § 121.1(n)(38)	85.0	Emulsifier and emulsifier salt, § 121.1(o)(8); firming agent, § 121.1(o)(10); flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); humectant, § 121.1(o)(16); stabilizer and thickener, § 121.1(o)(28); surface-finishing agent, § 121.1(o)(30).
All other food categories	1.0	Emulsifier and emulsifier salt, § 121.1(o)(8); flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); processing aid, § 121.1(o)(21); stabilizer and thickener, § 121.1(o)(28); surface-finishing agent, § 121.1(o)(30); texturizer, § 121.1(o)(32).

(19) *Acacia (gum arabic).* (i) Acacia (gum arabic) is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia*, family Leguminosae.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

(iv) The requirement of § 121.104(f)(2) is optional.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * *

3. In § 121.105 by adding new paragraph (f)(4) to read as follows:

§ 121.105 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(f) * * *

(4) *Acacia (gum arabic).* (i) Acacia (gum arabic) is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia*, family Leguminosae.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used or intended for use as a constituent of food-packaging materials.

(iv) The ingredient is used at levels not to exceed good manufacturing practice.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: The regulation shall be effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35836 Filed 12-6-76;8:45 am]

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

[Docket No. 76N-0139]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

KARAYA GUM (STERCULIA GUM); AFFIRMATION OF GRAS STATUS WITH SPECIFIC LIMITATIONS AS A DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that karaya gum (sterculia gum) is generally recognized as safe as a direct human food ingredient, with specific limitations. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34209), a proposal was published to affirm that karaya gum is generally recognized as safe (GRAS) for use as a direct human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, a copy of the Scientific Literature Review on karaya

genic experiments on this ingredient, and the report of the Select Committee on GRAS Substances for karaya gum are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of karaya gum, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of karaya gum approved by the issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for karaya gum were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set out in this regulation has been waived.

Four comments were received in response to the Commissioner's proposal and supporting data and information on karaya gum. A summary of the comments and the Commissioner's conclusions thereon follows:

1. One firm objected to the labeling requirements of § 121.104(f)(2) (21 CFR 121.104(f)(2)), which requires a statement of the concentration of karaya gum affirmed as GRAS contained in intermediate mixes. The comment noted that the functionality variation of the gum as obtained from its various natural sources would make it very difficult to label the percentage of karaya gum with any consistent accuracy. The comment also objected to this requirement from a formula disclosure standpoint, arguing that percentage composition disclosure would create a hardship on manufacturers of stabilizers containing karaya gum. The comment favored supplying alternative information to users of the ingredient to assure that the final food products were in compliance with the maximum limitations prescribed by this regulation.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients and the final regulation exempts karaya gum (sterculia gum) from § 121.104(f)(2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes, is, however, found elsewhere in this issue of the FEDERAL REGISTER.

2. One comment objected to the name "sterculia gum" having precedence over "karaya gum." The comment argued that the latter is the more commonly used name of this gum.

The Commissioner acknowledges the validity of this information and gives precedence to the name "karaya gum" following the example of the Food Chemicals Codex.

3. One comment requested that karaya gum be allowed as a formulation aid in all food categories. The comment contended that karaya gum is used as an encapsulating agent in connection with flavor uses in various foods and that this change would not require any change in the maximum usage levels permitted for karaya gum.

The Commissioner has considered this request and upon further investigation has found that karaya gum is not currently used as an encapsulating agent except in two food categories where it has been indicated for use as a formulation aid. Therefore, the Commissioner denies this request in general, but the regulation has been revised to recognize the use of this gum as a formulation aid in these two food categories.

4. One comment requested that the Commissioner affirm karaya gum as GRAS under § 121.105 (21 CFR 121.105) for indirect human food use, as well as under § 121.104. It was the comment's interpretation of the regulations that unless the use of karaya gum was specifically approved in § 121.105, its use in food packaging materials would be eliminated from approved use in Subpart F of Part 121.

The Commissioner concludes that it is not necessary to affirm karaya gum as GRAS under § 121.105 for indirect food uses. This gum will be listed as a generally recognized as safe direct food ingredient in § 121.104, and thus will still be eligible for use in food packaging materials as set forth in Subpart F and other regulations. Section 121.104 has been amended elsewhere in this issue of the FEDERAL REGISTER to clarify this matter.

5. One comment suggested that a clarification be made regarding the basis upon which the usage levels of karaya gum have been established. It was stated that the reported usage levels in the National Academy of Sciences/National Research Council (NAS/NRC) survey were on an "as served" basis, and the comment therefore requested that limitations set forth in the regulations governing GRAS substances be designated on this same basis.

The Commissioner agrees with the comment that usage levels reported in the NAS/NRC survey were on an "as served" basis. The regulation has been clarified accordingly.

Additional information from the NAS/NRC regarding the maximum levels of use of karaya gum has become available to the Commissioner since publication of the September 23, 1974 proposal to affirm karaya gum as GRAS. This new information indicates that the maximum reported usage of karaya gum is 0.002 percent in meat products. The proposed level of 0.1 percent for meat products has therefore been changed to 0.002 percent, and is included in the "all other food categories" classification, under which the 0.002 percent use level is already recognized. Also, the function of "emulsifier and emulsifier salt" in soft candy has been added to this final regulation as a result of this new information.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner amends Part 121 as follows:

1. In § 121.101(d)(7) by deleting the entry for "Sterculia gum (karaya gum)" and by alphabetically inserting the entry "Karaya gum (sterculia gum)" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions or explanations
* * * * * * *		
(7) STABILIZERS		
Karaya gum (sterculia gum)		Affirmed as GRAS, § 121.104(g)(20).
* * * * * * *		

2. In § 121.104 by adding a new paragraph (g)(20) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(20) *Karaya gum (sterculia gum).* (i) Karaya gum (sterculia gum) is the dried gummy exudate from the trunk of trees of various species of the genus *Sterculia*.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Maximum usage levels permitted

Food (as served)	Percent	Function
Frozen dairy desserts and mixes, § 121.1(n)(20).	0.5	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Milk products, § 121.1(n)(31)	.02	Stabilizer and thickener, § 121.1(o)(28).
Soft candy, § 121.1(n)(38)	.9	Emulsifier and emulsifier salt, § 121.1(o)(8); stabilizer and thickener, § 121.1(o)(28).
All other food categories	.002	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).

(iv) The requirement of § 121.104(f)(2) is optional.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * *

Effective date: This regulation is effective on January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35843 Filed 12-6-76;8:45 am]

[Docket No. 76N-0142]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

GUAR GUM; AFFIRMATION OF GRAS STATUS AS A DIRECT HUMAN FOOD INGREDIENT WITH SPECIFIC LIMITATIONS, AND AS AN INDIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that guar gum is generally recognized as safe as a direct human food ingredient with specific limitations, and as an indirect human food ingredient. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34201), a proposal was published to affirm that guar gum is generally recognized as safe (GRAS) for use as a direct and indirect human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on guar gum, data on the teratology and mutagenic tests on this ingredient, and the report of the Select Committee on GRAS Substances for guar gum are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of guar gum, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting such additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of guar gum approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to this proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for guar gum were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set forth in this final regulation have been waived.

Seven respondents submitted comments on the proposal. A summary of the comments and the Commissioner's conclusions thereon follows:

1. One comment requested that the regulation permit the use of 1.4 percent guar gum in dehydrated potatoes. The comment suggested that the increased limit be provided solely for dehydrated potatoes, or alternatively, that the maximum use level for processed vegetables should be increased from 1.1 percent to 1.4 percent. A 2.0 percent maximum use level in dehydrated potatoes was reported by the firm to the National Academy of Sciences/National Research Council (NAS/NRC) during the survey on use of guar gum. It was emphasized by the comment that the requested use of 1.4 percent guar gum was the minimum essential concentration required for this product.

The data in the NAS/NRC survey on processed vegetables have been reviewed by FDA and the agency has verified that this respondent reported a maximum use of 2 percent guar gum in dehydrated potatoes. The Commissioner therefore concludes that the requests use level for guar gum in dehydrated potatoes can safely be included. Accordingly, the usage limit for the processed vegetables food category has been increased from 1.1 percent to 2.0 percent.

2. Two comments objected to the labeling requirement of § 121.104(f)(2) (21 CFR 121.104(f)(2)), which requires a statement of the concentration of guar gum affirmed as GRAS in any intermediate mixes. The comments expressed concern from a formula disclosure standpoint and argued that the natural variation of guar gum would make it difficult to label the percentage of guar gum in any intermediate mixes with consistent accuracy. The comments favored supplying alternative information to users of the ingredient, to assure that the final food products would be in compliance with the maximum limitations prescribed by the regulations.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients and the final regulation exempts guar gum from § 121.104(f)(2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes is, however, published elsewhere in this issue of the FEDERAL REGISTER.

3. One comment indicated that the Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Expert Committee on Food Additives had listed guar gum use as "not limited" based upon 2-year feeding studies for guar gum in rats and monkeys (FAO/WHO Technical Report Services, 1974 No. 539, p. 36). The comment assumed that the Select Committee on Gras Substances was not aware of these studies and also maintained that the studies serve a justification for future consideration of higher levels of use for guar gum in foods.

The Food and Drug Administration has been informed that the Select Committee was aware of the cited studies on guar gum. The committee did not consider the studies as long-term feeding studies, however, because only one rat and one monkey were kept on the feeding regime for as long as 2 years. Consequently, the Commissioner finds that any future extension or higher use levels of guar gum requires a food additive regulation.

4. Two comments suggested that maximum use levels of guar gum should be indicated for use in various food categories on an "as served" basis, since foods are frequently sold as mixes requiring dilution and further preparation before serving. They suggested the column heading of the table indicating limitations for use should be changed to read "Food (as served)" instead of "Food categories."

The Commissioner has indicated, in the case of locust (carob) bean gum in § 121.104(g)(5) (21 CFR 121.104(g)(5)), that maximum usage levels are intended for application to food products as prepared for consumption. The Commissioner finds that this designation is also applicable to guar gum. Food product mixes, contributing only a portion of the total weight to the prepared food prod-

uct, may contain proportionally greater percentages of guar gum than similar fully prepared foods. Accordingly, the requested clarification has been made in the final regulation.

5. One comment suggested that a majority of food manufacturers traditionally use "technical grade" guar gum as an indirect food ingredient. The comment requested that § 121.105(f)(2) (21 CFR 121.105(f)(2)) permit such use of the gum and submitted specifications for this use. It was emphasized that the "technical grade" gum contains only a higher percentage of hull and embryo than does food grade guar gum.

After comparing the specifications for food grade and "technical grade" guar gum, the Commissioner agrees with this comment. The Commissioner further concludes that the specifications submitted will assure the continued safe use of this gum as an indirect human food ingredient. Section 121.105(f)(2) has therefore been revised in this final regulation to permit the use of "technical grade" guar gum, within the description and specifications adopted for this ingredient.

6. Two comments requested that increased levels of guar gum be permitted for various food categories. The first comment requested that 1.2 percent guar gum be permitted for use in gravies and meat sauces, that 2.0 percent guar gum be permitted for salad dressings, and that 1.0 percent guar gum be permitted for all other foods in which guar gum has a safe history of use in the American diet. The second comment requested that guar gum be permitted for use at 1.0 percent in nonstandardized jams, jellies, and preserves. Both comments stated that these levels of guar gum are currently being used in some meat and gravy sauces, in salad dressings, and nonstandardized jams and jellies.

The Commissioner has considered all the requests for recognition of increased uses of guar gum and has obtained new maximum use information from the NAS/NRC. The new information validates the use of guar gum specifically indicated by the comments, and at higher levels of use in milk products (0.6 percent) and dairy product analogs (1.0 percent). These new levels have been added to this final regulation. Higher levels of use of gum for other food categories are denied, however, because the comments failed to supply sufficient information to support or otherwise substantiate these uses as current practice.

7. One comment requested that guar gum be permitted for use as a formulation aid in all food categories. The comment contended that the guar gum is used as an encapsulating agent in connection with flavor uses in many foods and that this change would not require any change in the maximum usage levels permitted for guar gum.

The Commissioner acknowledges that this technical effect for use of guar gum was reported in the 1972 NAS/NRC survey of GRAS substances, but apparently overlooked in the proposal. The functions of "firming agent" and "emulsifiers and emulsifier salts" were also overlooked for some food categories. These technical effects have therefore been added to the appropriate food categories for use of guar gum without increasing any limits of use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101 (d)(7), (h), and (i), by revising the entries for "Guar gum" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions, or explanations
* * *	* *	* * *
(7) STABILIZERS		
* * *	* *	* * *
Guar gum		Affirmed as GRAS, §§ 121.104(g)(27) and 121.105(f)(2).
* * *	* *	* * *

* * * * * * * * * * *

(h) * * *

* * *	* *	* * *
Guar gum (affirmed as GRAS, § 121.105(f)(2)).		
* * *	* *	* * *

(i) * * *

* * *	* *	* * *
Guar gum (affirmed as GRAS, § 121.105(f)(2)).		
* * *	* *	* * *

2. In § 121.104 by adding new paragraph (g)(27) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * * * * * * * *

(g) * * *

(27) *Guar gum.* (i) Guar gum is the natural substance obtained from the maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub., or *Cyamopsis psoraloides* (Lam.) D.C.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, § 121.1(n)(1)	0.35	Emulsifier and emulsifier salts, § 121.1(o)(8); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Breakfast cereals, § 121.1(n)(4)	1.2	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Cheese, § 121.1(n)(5)	.8	Do.
Dairy product analogs, § 121.1(n)(10)	1.0	Firming agent, § 121.1(o)(10); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Fats and oils, § 121.1(n)(12)	2.0	Do.
Gravies and sauces, § 121.1(n)(24)	1.2	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Jams and jellies, commercial, § 121.1(n)(28)	1.0	Do.
Milk products, § 121.1(n)(31)	.6	Do.
Processed vegetables and vegetable juices, § 121.1(n)(36).	2.0	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Soups and soup mixes, § 121.1(n)(40)	.8	Do.
Sweet sauces, toppings and syrups, § 121.1(n)(43).	1.0	Do.
All other food categories	.5	Emulsifier and emulsifier salts, § 121.1(o)(8); firming agent, § 121.1(o)(10); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).

(iv) The requirement of § 121.104(f)(2) is optional.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

3. In § 121.105 by adding new paragraph (f)(2) to read as follows:

§ 121.105 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(f) * * *

(2) *Guar gum (technical grade).* (i) Guar gum, technical grade, is the natural substance obtained from maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub. or *Cyamopsis psoraloides* (Lam.) D.C. containing greater quantities of seed hull and embryo than guar gum meeting the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(ii) The technical grade gum meets the following specifications:

Galactomannans, not less than 35 percent
Acid insoluble matter, not more than 27 percent.
Loss on drying, not more than 15 percent
Protein, not more than 27 percent.
Ash, not more than 4.5 percent.
Arsenic (As), not more than 3 parts per million.
Heavy metals (as Pb), not more than 20 parts per million.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Lead (Pb), not more than 10 parts per million.

(iii) The ingredient is used or intended for use as a constituent of food-contact surfaces.

(iv) The ingredient migrates to the packaged or wrapped food at levels not to exceed good manufacturing practice.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: This regulation is effective on January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director, Office of the Federal Register, July 10, 1973 and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35837 Filed 12-6-76;8:45 am]

[Docket No. 76N-0141]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

PROPYL GALLATE; AFFIRMATION OF GRAS STATUS AS A DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that propyl gallate is generally recognized as safe as a direct human food ingredient. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34199), a proposal was published to affirm that propyl gallate is generally recognized as safe (GRAS) for use as a direct human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40) relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on propyl gallate, data on the teratology tests on this ingredient, and the report of the Select Committee on GRAS Substances for propyl gallate are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of propyl gallate, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. This notice was also an opportunity to have prior-sanctioned uses of propyl gallate approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for propyl gallate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set forth in this regulation, or different from that set forth in Subpart E, has been waived.

No comments were received in response to the Commissioner's proposal and supporting data and information on propyl gallate. The Commissioner therefore concludes that no change in the proposal to affirm the GRAS status of propyl gallate is warranted. Accordingly, it is being promulgated without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(d)(2) by revising the entry for "Propyl gallate" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions, or explanations
* * * * * * *		
(2) CHEMICAL PRESERVATIVES		
* * * * * * *		
Propyl gallate	Total content of antioxidants not over 0.02 pt of fat or oil content, including essential (volatile) oil content of the food.	Affirmed as GRAS, § 121.104(g)(26.)
* * * * * * *		

* * * * *

2. In § 121.104 by adding a new paragraph (g)(26) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(26) *Propyl gallate.* (i) Propyl gallate is the *n*-propylester of 3,4,5-trihydroxybenzoic acid ($C_{10}H_{12}O_5$). Natural occurrence of propyl gallate has not been reported. It is commercially prepared by esterification of gallic acid with propyl alcohol followed by distillation to remove excess alcohol.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antioxidant as defined in § 121.1(o)(3).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.015 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(v) Prior sanctions for this ingredient different from the uses established in this section, or different from that stated in Subpart E of this part, do not exist or have been waived.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Effective date: This regulation is effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a).)

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

[FR Doc.76-35838 Filed 12-6-76;8:45 am]

[Docket No. 76N-0143]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

PULPS; AFFIRMATION OF GRAS STATUS AS INDIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that pulps are generally recognized as safe as indirect human food ingredients. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34216), a proposal was published to affirm pulps as generally recognized as safe (GRAS) for use as indirect human food ingredients. The proposal was made on the initiative of the Commissioner of Food and Drugs,

pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on pulps and the report of the Select Committee on GRAS Substances for pulps are available for public review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of pulps, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients, other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of pulps approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for pulps were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of these ingredients under conditions different from those set forth in the final regulation has been waived.

No comments were received in response to the Commissioner's proposal and supporting data and information on pulps. The Commissioner therefore concludes that no change in the proposal to affirm the GRAS status of pulps is warranted. Acordingly, it is being promulgated without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(h), by revising the entry for "Pulps from wood, straw, bagasse, or other natural sources" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(h) * * *

* * * * *

(Pulps from wood, straw, bagasse, or other natural sources (affirmed as GRAS, § 121.105 (f)(3)).

* * * * *

2. By adding to § 121.105 new paragraph (f)(3) to read as follows:

§ 121.105 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(f) * * *

(3) *Pulp.* (i) Pulp is the soft, spongy pith inside the stem of a plant such as wood, straw, sugarcane, or other natural plant sources.

(ii) The ingredient is used or intended for use as a constituent of food packaging containers.

(iii) The ingredient is used in paper and paperboard made by conventional paper-making processes at levels not to exceed good manufacturing practice.

(iv) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: This regulation is effective on January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–35839 Filed 12–6–76;8:45 am]

[Docket No. 76N–0135]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

DILL AND ITS DERIVATIVES; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENTS

The Food and Drug Administration (FDA) is affirming that dill and its derivatives are generally recognized as safe direct human food ingredients. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34211), a proposal was published to affirm that dill and dill oil are generally recognized as safe (GRAS) for use as direct human food ingredients. The proposal was made on the initiative of the Commissioner of Food and Drugs pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on dill and dill oil and the report of the Select Committee on GRAS Substances for dill and dill oil are available for public review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of dill and dill oil, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients other than for the proposed conditions of use. Persons asserting such additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of dill and dill oil approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned uses for dill or dill oil were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for uses of dill and dill oil under conditions different from those set forth in the final regulation has been waived.

Ten respondents submitted comments on the Commissioner's proposal and supporting data and information on dill and dill oil. A summary of the comments and the Commissioner's conclusions thereon follows:

1. Seven comments objected to placing good manufacturing practice (GMP) use limitations on dill and dill oil for various reasons. The comments stated that such limitations were unnecessary because the safety of dill and dill oils was established by the Select Committee at concentrations that are much greater than levels reported to be consumed in the human daily diet. They argued that it was impractical to set limitations on ingredients such as spices and flavorings, which may be added ad libitum to foods in the household. The comments also indicated that dill and dill oils were presently being used at concentrations that were higher than those indicated in the proposal for several foods, and usage of dill and dill oil should be governed through good manufacturing practice at concentrations producing the intended flavoring effect in food.

The Commissioner has considered the available safety data for dill in light of new reported uses and the range of anticipated consumption of dill oil as estimated by the Select Committee and concludes that dill, its essential oils, oleoresins, and natural extractives may be affirmed as GRAS without designating

specific good manufacturing practice guidelines. He finds that these new reported use levels do not significantly change the estimated daily consumption for dill oil or his conclusion that there are adequate margins of safety demonstrated for these food ingredients.

Although the Commisioner is designating that dill and its derivatives need only be used in accordance with good manufacturing practice, and without indicated levels of GMP use, he is not abandoning the practice of designating maximum GMP levels of use for other ingredients affirmed as GRAS. Maximum GMP levels establish conditions of use upon which the GRAS status of the substance was affirmed and serve as important food processing guidelines in providing information on the concentrations of ingredients required to produce intended effects in food. Therefore, while several natural spices may be affirmed as GRAS without GMP guidelines, this practice will only be adopted when it can be determined that the food-processing-use information that is available to FDA is totally inadequate for this purpose, and safety factors for consumption of the ingredient are very high. The Commissioner rejects the consideration of household use of the ingredient as establishing any basis for deleting GMP guidelines for use of GRAS ingredients in processed foods.

2. Three comments noted that dill does not appear in the Food Chemicals Codex and requested that this reference be deleted from the regulation. The comments also requested that this regulation include dill seed, dill seed oils, natural oleoresins, and other natural extractives of dill.

The Commissioner recognizes the unintentional reference that dill must meet the specifications of the Food Chemicals Codex, when in fact dill is not described therein. For the purpose of this regulation, the Commissioner finds that it is necessary for dill to be identified only by definition.

As indicated in paragraph 1, the Commissioner has also considered whether the evaluation for dill and dill oils provides sufficient information to evaluate dill seed, dill seed oil, and other oleoresins and natural extractives of dill. He finds that the available information provides a sound scientific basis for this evaluation, and concludes that these ingredients may also be affirmed as GRAS when used in accordance with good manufacturing practice. Because there are many variations in specifications for natural oleoresins, extractives, and other derivatives of dill, the Commissioner further finds that these derivatives are also best described by definition. In the event that the Food Chemicals Codex publishes quality specifications for these many variations of dill, however, they will then be used for further identification of the derivatives of dill affirmed as GRAS in this regulation.

3. Two comments indicated that the proposed usage levels of dill and dill oil carried the implication that they are rigid limitations placed on the use of these ingredients. The comments further indicated that such limitations are unenforceable, since no known methods of analysis are available for dill.

The Commissioner has set forth in new § 121.104(b) (1) and (2) (21 CFR 121.104(b) (1) and (2)) his clear intent to distinguish between those food ingredients that may be used in accordance with good manufacturing practice and those ingredients that require specific limitations to assure their continued safe use in food. In § 121.104 these types of regulations are clearly distinguished for each food ingredient. Regulations that affirm the GRAS status of food ingredients, based upon either specified or unspecified good manufacturing practice, should not be interpreted as placing rigid limitations on the use of the ingredients. If extended uses of such ingredients can be demonstrated to be generally recognized as safe, such uses are not prohibited by these regulations.

The Commissioner recognizes the difficulty in enforcing both good manufacturing practice requirements and specific limitations for those ingredients for which there are no known methods of analysis in food. This problem is common to many GRAS and other food ingredients that have been exempt from the definition of "food additives" under the act. However, FDA does support and undertake research on such methods as questions arise on the potential health significance of the ingredients. Until such methods are available, however, FDA must rely on its inspectional capabilities for enforcement of these regulations.

4. Two comments requested that dill and dill oil be exempt from the requirement dealing with the benefit contribution of the substance as a factor in judging safety as proposed in § 121.1(i) (4) (21 CFR 121.1(i) (4)).

The Commissioner has deleted this paragraph from § 121.1. The deletion is explained elsewhere in this issue of the FEDERAL REGISTER.

5. One comment objected to the labeling requirements of § 121.104(f) (2), which requires a statement of the concentration of dill and its derivatives affirmed as GRAS ingredients in intermediate mixes. The comment asserted that the natural variation of dill oils are accounted for in the Food Chemicals Codex and that such disclosure would be tantamount to proprietary formula disclosure of such mixes as other ingredients are affirmed as GRAS in § 121.104.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients, and the final regulation exempts dill and its derivatives from the requirement of § 121.104(f) (2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes is, however, found elsewhere in this issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(e) (1) and (2) by revisin gthe entry for "Dill" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(e) * * *

(1) SPICES AND OTHER NATURAL SEASONINGS AND FLAVORING (LEAVES, ROOTS, BARKS, BERRIES, ETC.)

Common name	*Botanical name of plant source*
* * *	* *
Dill (affirmed as GRAS, § 121.104(g)(13)).	*Anethum graveolens L.*
Dill, Indian (affirmed as GRAS, § 121.104(g) (13)).	*Anethum sowa* D.C.
* * *	* *

(2) ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)

Common name	*Botanical name of plant source*
* * *	* *
* * *	* *
Dill (affirmed as GRAS, § 121.104(g) (13)).	*Anethum graveolens L.*
Dill, Indian (affirmed as GRAS, § 121.104(g) (13)).	*Anethum sowa* D.C.

2. In § 121.104 by adding new paragraph (g) (13) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(13) *Dill and its derivatives.* (i) Dill (American or European) is the herb and seeds from *Anethum graveolens* L., and dill (Indian) is the herb and seeds from *Anethum sowa*, D.C. Its derivatives include essential oils, oleoresins, and natural extractives obtained from these sources of dill.

(ii) Dill oils meet the description and specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) Dill and its derivatives are used as flavoring agents and adjuvants as defined in § 121.1(o) (12).

(iv) The ingredients are used in food at levels not to exceed good manufacturing practice.

(v) The requirement of § 121.104(f) (2) is optional.

(vi) Prior sanctions for these ingredients different from the uses established in this section do not exist or have been waived.

* * * * *

Effective date: This regulation shall be effective January 6, 1977.

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321 (s), 348, 371(a)))

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35840 Filed 12-6-76;8:45 am]

[Docket No. 76N-0134]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

GARLIC AND ITS DERIVATIVES; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENTS

The Food and Drug Administration (FDA) is affirming that garlic and its derivatives are generally recognized as safe as direct human food ingredients. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34213), a proposal was published to affirm that garlic and oil of garlic are generally recognized as safe (GRAS) for use as direct human food ingredients. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on garlic and garlic oil and the report of the Select Committee on GRAS Substances for garlic and garlic oil are available for public review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of garlic and garlic oil, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients other than for the proposed conditions of use. Persons asserting such additional or extended use, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of garlic and garlic oil approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned uses for garlic or its derivatives were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for uses of garlic and its derivatives under conditions different from those set forth in the final regulation has been waived.

Twenty-eight respondents submitted comments in response to the Commissioner's proposal and supporting data and information on garlic and oil of garlic. A summary of the comments and the Commissioner's conclusions thereon follows:

1. Seventeen comments objected to placing good manufacturing practice (GMP) use limitations on garlic and garlic oil for various reasons. These objections cited the conclusion of the Select Committee on GRAS Substances, with which the Commissioner concurred, that the safety of garlic and oil of garlic has been established at concentrations which are orders of magnitude greater than the levels reported to be currently consumed in the human daily diet. The objections also indicated that the use information upon which maximum usage levels were based was totally inadequate, and they urged that FDA undertake a further survey of garlic and garlic oil uses if GMP limits are instituted. Comments also contained numerous claims that garlic and garlic oil are presently being used in food products at significantly higher concentrations, and it was argued that it is impractical to set usage limits on spices that may be added ad libitum to foods in the household.

The Commissioner has considered the available safety data for garlic in light of new reported uses and the range of anticipated consumption of garlic oil (or its equivalent) as estimated by the Select Committee and concludes that garlic, its essential oils, oleoresins, and natural extractives may be affirmed as GRAS without designating specific good manufacturing practice guidelines. He finds that these new reported use levels do not significantly change the estimated daily consumption for garlic oil or his conclusion that there are adequate margins of safety demonstrated for this food ingredient. The Commissioner further concludes that a resurvey of garlic is unwarranted and will not provide any additional meaningful consumption information.

Although the Commissioner is designating that garlic and its derivatives need only be used in accordance with good manufacturing practice, and without indicated levels of GMP use, he is not abandoning the practice of designating maximum GMP levels of use for other ingredients affirmed as GRAS. Maximum GMP levels establish conditions of use upon which the GRAS status of the substance was affirmed and serve as important food processing guidelines in providing information on the concentrations of ingredients required to produce intended effects in food. Therefore, while several natural spices may be affirmed as GRAS without GMP guidelines, this practice will only be adopted when it can be determined that the food-processing-use information that is available to FDA is totally inadequate for this purpose, and safety factors for consumption of the ingredient are very high. The Commissioner rejects the consideration of household use of the ingredient as a basis for deleting GMP guidelines for use of the GRAS ingredients in processed foods.

2. Thirteen comments indicated that forms of garlic other than garlic oil should be affirmed as GRAS in § 121.104 (21 CFR 121.104). These comments requested consideration of fresh and dehydrated garlic, garlic juice, garlic powder, and other essential oils, oleoresins, and natural extracts of garlic. Other comments argued that garlic is a food and should not be listed as GRAS or have its safety subjected to review by FDA.

The Commissioner finds that garlic and its derivatives are GRAS food ingredients when used in foods for the purpose of imparting flavor. These food ingredients have been listed as GRAS in § 121.101 (21 CFR 121.101) since the inception of the FDA GRAS list and are properly a part of the GRAS safety review of food ingredients.

The Commissioner acknowledges that forms of garlic other than fresh garlic and garlic oil should be affirmed as GRAS. Although the FDA search of the scientific literature and the Select Committee evaluation discussed only the safety of garlic and garlic oil because these ingredients were considered to be representative of this subject and the principal articles of commerce, the Commissioner concludes that this information represents a sound scientific background for affirming the GRAS status of other garlic derivatives. The final regulation has therefore been expanded to include all known GRAS derivatives of garlic.

3. Fourteen comments requested that use limits be expanded for garlic and garlic oil at concentrations greater than those described in the proposal. It was argued that the proposed limitations were extremely low and did not accurately reflect usage of these ingredients by the food industry. It was specifically reported that present GMP usage of garlic ingredients in some food categories was as much as 5 to 500 times greater than the use limitations of the proposal.

The Commissioner has reexamined the National Academy of Sciences/National Research Council (NAS/NRC) survey data and the GMP usage data reported by the food industries and concludes that the higher levels are realistic and may be included in the general good manufacturing practice definition adopted by this regulation. The Commissioner notes that the reported use levels of garlic and its derivatives are within established safety guidelines and do not change the estimated total consumption of garlic oil upon which the safe consumption of garlic has been established. He cautions, however, that no authority is granted for use of these ingredients at levels higher

than necessary to achieve their intended effect as flavoring agents in specific foods or in any standardized food in which the ingredient is not permitted.

4. Three comments stated that garlic does not appear in the Food Chemicals Codex, contrary to the implication of the proposed regulation. An additional comment pointed out that garlic oil is obtained from garlic bulbs not by maceration alone but by maceration and steam distillation.

The Commissioner recognizes the unintentional reference that garlic must meet the specifications of the Food Chemicals Codex when in fact garlic is not described therein. For the purpose of this regulation, the Commissioner finds it necessary that garlic be identified only by definition, and that Food Chemicals Codex specifications be applied only to those garlic derivatives that are specially identified in that volume. Because there are many variations in specifications for natural oleoresins, extractives, and other derivatives of garlic, the Commissioner further finds that these derivatives are also best described by definition. In the event that the Food Chemicals Codex publishes quality specifications for these many variations of garlic, however, they will then be used for further identification of the derivatives of garlic affirmed as GRAS in this regulation.

The Commissioner agrees that garlic oil is obtained by steam distillation plus maceration and not by maceration alone, as indicated in the proposal.

5. Two comments requested that garlic and garlic oil be exempt from the requirement dealing with the benefit contribution of the substance as a factor in determining safety in proposed § 121.1 (i)(4) (21 CFR 121.1(i)(4)).

The Commissioner has deleted this paragraph from § 121.1. The deletion is explained elsewhere in this issue of the FEDERAL REGISTER.

6. Two comments indicated that the proposed usage levels of garlic and garlic oil carried the indication that they are rigid limitations placed on the use of these ingredients. The comments further indicated that such limitations were unenforceable, since no known methods of analysis are available for garlic.

The Commissioner has set forth in new § 121.104(b) (1) and (2) his clear intent to distinguish between those food ingredients that may be used in accordance with good manufacturing practice and those ingredients that require specific limitations to assure their continued safe use in food. In § 121.104, these types of regulations are clearly distinguished for each food ingredient. Regulations that affirm the GRAS status of food ingredients, based upon either specified or unspecified good manufacturing practice, should not be interpreted as placing rigid limitations on the use of the ingredients. If extended uses of such ingredients can be demonstrated to be generally recognized as safe, such uses are not prohibited by these regulations.

The Commissioner recognizes the difficulty in enforcing both good manufacturing practice requirements and specific limitations for those ingredients for which there are no known methods of analysis in food. This problem is common to many GRAS and other food ingredients that have been exempted from the definition of "food additives" under the act. However, FDA does support and undertake research on such methods as questions arise on the potential health significance of the ingredients. Until such methods are available, however, FDA must rely on its inspectional capabilities for enforcement of these regulations.

7. One comment objected to the labeling requirements of § 121.104(f)(2), which requires a statement of the concentration of garlic and its derivatives affirmed as GRAS in intermediate mixes. The comment asserted that it was very difficult to label the concentration of naturally derived ingredients with any consistent accuracy and that such disclosure would be tantamount to proprietary formula disclosure of such mixes as other ingredients are affirmed as GRAS in § 121.104.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients, and the final regulation exempts garlic and its derivatives from § 121.104(f)(2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes is, however, found elsewhere in this issue of the FEDERAL REGISTER.

Subsequent to the September 23, 1974 proposal for GRAS affirmation of garlic and oil of garlic (39 FR 34213), an investigation for mutagenesis was conducted on oil of garlic. An evaluation of this study demonstrates no evidence of mutagenicity with oil of garlic. The Commissioner, therefore, concludes that no change in the proposed affirmed GRAS status of garlic and its derivatives is warranted. A copy of this study is on file with the Hearing Clerk, and may be purchased from the National Technical Information Service (order number PB-245-511/AS, $3.75).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(e)(1) and (2) by revising the entry for "Garlic" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(e) * * *

(1) SPICES AND OTHER NATURAL SEASONINGS AND FLAVORINGS (LEAVES, ROOTS, BARKS, BERRIES, ETC.)

Common name	*Botanical name of plant source*
* * *	* *
Garlic (affirmed as GRAS, § 121.104(g)(8)).	*Allium sativum* L.
* * *	* *

(2) ESSENTIAL OILS, OLEORESINS (SOLVENT FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)

Common name	*Botanical name of plant source*
* * *	* *
Garlic (affirmed as GRAS, § 121.104(g)(8)).	*Allium sativum* L.
* * *	* *

2. In § 121.104 by adding new paragraph (g)(8) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(8) *Garlic and its derivatives.* (i) Garlic is the fresh or dehydrated bulb or cloves obtained from *Allium sativum*, a genus of the lily family. Its derivatives include essential oils, oleoresins, and natural extractives obtained from garlic.

(ii) Garlic oil meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) Garlic and its derivatives are used as flavoring agents and adjuvants as defined in § 121.1(o)(12).

(iv) The ingredients are used in food at levels not to exceed good manufacturing practice.

(v) The requirement of § 121.104(f)(2) is optional.

(vi) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * *

Effective date: This regulation shall be effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on July 10, 1973 and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35841 Filed 12-6-76;8:45 am]

[Docket No. 76N-0137]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

GUM TRAGACANTH; AFFIRMATION OF GRAS STATUS WITH SPECIFIC LIMITATIONS AS A DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that gum tragacanth is generally recognized as safe as a direct human food ingredient, with specific limitations. This regulation shall be effective January 6, 1977.

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34207), a proposal was published to affirm that gum tragacanth is generally recognized as safe (GRAS) for use as a direct human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40) relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on gum tragacanth, data on the teratology and mutagenic tests on this ingredient, and the report of the Select Committee on GRAS Substances for gum tragacanth are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of gum tragacanth, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of gum tragacanth approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for gum tragacanth were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set forth in the final regulation has been waived.

Three comments were received in response to the Commissioner's proposal and supporting data and information on gum tragacanth. A summary of the comments and the Commissioner's conclusions thereon follows:

1. One comment requested that gum tragacanth be allowed as a formulation aid in all food categories. The comment contended that gum tragacanth is used as an encapsulating agent in connection with flavor uses in various foods and that this change would not require any change in the maximum usage levels permitted for gum tragacanth.

The Commissioner acknowledges that this technical effect for use of gum tragacanth was reported in the 1972 National Academy of Sciences/National Research Council (NAS/NRC) survey of GRAS substances but apparently overlooked in the proposal. The final regulation therefore permits use of this gum as a formulation aid in all food categories.

2. One comment suggested that a clarification be made regarding the basis upon which the usage levels of gum tragacanth have been establishesd. It was stated that the reported usage levels in the NAS/NRC survey were on an "as served" basis, and the comment therefore requested that limitations set forth in the regulations governing GRAS substances be designated on this same basis.

The Commissioner agrees with the comment that usage levels reported in the NAS/NRC survey were on an "as served" basis. The final regulation has been clarified accordingly.

3. One comment objected to the labeling requirements of § 121.104(f)(2) (21 CFR 121.104(f)(2)), which requires a statement of the concentration of gum tragacanth affirmed as GRAS in intermediate mixes. The comment noted that the functionality variation of the gum as obtained from its various natural sources would make it very difficult to label the percentage of gum tragacanth with any consistent accuracy. This comment also objected to this requirement from a formula disclosure standpoint, arguing that percentage composition disclosure would create a hardship on manufacturers of stabilizers containing gum tragacanth. The comment favored supplying alternative information to users of the ingredient to assure that the final food products were in compliance with maximum limitations prescribed by this regulation.

The Commissioner recognizes the validity of this comment for many naturally derived GRAS ingredients and the final regulation exempts gum tragacanth from / 121.104(f)(2) and makes the requirement optional. A proposal to delete this exemption and to permit more flexibility in the labeling of intermediate mixes is, however, published elsewhere in this issue of the FEDERAL REGISTER.

Additional information from the NAS/NRC regarding the 1972 usage levels of gum tragacanth has been received by FDA since publication of the September 23, 1974 proposal to affirm gum tragacanth as GRAS. This new information necessitates the listing of two other food categories, namely, "condiments and relishes" and "processed fruits and fruit juices," and a reduction in the usage levels permitted for "all other food categories" from 1.0 to 0.1 percent. The original level for "all other food categories" was intended to cover these two food categories and a miscellaneous food item listed in the NAS/NRC report at the 1.0 percent level. However, the Commissioner has determined that this item was a salad dressing and is therefore appropriately covered under "fats and oils." Therefore, inclusion of specific limits for these three foods necessitates lowering the limit for "all other food categories" from 1.0 to 0.1 percent.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Tragacanth (gum tragacanth)" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

Product	Tolerance	Limitations, restrictions, or explanations
* * *	* * *	* * *
(7) STABILIZERS		
* * *	* * *	* * *
Gum tragacanth (tragacanth)		Affirmed as GRAS, § 121.104(g)(18).
* * *	* * *	* * *

* * * * *

2. In § 121.104 by adding a new paragraph (g)(18) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(18) *Gum tragacanth.* (i) Gum tragacanth is the exudate from one of several species of *Astragalus gummifier* Labillardiere, a shrub that grows wild in mountainous regions of the Middle East.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, § 121.1(n)(1)	0.2	Emulsifier and emulsifier salt, § 121.1(o)(8); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Condiments and relishes, § 121.1(n)(8)	.7	Do.
Fats and oils, § 121.1(n)(12)	1.3	Do.
Gravies and sauces, § 121.1(n)(24)	.8	Do.
Meat products, § 121.1(n)(29)	.2	Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
Processed fruits and fruit juices, § 121.1(n)(35)	.2	Emulsifier and emulsifier salt, § 121.1(o)(8); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28).
All other food categories	.1	Do.

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(iv) The requirement of § 121.104(f)(2) is optional.

(v) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * * *

Effective date: This regulation shall be effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate
Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

[FR Doc.76-35844 Filed 12-6-76;8:45 am]

[Docket No. 76N-0136]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

GUM GHATTI; AFFIRMATION OF GRAS STATUS WITH SPECIFIC LIMITATIONS AS A DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that gum ghatti is generally recognized as safe as a direct human food ingredient, with specific limitations. This regulation shall be effective January 6, 1976.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34205), a proposal was published to affirm that gum ghatti is generally recognized as safe (GRAS) for use as a direct human food ingredient. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40) relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on gum ghatti, data on the teratology and mutagenic tests on this ingredient, and the report of the Select Committee on GRAS Substances for gum ghatti are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of gum ghatti, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of gum ghatti approved by issuance of an appropriate regulation under Subpart E—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for gum ghatti were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of this ingredient under conditions different from those set forth in the final regulation has been waived.

One comment was received in response to the Commissioner's proposal and supporting data and information on gum ghatti. The comment requested that gum ghatti and all other gums be allowed to be used as formulation aids in all food categories. The comment asserted that gum ghatti and other gums are used as encapsulating agents in connection with flavor uses in various foods and that recognition of this use for all food categories will not require any change in the proposed maximum usage levels proposed for the ingredients.

In response to this request, FDA contacted the trade association that submitted the comment and various companies that use this gum. The agency has found that, because of its viscosity, gum ghatti is only valuable as an emulsifying agent and is not used to encapsulate flavors. (Other gums, such as acacia and tragacanth, are used for the latter purpose, however.) Therefore, the Commissioner concludes that it is not appropriate to list gum ghatti as suitable for use as an encapsulating agent.

The Commissioner has revised the statement of the permissible levels to make clear that they pertain to food "as served."

The Commissioner acknowledges that gum ghatti is not listed in the Food Chemicals Codex, as was indicated in the proposal; consequently, specifications for the gum have not been published. However, with the cooperation of two major manufacturers of gum ghatti, the Commissioner has adopted appropriate specifications for this ingredient. These specifications are similar to those established for other gums in the Food Chemicals Codex, with slight modifications as appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Gum ghatti" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *.

Product	Tolerance	Limitations, restrictions, or explanations
* * *	* * *	* * *
(7) STABILIZERS		
Gum ghatti		Affirmed as GRAS, § 121.104(g)(17).
* * *	* * *	* * *

* * * * *

2. In § 121.104 by adding a new paragraph (g)(17) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(17) *Gum ghatti.* (i) Gum ghatti (Indian gum) is an exudate from wounds in the bark of *Anogeissus latifolia*, a large tree found in the dry deciduous forests of India and Ceylon.

(ii) The ingredient complies with the following specifications:

(*a*) *Viscosity of a 1-percent solution.* Not less than the minimum or within the range claimed by the vendor.

(*b*) *Limits of impurities*—(*1*) *Arsenic (as AL).* Not more than 3 parts per million (0.0003 percent);

(*2*) *Ash (acid-insoluble).* Not more than 1.75 percent;

(*3*) *Ash (total).* Not more than 6.0 percent;

(*4*) *Heavy metals* (as Pb). Not more than 40 parts per million (0.004 percent); and

(*5*) *Lead.* Not more than 10 parts per million (0.001 percent).

(*c*) *Loss on drying.* Not more than 14 percent dried at 105° C for 5 hours.

(*d*) *Identification test.* Add 0.2 ml of diluted lead subacetate (basic lead acetate, *AOAC*, 12th Ed. 1975, Section 31.164 (b))[1] to 5 ml of a cold 1-in-100 aqueous solution of the gum. An immediate, voluminous, opaque precipitate indicates acacia. A small precipitate or clear solution which produces an opaque flocculent precipitate upon the addition of 1 ml of 3*N* ammonium hydroxide indicates gum ghatti.

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

Maximum usage levels permitted

Food (as served)	Percent	Function
Beverages and beverage bases, nonalcoholic, § 121.1(n)(3).	0.2	Emulsifier and emulsifier salt, § 121.1(o)(8).
All other food categories	.1	Emulsifier and emulsifier salt, § 121.1(o)(8).

(iv) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * *

Effective date: This regulation shall be effective January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register March 20, 1973 and August 9, 1974, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35845 Filed 12-6-76;8:45 am]

[Docket No. 76N-0140]

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

OIL OF RUE; AFFIRMATION OF GRAS STATUS WITH SPECIFIC LIMITATIONS AS A DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration (FDA) is affirming that oil of rue is generally recognized as safe as a direct human food ingredient, with specific limitations. This regulation shall be effective January 6, 1977.

In the FEDERAL REGISTER of September 23, 1974 (39 FR 34215), a proposal was published to affirm that oil of rue is generally recognized as safe (GRAS), for use as a direct human food ingredient with specific limitations. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 121.40 (21 CFR 121.40) relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review of oil of rue, data on the teratology tests on this ingredient and the report of the Select Committee on GRAS Substances for oil of rue are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of oil of rue with specific limitations, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of oil of rue approved by issuance of an appropriate regulation under Subpart E–Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for oil of rue were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of oil of rue under conditions different from those set forth in this final regulation has been waived.

One comment was received in response to the Commissioner's proposal and supporting data and information on oil of rue. This comment expressed concern that rue itself was not being affirmed as GRAS at this time.

The Commissioner has considered this comment and concludes that there is sufficient information available on oil of rue, the main constituent of rue, to propose that rue be affirmed as GRAS. A proposal to affirm the GRAS status of rue, with specific limitations, may be found elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner concludes that no change in the proposal to affirm the GRAS status of oil of rue is warranted. Accordingly, it is being promulgated without change, limiting the use of oil of rue to the proposed levels of use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 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)), Part 121 is amended as follows:

1. In § 121.101(e)(2) by revising the entry for "Rue" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(e) * * *

(2) ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)

Common name	*Botanical name of plant source*
* * *	* *
Rue (affirmed as GRAS, § 121.104(g)(21)).	*Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L. and *Ruta calepensis* L.
* * *	* *

2. In § 121.104 by adding new paragraph (g)(21) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(21) *Oil of rue.* (i) Oil of rue is the natural substance obtained by steam distillation of the fresh blossoming plants of rue, the perennial herb of several species of *Ruta*—*Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L., and *Ruta calepensis* L.

(ii) Oil of rue meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Maximum usage levels permitted

Food (as served)	Parts per million	Function
Baked goods and baking mixes, § 121.1(n)(1)	10	Flavoring agent and adjuvant, § 121.1(o)(12).
Frozen dairy desserts and mixes, § 121.1(n)(20)	10	Do.
Soft candy, § 121.1(n)(38)	10	Do.
All other food categories	4	Do.

(iv) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

* * * * *

Effective date: This regulation is effective on January 6, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: December 1, 1976.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973, and on file in the Federal Register Library.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35846 Filed 12-6-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

[Docket No. 76N-0144]

INTERMEDIATE MIXES CONTAINING DIRECT HUMAN FOOD INGREDIENTS AFFIRMED AS GRAS

Labeling

The Food and Drug Administration (FDA) is proposing to revise § 121.104(b)(2) (21 CFR 121.104(b)(2)) to allow latitude in the labeling requirements for food ingredients affirmed as generally recognized as safe and for intermediate mixes containing such ingredients. Comments may be submitted until February 7, 1977.

The current § 121.104 (21 CFR 121.104), relating to the affirmation of generally recognized as safe (GRAS) human food ingredients added directly, requires in paragraph (f) that the label and labeling of the ingredient and any intermediate mix of the ingredient for use in finished food show, in addition to the other labeling required by the act, (1) the name of the additive, (2) a statement of concentration of the ingredient in any intermediate mix, and (3) adequate information to assure that the final food product will comply with any limitations prescribed for the ingredient.

In comments submitted on the numerous food ingredients proposed for GRAS affirmation as direct food ingredients and published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34194 et seq.), considerable concern was expressed over the labeling requirements of § 121.104(f). The comments noted that the variations in some natural ingredients that are obtained from various natural sources require some variation in the composition of intermediate mixes to obtain mixes with uniform functional characteristics. This necessity would make it very difficult to label the percentage of many of these ingredients with any consistent accuracy. The comments also objected to the requirement from a formula disclosure standpoint, arguing that percentage composition disclosure would create a hardship on manufacturers of GRAS ingredients because such label declarations would be tantamount to formula disclosure for mixes composed almost entirely of GRAS ingredients. Several comments favor supplying alternative information to users of the ingredient mixes, to ensure that the final food products are in compliance with the maximum limitations prescribed by the regulations.

It was also pointed out that the labeling requirements of § 121.104(f) are inconsistent with the optional statement of ingredients required for flavors in § 1.12(g)(2) (21 CFR 1.12(g)(2)). For bulk mixed flavors, § 1.12(g)(2) requires only a statement on the label that all such flavors are approved by FDA regulation. The effective date for labeling compliance with § 1.12(g)(2) was extended by notice published in the FEDERAL REGISTER of February 3, 1976 (41 FR 4954), provided the label of the product bears a statement "that the ingredients are listed as generally recognized as safe in a reliable published industry association list," and provided that such flavor ingredients are included in the FDA safety review of flavor ingredients.

The Commissioner of Food and Drugs has carefully reviewed these comments and appreciates the difficulties that these labeling requirements may cause for manufacturers of intermediate food ingredient mixes. He has therefore exempted, in regulations promulgated elsewhere in this issue of the FEDERAL REGISTER, numerous naturally derived food ingredients from the labeling requirements in § 121.104(f)(2). The Commissioner is concerned, however, that food processors will not have sufficient information available to them independently to determine that use of the ingredients or intermediate mixes is in accordance with these regulations if concentration labeling is not available to them. The Commissioner therefore proposes to amend § 121.104(f)(2) to require manufacturers of food ingredients and mixes to provide food processors with information adequate to permit them independently to determine that use of the ingredient or mix is in accordance with these regulations. Section 121.104(f)(3) would also be amended to clarify the requirement that adequate instructions for use, in addition to that required in § 121.104(f)(2), must be supplied by manufacturers of these ingredients. Accordingly, § 121.104(g) would be amended to delete the exemption from the labeling requirements in § 121.104(f)(2) for locust (carob) bean gum, garlic and its derivatives, dill and its derivatives, gum tragacanth, acacia (gum arabic), karaya gum (sterculia gum), and guar gum.

The new language proposed for this section also clarifies any potential conflict with labeling for flavors permitted by § 1.12(g)(2). Section 121.104(f) will thus not require individual flavor ingredient and concentration labeling, but will require adequate instructions for use of flavor mixtures and sufficient information to permit a food processor independently to determine that use of the mixture will be in accordance with any limitations prescribed for the ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes to amend § 121.104 by revising paragraph (f) and by deleting and reserving paragraph (g)(5)(iv), (8)(v), (13)(v), (18)(iv), (19)(iv), (20)(iv) and (27)(iv) as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(f) The label and labeling of the ingredient and any intermediate mix of the ingredient for use in finished food shall bear, in addition to the other labeling required by the act:

(1) The name of the ingredient, except where exempted from such labeling in Part 1 of this chapter.

(2) A statement of concentration of the ingredient in any intermediate mix; or other information to permit a food processor independently to determine that use of the ingredients will be in accordance with any limitations and good manufacturing practice guidelines prescribed.

(3) Adequate directions for use to provide a final food product that complies with any limitations prescribed for the ingredient(s).

(g) * * *

(5) *Locust (carob) bean gum.* * * *

(iv) [Reserved]

* * * * *

(8) *Garlic and its derivatives.* * * *

(v) [Reserved]

* * * * *

(13) *Dill and its derivatives.* * * *

(v) [Reserved]

* * * * *

(18) *Gum tragacanth.* * * *

(iv) [Reserved]

* * * * *

(19) *Acacia (gum arabic).* * * *

(iv) [Reserved]

* * * * *

(20) *Karaya gum (sterculia gum).* * * *

(iv) [Reserved]

* * * * *

(27) *Guar gum.* * * *

(iv) [Reserved]

Interested persons may, on or before February 7, 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 heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35847 Filed 12-6-76;8:45 am]

[Docket No. 76N-0140]

[21 CFR Part 121]

RUE

Affirmation of GRAS Status With Specific Limitations As Direct Human Food Ingredient

The Food and Drug Administration (FDA) is proposing to affirm that rue is generally recognized as safe as a direct human food ingredient with specific limitations. Comments may be submitted until February 7, 1977.

A comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or sub-

ject to a prior sanction is being conducted by FDA. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20036 et seq.), implementing this review. In the FEDERAL REGISTER of September 23, 1974 (39 FR 34172 et seq.), the Commissioner issued a number of final regulations based on those proposals and made further proposals for GRAS affirmation of additional human food ingredients which are published as final regulations elsewhere in this issue of the FEDERAL REGISTER. Pursuant to this review, the safety of oil of rue, which is the volatile oil of rue, has been evaluated. The Commissioner is of the opinion that information on oil of rue is sufficient to evaluate the status of rue and proposes, in accordance with § 121.40 (21 CFR 121.40), to affirm the direct use of rue in food as GRAS with specific limitations.

Rue is the perennial herb of several species of the genus *Ruta* (*Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L., *and Ruta calepensis* L.). The leaves, buds and stems from the top of the plant are dried and then crushed or left whole. Spain is the major commercial source.

The main constituent of rue, oil of rue, has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 31 abstracts on oil of rue was reviewed and 11 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods using rue and their levels of use. Available surveys of consumer consumption were obtained and combined with production information to obtain an estimate of consumer exposure to rue. The total amount of rue used in food in 1970 is reported to be 3 pounds.

The biological studies summarized by the Select Committee on GRAS Substances may be found in the proposal for the affirmation of oil of rue as GRAS, published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34215). The final regulation affirming the GRAS status of oil of rue is published elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner concludes that there is no evidence in the available information on rue to demonstrate a hazard to the public when used at current levels and in the manner now practiced (but not necessarily under different conditions of use), and therefore concludes that continued safe use of rue requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use.

Copies of the Scientific Literature Review on oil of rue, a report of the teratology screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, as follows:

Title	Order No.	Cost
Oil of rue (Scientific Literature Review).	PB-221-212	$3.00
Oil of rue (teratology test)	PB-245-536	3.75
Oil of rue (FASEB [1] evaluation).	PB-223-839/AS	2.75

[1] Federation of American Societies for Experimental Biology.

The above titles may also be purchased in microfiche form. Microfiche document prices are $2.25 each.

This proposed action does not affect the present use of rue for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371 (a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes that Part 121 be amended as follows:

1. § 121.101(e)(1) by revising the entry for "Rue" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(e) * * *

(1) SPICES AND OTHER NATURAL SEASONINGS AND FLAVORINGS (LEAVES, ROOTS, BARKS, BERRIES, ETC.)

Common name	*Botanical name of plant source*
* * *	* * *
Rue (affirmed as GRAS, § 121.104(g)(12)).	*Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L., and *Ruta calepensis* L.
* * *	* * *

2. In § 121.104 by adding a new paragraph (g)(12) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(12) *Rue.* (i) Rue is the perennial herb of several species of *Ruta* (*Ruta montana* L., *Ruta graveolens* L., *Ruta Bracteosa* L., and *Ruta calepensis* L.). The leaves, buds and stems from the top of the plant are gathered, dried, and then crushed in preparation for use, or left whole.

(ii) The ingredient is used in all categories of food at concentrations not to exceed 2 parts per million.

* * * * *

The Commissioner gives notice that he is unaware of any prior sanction for use of this ingredient in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E of Part 121, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before February 7, 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 heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 1, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-35848 Filed 12-6-76;8:45 am]

federal register

TUESDAY, DECEMBER 7, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

MOBILE HOME

Construction and Safety Standards

Title 24—Housing and Urban Development

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

[Docket No. R-76-340]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Clarification and Guidance Regarding Transportation Standards (Interpretative Bulletin J-1-76)

The purpose of this Interpretative Bulletin is to provide clarification and guidance with respect to the transportation aspects of mobile home construction which are covered by Subpart J of the Federal Mobile Home Construction and Safety Standards published by the Department of Housing and Urban Development on December 18, 1975, at 40 FR 58752. This Bulletin clarifies those areas in which state activity is preempted by the Federal standards.

On May 11, 1976, the Department published the proposed Interpretative Bulletin, J-1-76, at 41 FR 19295. During and after the comment period that ended on June 10, 1976, the Department received eight comments on the proposed Interpretative Bulletin from manufacturers, suppliers and government agencies. The comments covered the following:

(1) The acceptability of used tires on new mobile homes;

(2) The qualifications of the motor carrier to determine acceptability of particular used tires on a new mobile home;

(3) Special provisions on the towing vehicle, including brakeaway braking system, safety chain, etc.;

(4) Existing state laws governing the number of axles, brake assemblies and required tire sizing;

(5) Latent damage reporting when the experience procedures are used to qualify the transportation system; and

(6) Excessive drawbar loading.

The Interpretative Bulletin has been revised taking into consideration the comments received, discussions and recommendations made by the National Mobile Home Advisory Council at its meeting on September 1, 1976, and reevaluations made within HUD. The following is a discussion of the changes made to the Bulletin as published in the FEDERAL REGISTER on May 11, 1976.

The reference to civil and criminal penalties has been deleted because there is adequate reference to such penalties at 24 CFR 3282.10.

The extent of the manufacturer's responsibility for reporting of latent damage failures has been revised to exempt units that are improperly loaded in excess of the manufacturer's recommendation from consideration in determining the 1 percent of maximum failure level when the experience criteria discussed in § 280.903(c)(2) are used to substantiate the transportation system.

The structural calculation guidelines interpreting §§ 280.903(c) and 280.904(b)(3) include all elements necessary to the structural integrity of the mobile home during transportation loading (i.e., transverse chassis and floor framing members, drawbar, etc.). The interpretation has also been modified to require consideration of the location of any opening in the sidewall rather than consideration only of the location of doors and windows.

The interpretation of § 280.904(b)(8) has been modified such that an upper limit of 3000# has now been placed on the maximum permissible tire loading. Within that maximum, tire loading may be increased up to 50 percent of the limit specified in MH-1 of the Tire and Rim Association Handbook (1975 edition).

Upon evaluation of the comments dealing with the utilization of used tires on new mobile homes, the Department determined that the motor carrier may not always be technically qualified to make the appropriate judgment of the acceptability of a particular used tire. Therefore, the evaluation procedure has been modified to require factory inspection of used tires. Accordingly, the Bulletin has been revised to require a visual inspection of individual used tires for structural and/or thermal defects, and also stipulates that each used tire shall have at least $\frac{2}{32}$ inch tread depth as determined by a tread wear indicator. Manufacturers, when utilizing used tires, shall incorporate into their quality control manual procedures for inspection of used tires.

Other minor editorial revisions and clarifications have been incorporated into the Bulletin.

OTHER CONSIDERATIONS

In order to assure that the chassis assembly functions as designed, the mobile home unit should be stabilized during the production process when such stabilization is necessary to the design of the chassis assembly. Such requirements should be incorporated into the manufacturer's quality control manual. One of the comments suggests that prior transportation system failures have resulted from overloading of the A-frame assembly and running gear system. In order to determine that the design load has not been exceeded, it is recommended that the manufacturer weigh a representative number of units to assure that his design assumptions are valid. It is further recommended that the weight slips be used by the IPIA to verify the design loads.

TRANSPORTATION RESEARCH PROGRAM

HUD is conducting transportation research in the following areas:

(1) *Tire Research.* The Department, in cooperation with the Department of Transportation, has begun a fire testing program to evaluate the service load factor of 50 percent as applied to mobile home tire ratings as listed in the Tire and Rim Association Handbook. The results will be compared with statistical data involving tire performance. As a result of this study, the Department may publish revisions to Subpart J or its interpretation relating to tire selection.

(2) *Transportation Study.* To develop more exacting techniques and analytical methods for predicting the response of the mobile home to primary and secondary movements and develop possible revisions to Subpart J to improve both the reliability and durability of the transportation system.

DEPARTMENT OF TRANSPORTATION INVOLVEMENT WITH MOBILE HOMES

In a letter dated May 5, 1976, from James B. Gregory, then Administrator of the National Highway Traffic Safety Administration (NHTSA), to Constance Newman, Assistant Secretary for Consumer Affairs and Regulatory Functions, Mr. Gregory stated that he had concluded that one result of the National Mobile Home Construction and Safety Standard Act of 1974 was the implied repeal of NHTSA's authority with respect to mobile homes and that, accordingly, the enactment had the effect of amending the National Traffic and Motor Vehicle Safety Act of 1966 to exclude mobile homes as defined by the Mobile Home Act. To this end, Mr. Gregory's letter indicated that a Federal Register notice would be prepared by their office to reflect that conclusion. To date, such a notice has not been published in the FEDERAL REGISTER.

With the pending withdrawal of NHTSA from the mobile home activity, the Department intends to develop a gross vehicle weight tag similar to that presently required by NHTSA.

The Bureau of Motor Carrier Safety (BMCS), a component of the Federal Highway Administration of the Department of Transportation, develops Federal safety standards pertaining to motor vehicles in use on highways.

The Office of Consumer Affairs and Regulatory Functions, in HUD, has been and continues to work with BMCS to assure that standards and regulations established by the two agencies are consistent. As a part of this cooperative effort, BMCS issued FHWA Notice N-7510.7 on September 27, 1976 in which BMCS instructed its personnel not to enforce, until further notice, Federal Motor Carrier Safety Regulation section 393.75(f)(2)—Tires. Section 393.75(f)(2) established tire loading requirements that are stricter than the HUD standard and interpretation which allow tires to be loaded to 150 percent of the tire manufacturer's load rating. The delay in enforcement is conditioned upon a speed limitation of 45 m.p.h. where tires are loaded beyond the tire manufacturer's load rating. This will assure, for the present, that no conflict exists between requirements established by the Department of Transportation and those issued by the Department of Housing and Urban Development.

FEDERAL PREEMPTION

A great deal of confusion has arisen as to which areas of highway transpor-

tation requirements have been preempted by the Federal Mobile Home Construction and Safety Standards and what areas of highway movement have not been preempted by the Federal standards. The Department recognizes the unique area of state jurisdiction over the general movement of vehicles within a state. However, the Department believes that existing state or local laws concerning aspects of performance identified in Subpart J, or its interpretation contained herein, are preempted under section 604(d) of the National Mobile Home Construction and Safety Standards Act of 1974. Thus, existing state laws requiring a specific number of axles, a minimum number of braking systems, specific tire sizes and otherwise governing aspects of the mobile home for which a Federal Mobile Home Construction or Safety Standard is now in existence are preempted.

The governing principle here is that a state is precluded from establishing any standard that differs from the Federal standard, and it is also precluded from establishing any requirements that interfere with the Federal standards and enforcement program. The preemptive nature of the Federal standard is discussed in 24 CFR 3282.11.

The Department has no jurisdiction to govern those aspects of highway movement that involve time of travel, unit dimension for safe operation over the arterial highway system, and regulation of the towing vehicle. The Department has not established standards for certain types of safety items such as brake-away systems installed on the towing vehicle, safety chains, or for other aspects of transportation, such as open side closure for transportation. HUD may, in the future, promulgate standards governing other aspects of mobile home performance to the extent that it has jurisdiction to do so. Where the Department is not authorized to establish a standard, and where the Department has established no standard, the responsibility for establishing appropriate requirements that do not conflict with the Federal standards or enforcement program remains with individual states.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection any copying according to Department rules and regulations during regular business hours at the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

It is hereby certified that the economic and inflationary impacts of the proposed rule have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, several sections of Subpart J of 24 CFR Part 280 are interpreted as follows:

INTERPRETATIVE BULLETIN J-1-76

Transportation—Subpart J of Part 280

A. SECTION 280.903(c)(2) GENERAL REQUIREMENTS FOR DESIGNING THE STRUCTURE TO WITHSTAND TRANSPORTATION, SHOCK AND VIBRATION

Documented evidence such as service records or other documents certified to by duly authorized personnel of the manufacturer is acceptable for compliance with this section when failures related to chassis damage (e.g., frame or drawbar damage, running gear failure, etc.) and body failure due to transportation loading do not exceed 1 percent of the total number of units ("Floors") transported upon that chassis. Latent damage failures (e.g., racked windows and doors, floor misalignment, etc.) resulting from primary or secondary movement, which are not related to improper siting or leveling of the mobile home or loading in excess of the manufacturer's recommendations during transport of the mobile home, shall be included in determining the 1 percent maximum failure level. If the manufacturer does not have or can not provide actual records of latent damage history, the manufacturer shall provide a statement that, to the manufacturer's knowledge, no latent damage has occurred as a result of transportation.

B. SECTION 280.903(c)—280.904(b)(3)—STRUCTURAL CALCULATION GUIDELINES FOR IN-TRANSIT CONDITIONS IN MOBILE HOMES.

General. The following engineering guidelines are descriptive of methods and design assumptions which may be used for analytical evaluation of in-transit loading conditions. These guidelines have been developed with emphasis on the design of the longitudinal structural components of the mobile home (e.g., main chassis girder beam, the sidewall, rim joist, etc.), as transportation loadings are ordinary critical in the longitudinal direction. However, all elements necessary to the structural integrity of the mobile home during in-transit loading are to be evaluated (e.g., transverse chassis and floor framing members, drawbar, etc.). HUD recognizes the complexity and variety of design assumptions and techniques which may be used in evaluating in-transit loading conditions and provides these guidelines as initial methods for determining compliance with this section. Due to this variation and complexity of assumptions, HUD has undertaken, as part of its transportation research study, the development of analytical methods for predicting the dynamic response of the mobile home to intransit loading.

Design Methods and Assumptions.—Design Loading. The summation of the following loadings may be used to determine the adequacy of the chassis in conjunction with the mobile home structure to resist in-transit loading:

(a) Dead load, the vertical load due to the weight of all structural and non-structural components of the mobile home at the time of shipment.

(b) Floor load, a minimum of 3 pounds per square foot.

(c) Dynamic loading effect, (0.25) [(a) + (b)].

However, the in-transit design loading need not exceed twice the dead load of the mobile home.

Design Considerations. To determine the adequacy of individual longitudinal structural components to resist the in-transit design loading, a load distribution based on the relative flexural rigidity and shear stiffness of each component may be utilized.

For the purpose of loading distribution, the sidewall may be considered to be acting as a "deep beam" in conjunction with other load carrying elements in determining the relative stiffness of the integrated structure. Further, by proper precambering of the chassis assembly, additional loading may be distributed to the chassis, and the remaining loading may be distributed to each of the load carrying components by the relative stiffness principle.

In addition, the analysis should include consideration for:

(1) Location of openings in the sidewall during transport and, when appropriate, provisions for reinforcement of the structure and/or chassis at the opening.

(2) Sidewall component member sizing and joint-splice analysis (i.e., top plate, etc.), and connections between load carrying elements.

C. SECTION 280.904(b)(6)—AXLES

Unless substantiated in the design to the satisfaction of the approval agency (DAPIA) by either engineering analysis, load tests, or documented evidence of actual transportation experience, there shall be no less than the following minimum number of 6000# rated axles with not less than the mobile home rated tires indicated in Table 1 and Table 2, on each mobile home or floor section of a multiple unit mobile home:

TABLE 1

Length of mobile home[1]	*No. of 6,000 pound rated axles equipped with 7 x 14.5 Mobile Home 8-ply tires*
12 foot wide:	
To 60 ft maximum	2
Greater than 60 ft to 80 ft maximum	3
14 foot wide:	
To 52 ft. maximum	2
To 76 ft maximum	3
To 80 ft maximum	4

TABLE 2

Length of mobile home[1]	*No. of 6,000 pound rated axles equipped with 8 x 14.5 Mobile Home 8-ply or 10-ply rated tires*
12 foot wide:	
To 65 ft maximum	2
Greater than 65 ft to 80 ft maximum	3
14 foot wide:	
To 56 ft maximum	2
Greater than 56 ft to 80 ft maximum	3

[1] Length of a mobile home is the "length" as defined in § 280.902(b).

Determination of the number of axles required by use of the above tables does not eliminate the requirement for each axle to be capable of withstanding the actual imposed dead load without exceeding the maximum allowable stresses for design axle life as recommended by the axle manufacturer, or the maximum tire load rating in § 280.904 (b)(8). If a manufacturer has submitted documented evidence of transportation experience to meet the requirements of § 280.903(c)(2), the minimum number of axles required by the experience record may not be reduced by use of the above tables. (The number of axles must be consistent with and no less than the number and rating of the axles indicated in the experience record.)

D. SECTION 280.904(b)(8)—TIRES, WHEELS, AND RIMS

Tires shall be sized and fitted to axles in accordance with the gross axle weight rating determined by the mobile home manufacturer.

The permissible tire loading may be increased by utilizing a service load factor not to exceed 50 percent of the mobile home tire load limits specified in MH–1 of the Tire and Rim Association Handbook (1975 edition), but the individual permissible tire loading may not exceed 3,000 lbs. For example, the maximum tire loading for a 7 x 14.5 mobile home 8 ply tire each 70 PSI cold inflation pressure would be 2,805 lbs (1,870 lbs (MH–1 rating) $\times$1.5 (service load factor) =2,805 lbs). The tire load limit specified in MH–1 shall be determined by the tire manufacturer in accordance with procedures described in 49 CFR 571.119.

Used tires may also be sized in accordance with the above criteria whenever the tread depth is at least $\frac{2}{32}$ of an inch as determined by a tread wear indicator. The determination as to whether a particular used tire is acceptable shall also include a visual inspection for thermal and structural defects (e.g., dry rotting, excessive tire sidewall splitting, etc.).

Wheels and rims shall be sized in accordance with the tire manufacturer's recommendations as suitable for use with the tires selected.

E. SECTION 280.904(b)(9)—BRAKE ASSEMBLIES

Unless substantiated in the design to the satisfaction of the approval agency by either engineering analysis or those alternatives listed in § 280.903(c)(1) and (2), there shall be a minimum of two axles equipped with brake assemblies on each mobile home floor or unit.

Whenever tests are used to verify the adequacy of the combined braking performance of the towing vehicle and the mobile home, the combined braking system shall be capable of assuring that the maximum stopping distance from an initial velocity of 20 mph does not exceed 40 feet. The stopping distance shall be measured from the point at which movement of the service brake pedal or control begins.

The towing vehicle and mobile home shall be in the center of a 12 foot wide lane when the tests begin and the tires shall not deviate from that lane during the test. The test shall be made on a level surface that is substantially dry, smooth, and free of loose material. The tests shall be made utilizing the actual combinations or running gear equipment to be used by the manufacturer in production.

Regardless of the method of substantiation, any substitution of equipment by the manufacturer shall be approved by the DAPIA, and have a rating no less than the equipment being replaced.

F. SECTION 280.904(b)(10)—LIGHTS AND ASSOCIATED WIRING

Federal Motor Vehicle Safety Standard No. 108 shall be deemed the applicable Federal standard to be used for location and performance of highway safety electrical lights and associated wiring for determining compliance with this section.

(Sections 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5403 and 5424; and 7 (d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Effective date: This interpretation is effective December 7, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-35906 Filed 12-2-76;1:08 pm]

federal register

TUESDAY, DECEMBER 7, 1976

PART V:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ORAL CONTRACEPTIVE DRUG PRODUCTS

Notice and Proposal of Revised Physician and Patient Labeling

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

[Docket No. 76N-0487]

Food and Drug Administration

[21 CFR Part 310]

ORAL CONTRACEPTIVES

Patient Labeling Revision

The Food and Drug Administration (FDA) is proposing to revise the requirements for patient labeling for oral contraceptives. Information in the labeling would be expanded, and this new labeling would be provided to each patient to whom the drug is dispensed. Interested persons have until February 7, 1977 to submit comments.

The present regulation under § 310.501 (a) (21 CFR 310.501(a)) requires two types of patient labeling: (1) Patient package information to be provided to each patient when the drug is dispensed, furnishing brief information about the nature of the drug, the need for continuing medical supervision, and the availability of more detailed information (a booklet) from the physician; and (2) A booklet available to a patient upon request to her physician. At present, the full text of the patient package information is set forth in § 310.501(a)(4) of the regulation; but only an outline of the kinds of information to be included in the booklet is contained in § 310.501(a)(6) of the regulation.

The patient labeling requirements for oral contraceptives in § 310.501(a) have not been substantially revised since they were published in the FEDERAL REGISTER of June 11, 1970 (35 FR 9001). In 1975, FDA conducted a survey among 1,720 users and 949 former users of oral contraceptives to obtain information about the use of and the need for patient labeling for these products. One of the significant findings of this survey was the finding that 81 percent of the users polled wanted more information on common side effects, and 73 percent wanted more details on warnings and precautions. This is consistent with criticism voiced by consumer groups and individual consumers to the effect that current patient labeling does not contain enough information. Copies of the survey ("Consumer Perceptions of Patient Package Inserts for Oral Contraceptives," order number is PB248-739/SET/AS), mentioned above are available from the National Technical Information Service, U.S. Department of Commerce, P.O. 1553, Springfield, Va. 22151, at a paper cost of $18.00 per copy.

Patient labeling for oral contraceptives is based on the approved physician labeling for these drug products. Elsewhere in this issue of the FEDERAL REGISTER under Docket No. 75N-0304, the Commissioner of Food and Drugs is issuing a notice specifying new physician labeling for oral contraceptives. The new labeling includes significant new information concerning thromboembolic and thrombotic disorders, carcinoma, and effects on the exposed fetus. The Commissioner concludes that the patient labeling should be revised to conform to the new physician labeling and that the more detailed patient labeling, previously available only on request from the physician, should be furnished by the dispensor to each patient to whom the drug is dispensed.

The practice of FDA has been to include the text of the patient package insert in the agency's regulations. This requires that the statutory notice-and-comment rule making procedure be utilized whenever a significant change is sought in the text of the labeling. The experience of FDA has been that the use of this approach in establishing an appropriate text for patient labeling is slow and cumbersome, particularly because of the large numbers of comments that are often received when patient labeling is proposed, and because publication of a final regulation with a delayed effective date is required. The Commissioner has found, moreover, that most of the comments received on patient labeling have been concerned with editorial style rather than substantive issues. He therefore concludes that, while public participation in formulating labeling is worthwhile, the long delays in providing patients with important information on prescription drugs that have occurred as a result of the use of the notice-and-comment approach are unjustifiable.

Accordingly, the Commissioner proposes to utilize the procedure proposed for patient labeling for estrogens for general use published in the FEDERAL REGISTER of September 29, 1976 (41 FR 43108), whereby the regulations will specify only a list of specific items of informaiton that must be included in patient labeling, while a separate FEDERAL REGISTER notice will contain precise language that will be considered by the Commissioner to meet the requirements of the regulation. The public is nonetheless invited to comment on the text of the patient labeling. The comments will be considered; if the text of the labeling is revised, it will be published in a subsequent notice. The Commissioner believes this approach will significantly expedite the revision of patient labeling to provide new information, and still allow for public participation in the process. A notice containing such labeling is published elsewhere in this issue of the FEDERAL REGISTER.

In this notice, the Commissioner proposes to amend § 310.501(a) to require that patient labeling contain, in lay language, information on the effectiveness, contraindications, warnings, precautions, and adverse reactions of oral contraceptives. This information would be presented to the patient in two labeling pieces: (1) a brief summary of certain essential points of information that would be included in the package dispensed to the patient, and (2) a longer, more detailed labeling piece that would accompany or be included in the package dispensed to the patient. As revised, § 310.501(a) would not contain the text of either patient labeling piece but would contain a listing of specific items of information that must be included in the labeling.

The Commissioner has given careful consideration to the advantages and disadvantages of requiring a brief summary and a separate, longer, detailed labeling piece as opposed to requiring only the longer labeling. He has tentatively concluded that the two labeling pieces would be more useful to the patient for the following reasons: (1) The summary is short enough to be included within the package dispensed to the patient and would be more likely to be available to the patient throughout the life of the package and (2) The summary can be quickly and easily read by the patient, will call her attention to the longer labeling piece, and will urge her to read the complete labeling.

The Commissioner recognizes, however, that there may be some disadvantages to requiring the brief summary. The presence of the brief summary labeling may result in some patients reading only the summary and ignoring the longer labeling piece. It may also increase the burden on the pharmacist and the manufacturer, particularly in the case of drugs dispensed from bulk packages, in that two, separate labeling pieces will have to be furnished to the patient. The Commissioner invites interested persons to comment specifically on this aspect of the proposal to assist him in determining which method would be most useful to the patient.

The survey of users of oral contraceptives discussed in the preamble above also revealed that while almost 93 percent of the current users of oral contraceptives reported having received patient labeling, many of those who did not receive the labeling probably had the drug dispense to them from bulk packages rather than from packages of the type intended for the user. This suggests a need for clarification and strengthening of the regulations requiring that bulk packages intended for multiple dispensing include a sufficient number of patient labeling pieces to assure that they can be included with each package dispensed to the patient.

The proposed revision specifies that patient labeling in the form of a brief summary and a longer, detailed labeling piece would be provided by the manufacturer, repacker, relabeler, or distributor. The Commissioner recognizes that the packaging of oral contraceptives is somewhat unusual in that the package to be dispensed by the pharmacists is ordinarily supplied, along with necessary labeling instructions, by the manufacturer or other supplier. The brief summary would be included in each such package dispensed to the patient. The detailed labeling would be a separate leaflet, printed in a typeface that is not condensed and no smaller than 9-point type, and would accompany or be in each package dispensed to the patient. In the case of oral contraceptive drug products in bulk packages intended for multiple dispensing, each bulk package would include a sufficient number of patient labeling pieces to assure that a copy of each can be included with each package dispensed to every patient. The dispensor would

then be responsible for providing the patient with the labeling pieces. Failure to do so would result in the misbranding of the drug product by the dispensor.

The Commissioner advises that he proposes to make the final regulation revising § 310.501(a) effective 60 days after its date of publication in the FEDERAL REGISTER. Manufacturers and suppliers are advised, and the proposed rule provides, that the language in the accompanying notice under Docket No. 75N–0304 published elsewhere in this issue of the FEDERAL REGISTER will be considered by the Commissioner to meet the requirements of the final regulation revising § 310.501(a) for 60 days after its effective date, i.e., 120 days after date of publication, notwithstanding that changes in the wording of the patient labeling may be made in the final regulation revising § 310.501((a) or in the notice accompanying this proposal, as a result of coments received from the public, or as a result of new information. Thus, manufacturers may put into use immediately, without advance approval by FDA, the recommended patient labeling, and continue to use that labeling for 60 days after the effective date, i.e., 120 days after date of publication of the final regulation revising § 310.501(a). The Commissioner encourages manufacturers to provide this revised patient labeling in this fashion. He considers it in the interest of the public health that the revised patient labeling be provided to patients as soon as possible. A manufacturer or supplier who defers preparing revised patient labeling until the final regulation is published will have 60 days from the date of publication to implement the new labeling requirement.

Supplements to approved new drug applications that provide for the revised patient labeling shall be submitted under § 314.8 (21 CFR 314.8) within 60 days after the effective date of the final regulation revising § 310.501(a). The changes that are provided for by these supplements will not have a substantial effect on the quality of the human environment; therefore, they need not be accompanied by environmental impact analysis reports.

On or after the effective date of the final regulation, no person would be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any oral contraceptive drug product unless the labeling of that product complies with the requirements set forth in the regulation. However, the Commissioner would consider an oral contraceptive drug product packaged before the effective date to comply with the regulation if an adequate number of copies of the revised detailed patient labeling piece (i.e., the detailed patient labeling set forth in Docket No. 75N–0304 appearing elsewhere in this issue of the FEDERAL REGISTER) are furnished to wholesalers or retailers to permit any retail purchaser to obtain such labeling with the product on or after the effective date. This will assure that on or after the effective date of the final regulation all retail purchasers of the product will receive the detailed labeling piece. However, the brief summary patient labeling required by the final regulation would be included only in products packaged after the effective date of the final regulation. Products packaged before the effective date of the final regulation and dispensed on or after the effective date would contain the brief patient labeling currently provided for by § 310.501(a) and be accompanied by the detailed patient labeling required by this proposed revision. These procedures will obviate the necessity of manufacturers recalling products already in distribution channels on the effective date of the final regulation, and repackaging these products to include the brief insert, but will nevertheless assure that on or after the effective date all retail purchasers of the drug will receive the revised, detailed patient information.

(Secs. 502(a), 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352(a), 355, 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 § 310.501 be amended by revising paragraph (a) to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) *Oral contraceptives.* (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information concerning effectiveness contraindication, warnings, precautions, and adverse reactions must be furnished to each patient receiving oral contraceptives. This information shall be given to the patient by the dispensor in the form of a brief summary of certain essential information included in each package dispensed to each patient, and in a longer, detailed labeling piece in or accompanying each package dispensed to each patient.

(2) The brief summary shall specifically include the following:

(i) A statement that oral contraceptives are effective, but that any deviation from recommended dosage increases the chance of pregnancy.

(ii) A statement of the specific items of history to be told the physician that would lead the physician not to prescribe oral contraceptives (i.e., the contraindications to use).

(iii) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(iv) A listing of the serious side effects of oral contraceptives such as thrombophlebitis, pulmonary embolism, retinal artery thrombosis, stroke, benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease.

(v) A statement of the most common side effects such as nausea and vomiting, weight change, change in menses, and breast tenderness.

(vi) A statement that although the estrogen in oral contraceptives causes breast cancer and other cancers in certain animals, it isn't known whether or not oral contraceptives can cause cancer in humans.

(vii) A statement that oral contraceptives are of no value in the prevention or treatment of venereal disease.

(viii) A statement calling attention to the detailed patient labeling and a recommendation that it be carefully read.

(3) The detailed patient labeling shall be a separate printed leaflet independent of any additional materials, in a typeface that is not condensed and no smaller than 9-point type. It shall specifically include the following:

(i) Name of the drug.

(ii) Name and place of business of the manufacturer, packer, relabeler or distributor.

(iii) A statement that oral contraceptives are effective but can cause certain serious side effects.

(iv) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(v) A statement of the effectiveness of oral contraceptives, including the differences in effectiveness among different types and the relationship between effectiveness and estrogen dosage.

(vi) A summary of the effectiveness of other methods of contraception.

(vii) A warning regarding the serious side effects of oral contraceptives, including the relative risk (where known) faced by users compared to nonusers and the relationship of the side effects to age and/or other conditions. The side effects mentioned must include thrombophlebitis pulmonary embolism, retinal artery thrombosis, stroke, (the relation of these to estrogen dose is to be mentioned), benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease. The ability of estrogen to cause malignant tumors in animals, endometrial cancer in women, and the evidence that sequential oral contraceptives may increase the risk of endometrial cancer in women must be mentioned. There shall also be a statement that studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (1 study) in women with benign breast disease, and that there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequentials.

(viii) A statement of common side effects, including nausea and vomiting, weight change, darkening of the skin, changes in menses, and a statement of other serious side effects, including worsened migraine, and worsened heart or kidney disease due to fluid retention, growth of uterine fibroid tumors, depression, jaundice, blood pressure elevation, decreased glucose tolerance and elevated blood lipids.

(ix) A statement of reported side effects not definitely related to oral contraceptive use.

(x) A statement cautioning the patient to consult her physician before resuming the use of the drug after child-

birth, especially if she intends to breast-feed the baby, pointing out that the hormones in the drug are known to appear in the milk and may decrease the flow.

(xi) A comparison of the risk of death from various contraceptive methods (oral contraceptive, IUD, condom or diaphragm, condom or diaphragm with abortion in the event of pregnancy, no contraception but abortion in the event of pregnancy, and no contraception or abortion).

(xii) A statement of the specific items of history to be told the physician which would lead the physician not to prescribe oral contraceptives (i.e., the contraindications to use).

(xiii) A statement of specific items of history that might cause the physician to suggest another method (e.g., risk factors for myocardial infarction, family history of breast cancer or past history of fibrocystic disease or abnormal mammogram, gallbladder disease) or would require the physician's special attention (e.g., migraine, asthma, epilepsy, heart or kidney disease, fibroids, history of depression).

(xiv) A statement that jaundice, depression, breast lumps, and the particular warning signals of thromboembolic disease, thrombotic disease, and ruptured hepatic adenoma, should be reported to the physician.

(xv) A statement of how to take oral contraceptives properly and what to do in the event of one or two missed periods.

(xvi) The date, identified as such, of the most recent revision of the labeling prominently placed immediately after the last section of such labeling.

(4) Patient labeling for each oral contraceptive drug product shall be provided to the retailer by the manufacturer, packer, relabeler, or distributor as follows:

(i) The brief summary patient labeling shall be included in each package intended to be dispensed to the patient.

(ii) The detailed patient labeling shall be included in or shall accompany each package intended to be dispensed to the patient.

(iii) In the case of oral contraceptive drug products in bulk packages intended for multiple dispensing, each bulk package shall include a sufficient number of patient labeling pieces to assure that both pieces can be furnished with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispensor to include both patient labeling pieces (the brief summary to be in the package and the detailed labeling piece either in or accompanying the package) with each package dispensed to the patient.

(5) An oral contraceptive drug product that is not labeled as required by paragraph (a) of this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce is misbranded under section 502 of the act. However, an oral contraceptive drug product package before the effective date of this paragraph is not misbranded if adequate numbers of copies of the detailed patient labeling required by this paragraph are furnished to wholesalers or retailers to permit any retail purchaser after the effective date to obtain such labeling with the product.

(6) The Food and Drug Administration has available patient labeling for oral contraceptive drug products that includes information responsive to all the items specified in paragraph (a) (2) and (3) of this section. The labeling has been published in the FEDERAL REGISTER and updated versions will continue to be published as guides when changes occur. Any person may rely on the newest version of this labeling as complying with paragraph (a) (2) and (3) of this section after the effective date of this paragraph.

NOTE: For a period of 60 days after February 7, 1977 any person may also rely on, as complying with paragraph (a) (2) and (3) of this section, the labeling in the notice under Docket No. 75N-0304 published in 41 FR 53633, December 7, 1976.

(7) Holders of new drug applications for oral contraceptive drug products that are subject to paragraph (a) of this section must submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) (2) and (3) of this section on or before February 7, 1977. The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before February 7, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comment (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours 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.

Dated: December 3, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75N-0304]

Food and Drug Administration

ORAL CONTRACEPTIVE DRUG PRODUCTS

Physician and Patient Labeling

The Food and Drug Administration (FDA) is issuing revised physician and patient labeling as a guide for manufacturers and distributors of oral contraceptive drug products and is seeking comment on this labeling. Interested persons are invited to comment on the labeling on or before February 7, 1977. All comments will be considered; if the labeling is further revised, the text of the labeling will be published in a subsequent notice.

The need for revised physician and patient labeling arises principally from new information concerning thromboembolic disorders, other vascular problems, carcinoma, and effects on the exposed fetus. The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use, and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning such matters as effectiveness, contraindications, warnings, precautions, and adverse reactions is an important element in the discharge of that responsibility.

The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or warn of previously unanticipated hazards.

Significant new information has been reported concerning thromboembolic disorders, other vascular problems, carcinoma, and effects on an exposed fetus associated with the use of oral contraceptive drug products. This has generated a need for a revision of the labeling to inform physicians and patients of these findings. The scientific papers that are the source of this new information are cited in the bibliography given in the revised physician labeling herein. Copies have been placed on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

To ensure maximum public participation in the development of the revised physician labeling for oral contraceptive drug products, a draft of the revised labeling was circulated to various professional, scientific, trade, and consumer organizations. A copy of the draft was placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and notice of its availability was published in the FEDERAL REGISTER of October 24, 1975 (40 FR 49813). The draft labeling was sent to all who requested it.

Forty-three responses on the draft labeling were received from physicians, professional societies, drug manufacturers, and individual consumers. The labeling has also been reviewd and commented on by FDA's Obsterics and Gynecology Advisory Committee. The comments have all been reviewed, and a number of the suggested changes have been adopted in the labeling.

It has been alleged that oral contraceptives are dangerous for use by patients with a family history of breast or uterine cancer. Therefore, FDA considers it advisable to address in this FEDERAL REGISTER notice its position with regard to this issue.

Women with an immediate familial history (mother-daughter) of breast cancer appear to have an increased risk of developing this malignancy during their lifetime. It has been estimated that these women are four times more likely to have breast cancer than those without such a history. There is not, however, adequate scientific evidence that this risk is further enhanced in such individuals by the use of oral contraceptives. At the present time, therefore, contraindication of the use of oral contraceptives in the patient population is not appropriate since contraindications in drug labeling properly relate to known, rather than speculative hazards. However, on the basis of the increased risk of breast cancer in women with an immediate family history of this disease, the agency has included in the labeling for both physicians and patients a warning that patients with a strong familial history of breast cancer who elect to use oral contraceptives be monitored with particular care. Such careful monitoring is mandatory in view of the fact that if breast cancer should develop in such patients, the use of estrogen-containing drugs should be immediately discontinued because such drugs may very well cause rapid progression of the disease if the malignancy is hormone dependent.

Although there appears to be some familial tendency with regard to the occurrence of uterine cancer (endometrial but not cervical), the relationship is generally regarded as far less striking than that noted for breast cancer. At the present time, there is a lack of scientific evidence that this risk is further increased by the use of oral contraceptives. To contraindicate the use of these drugs in patients with a family history of uterine cancer is therefore unwarranted. Rather, the labeling for both the physician and patient stresses the necessity of periodic physical examinations and instructs the physician that appropriate additional examinations should be done in the event of unexplained vaginal bleeding. The agency also requires that vaginal bleeding of unknown etiology be listed as a contraindication to the use of these drugs until such time as malignancy has been ruled out. With such directives in the labeling, FDA feels adequate precautions have been taken to avoid the use of oral contraceptives in patients in whom uterine cancer is suspected, and that in the event that uterine cancer develops while using oral contraceptives diagnosis can be made promptly, the drug discontinued, and appropriate therapy instituted.

There has also been some question whether estrogens should be contraindicated for use by women who were opposed to diethylstilbestrol during their mothers' pregnancy. Because most oral contraceptives contain estrogen, the same question applies to their use by this patient population. It has been estimated that such women have an increased risk of developing in later life a rare form of vaginal or cervical cancer. This risk has been estimated as not greater than four per 1,000 exposures. However, a much higher percentage of such exposed women have been found to have epithelial changes of the vagina and cervix, known as adenosis, although these changes are histologically benign. It is not known whether such changes are precursors to vaginal malignancy.

At the present time, there are no data available that show that this increased risk of vaginal or cervical malignancy is further increased by the use of oral contraceptives or estrogen. Consequently, there is no scientific basis to support contraindicating the use of oral contraceptives in such patients. Further study is needed to define what role, if any, oral contraceptives play with regard to the occurrence of these malignancies in such a patient population. The agency does believe, and has incorporated statements into the labeling for the oral contraceptives, that such patients should be monitored with particular care if they elect to use oral contraceptives. In the event that such a malignancy should develop while using oral contraceptives, diagnosis could be made promptly, the drugs discontinued, and appropriate therapy instituted without delay.

The patient labeling for oral contraceptives has also been revised to conform to the revised physician labeling. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is proposing to amend § 310.501(a) (21 CFR 310.501(a)) to delete the currently required text of the printed information that accompanies the drug when it is dispensed to patients and to specify the kind of information to be contained in the patient labeling without prescribing its exact wording.

The texts of the revised physician and patient labeling are set forth in this notice. The Commissioner advises that the patient labeling for oral contraceptive drug products specified in this notice complies with the patient labeling requirements proposed in § 310.501(a) and can be relied upon by manufacturers, packers, relabelers, and distributors to meet these requirements.

In the FEDERAL REGISTER of April 7, 1975 (40 FR 15392), the Commissioner proposed new requirements concerning the content and format of all prescription drug labeling, that is, labeling directed to the physician. The Commissioner concludes that the physician labeling set forth below for oral contraceptive drug products is consistent with the proposed prescription drug labeling format. Furthermore, it is consistent with the proposed requirement under § 1.112 (c)(6)(ii) in the April 7, 1975 notice.

that printed patient information be referenced under the "Precautions" section of the physician labeling and reprinted at the end of it.

Because of the impact of the information that has become available on manufacturers, physicians, and patients and the wide use of oral contraceptive drug products, the Commissioner seeks comment on the text of both the full disclosure physician labeling and the patient labeling.

Although comment on the labeling is sought, the importance of the new information is such that the revised labeling for physicians should be put into use without delay. The revised patient labeling may also be used, and its use is encouraged, but since the current patient labeling for these drugs is the subject of a substantive regulation, § 310.501 (a), use of the revised patient labeling may be delayed until the rule making procedure providing for the revision is completed.

The Food and Drug Administration will regard as misbranded and subject to regulatory action, any oral contraceptive drug product that is shipped in interstate commerce by manufacturers, repackers, relabelers, or own-label distributors after April 6, 1977 without labeling which is substantially the same in content as the physician labeling set forth in this notice. However, the physician labeling given below may be edited, e.g., by abbreviating the names of the medical journals in the "References" section, so long as no substantive changes are made in the content of the labeling. Under the provisions of § 314.8(d) (21 CFR 314.8(d)), such labeling may be put into use before approval of a supplement to a new drug application.

Holders of approved new drug applications for oral contraceptive drug products shall submit supplements on or before April 6, 1977 to provide for the revised physician labeling.

The notice of proposed rulemaking, published elsewhere in this issue of the FEDERAL REGISTER for the revised patient labeling proposes that that requirement will become effective 60 days after it is published as a final regulation.

Upon reviewing the comments received on the physician and patient labeling for oral contraceptive drug products if, on the basis of the comments, revisions are necessary, the Commissioner will publish a followup notice giving the revised text of the physician and patient labeling. Notwithstanding changes that may appear in the text of the patient labeling published after the comment period, the labeling that is already in use at the time and the same in content as the text given below may continue to be used for 60 days after the effective date of the revision of § 310.501(a), i.e., for 120 days after publication.

The physician labeling for oral contraceptive drug products is set forth below:

ORAL CONTRACEPTIVE LABELING

DESCRIPTION

(TO BE SUPPLIED BY MANUFACTURER)

(Description should include the following information.)

1. The proprietary name and the established name if any, of the drug product;

2. The same qualitative and/or quantitative ingredient information as required for labels;

3. The pharmacological or therapeutic class of the drug product;

4. The chemical name and structural formula.

CLINICAL PHARMACOLOGY

FOR COMBINATION ORAL CONTRACEPTIVES ONLY

Combination oral contraceptives act primarily through the mechanism of gonadotropin suppression due to the estrogenic and progestational activity of the ingredients. Although the primary mechanism of action is inhibition of ovulation, alterations in the genital tract including changes in the cervical mucus (which increase the difficulty of sperm penetration) and the endometrium (which reduce the likelihood of implantation) may also contribute to contraceptive effectiveness.

FOR PROGESTIN ORAL CONTRACEPTIVES ONLY

The primary mechanism through which (insert name of drug) prevents conception is not known, but progestin-only contraceptives are known to alter the cervical mucus, exert a progestional effect on the endometrium, interfering with implantation, and, in some patients, suppress ovulation. (Manufacturer to include information on absorption, distribution, elimination, and pharmacokinetics if pertinent; also on drug interactions pertinent to human use.)

INDICATIONS AND USAGE

(Insert name of drug) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

Oral contraceptives are highly effective. The pregnancy rate in women using conventional combination oral contraceptives (containing 35 mcg or more of ethinyl estradiol or 50 mcg or more of mestranol) is generally reported as less than one pregnancy per 100 woman-years of use. Slightly higher rates (somewhat more than 1 pregnancy per 100 woman-years of use) are reported for some combination products containing 35 mcg or less of ethinyl estradiol, and rates on the order of 3 pregnancies per 100 women-years are reported for the progestin-only oral contraceptives.

These rates are derived from separate studies conducted by different investigators in several population groups and cannot be compared precisely. Furthermore, pregnancy rates tend to be lower as clinical studies are continued, possibly due to selective retention in the longer studies of those patients who accept the treatment regimen and do not discontinue as a result of adverse reactions, pregnancy, or other reasons.

In clinical trials with (insert name of drug (insert number of) patients completed _____ cycles and a total of _____ pregnancies were reported. This represents a pregnancy rate of _____ per 100 woman-years. (manufacturer to add other information related to the pregnancy rate with his particular product, if needed to provide adequate prescribing information to the physician.)

The following table gives ranges of pregnancy rates reported in a standard textbook (Ref. 1) for other means of contraception. An individual patient may achieve higher or lower rates with any given method (except the IUD), depending upon the degree of adherence to the method.

PREGNANCIES PER 100 WOMAN-YEARS

IUD, 2–3; condoms, 6–13; diaphragm with cream or gel, 2–33; Coitus interruptus, 6–16; rhythm, 6–19; foams, creams or gels alone, 38–42; no contraception, 60–80.

Epidemiological studies have shown a positive association between the dose of estrogens in oral contraceptives and the risk of thromboembolism (refs. 2 and 3). For this reason, it is prudent and in keeping with good principles of therapeutics to minimize exposure to estrogen. The oral contraceptive product prescribed for any given patient should be that product which contains the least amount of estrogen that is compatible with an acceptable pregnancy rate and patient acceptance. It is recommended that new acceptors of oral contraceptives should be started on preparations containing 50 MCG or less of Estrogen.

CONTRAINDICATIONS

Oral contraceptives should not be used in women with any of the following conditions:

1. Thrombophlebitis or thromboembolic disorders.

2. A past history of deep vein thrombophlebitis or thromboembolic disorders.

3. Cerebral vascular or coronary artery disease.

4. Known or suspected carcinoma of the breast.

5. Known or suspected estrogen dependent neoplasia.

6. Undiagnosed abnormal genital bleeding.

7. Known or suspected pregnancy (see warning No. 5).

WARNINGS

The use of oral contraceptives is associated with increased risk of several serious conditions including thromboembolism, stroke, myocardial infarction, hepatic adenoma, gall bladder disease, hypertension. Practitioners prescribing oral contraceptives should be familiar with the following information relating to these risks.

1. *Thromboembolic Disorders and Other Vascular Problems.* An increased risk of thromboembolic and thrombotic disease associated with the use of oral contraceptives is well established. Three principal studies in Great Britain (Refs. 4 through 6) and three in the United States (Refs. 7 through 10 have demonstrated an increased risk of fatal and nonfatal venous thromboembolism and stroke, both hemorrhagic and thrombotic. These studies estimate that users of oral contraceptives are 4 to 11 times more likely than nonusers to develop these diseases without evident cause (Tables 1 and 4) than are nonusers. Overall excess mortality due to pulmonary embolism or stroke is on the order of 1 to 3.5 deaths annually per 100,000 users and increases with age (Table 2). In a collaborative American study (Refs. 9 and 10) of cerebrovascular disorders in women with and without predisposing causes, it was estimated that the risk of hermorrhagic stroke was 2.0 times greater in users than nonusers and the risk of thrombotic stroke was 4 to 9.5 times greater in users than in nonusers (Table 4).

TABLE 1

HOSPITALIZATION RATES DUE TO VENOUS THROMBOEMBOLIC DISEASE (REF. 6)

	Admissions annually per 100,000 women, age 20–44
Users of oral contraceptives	45
Nonusers	5

TABLE 2.—*Death rates due to pulmonary embolism or cerebral thrombosis (Ref. 5)—deaths annually per 100,000 nonpregnant women*

	Age 20 to 34	Age 35 to 44
Users of oral contraceptives	1.6	3.9
Nonusers	.2	.5

An increased risk of myocardial infarction associated with the use of oral contraceptives has been reported (Refs. 11, 12, and 13), confirming a previously suspected association (Tables 3 and 4). These studies, conducted in the United Kingdom, found, as expected, that the greater the number of underlying risk factors for coronary artery disease (cigarette smoking, hypertension, hypercholesterolemia, obesity, diabetes, history of preeclamptic toxemia) the higher the risk of developing myocardial infarction, regardless of whether the patient was an oral contraceptive user or not. Oral contraceptives, however, were found to be a clear additional risk factor. The annual excess case rate of myocardial infarction (fatal and nonfatal) in oral contraceptive users was estimated to be approximately 7 cases per 100,000 women users in the 30–39 year age group and 67 cases per 100,000 women users in the 40–44 age group.

TABLE 3.—*Myocardial infarction rates in users and nonusers of oral contraceptives in Britain (Refs. 11, 12, and 13)—cases annually per 100,000 women*

	Nonfatal		Fatal	
	Age 30 to 39	Age 40 to 44	Age 30 to 39	Age 40 to 44
Users of oral contraceptives	5.6	56.9	5.4	32
Nonusers of oral contraceptives	2.1	9.9	1.9	12
Relative risk	2.7	5.7	2.8	2.8

In an analysis of data derived from several national adverse reaction reporting systems (Ref. 2), British investigators concluded that the risk of thromboembolism including coronary thrombosis is directly related to the dose of estrogen used in oral contraceptives Preparations containing 100 mcg or more of estrogen were associated with a higher risk of thromboembolism than those containing 50–80 mcg of estrogen. Their analysis did suggest, however, that the quantity of estrogen may not be the sole factor involved. This finding has been confirmed in the United States (Ref. 3). Careful epidemiological studies to determine the degree of thromboembolic risk associated with progestin-only oral contraceptives have not been performed. Cases of thromboembolic disease have been reported in women using these products, and they should not be presumed to be free of excess risk.

The risk of thromboembolic and thrombotic disorders, in both users and nonusers of oral contraceptives, increases with age. Oral contraceptives are, however, an independent risk factor for these events.

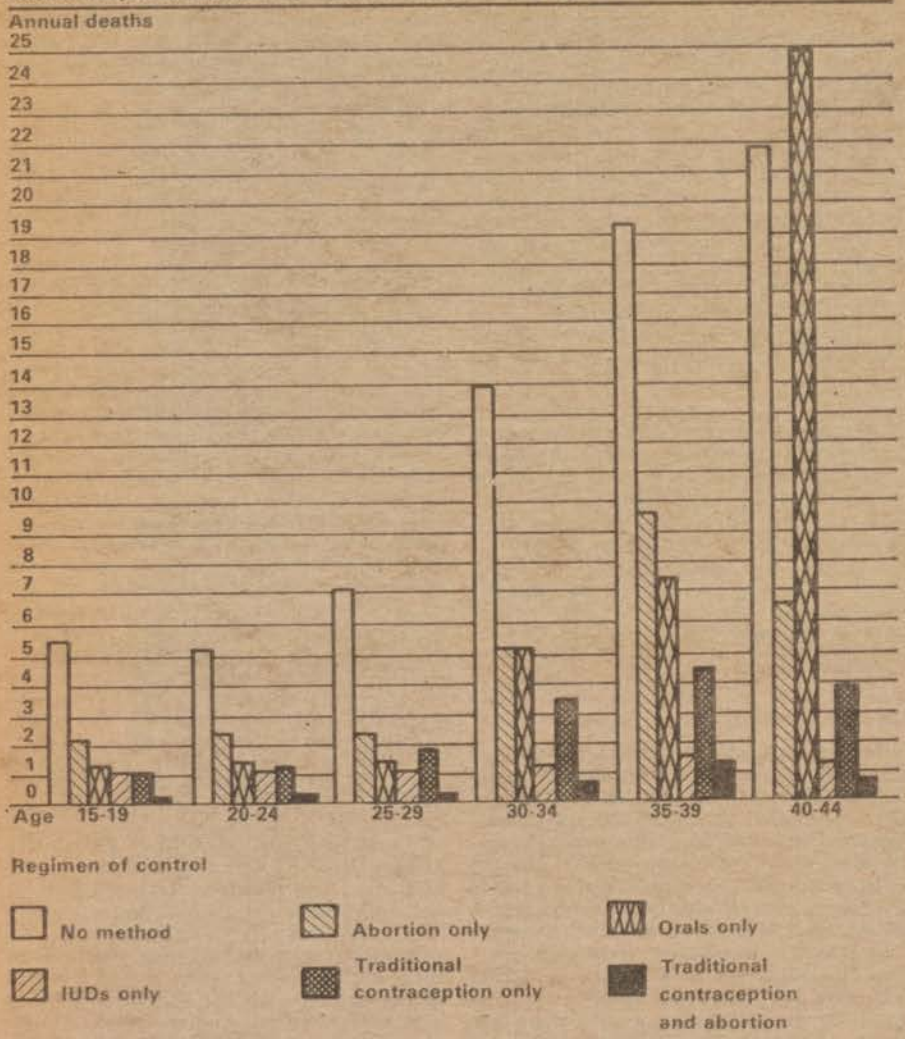
TABLE 4

SUMMARY OF RELATIVE RISK OF THROMBOEMBOLIC DISORDERS AND OTHER VASCULAR PROBLEMS IN ORAL CONTRACEPTIVE USERS COMPARED TO NONUSERS

	Relative risk, times greater
Idiopathic thromboembolic disease	4–11
Post surgery thromboembolic complications	4–6
Thrombotic stroke	4–9.5
Hemorrhagic stroke	2
Heart attack (fatal) (age 30–39)	2.8
Heart attack (fatal) (age 40–44)	2.8
Heart attack (nonfatal) (age 30–39)	2.7
Heart attack (nonfatal) (age 40–44)	5.7

The available data from a variety of sources have been analyzed (Ref. 14) to estimate the risk of death associated with various methods of contraception. The estimates of risk of death for each method include the combined risk of the contraceptive method (e.g., thromboembolic and thrombotic diease in the case of oral contraceptives) plus the risk attributable to pregnancy or abortion in the event of method failure. This latter risk varies with the effectiveness of the contraceptive method. The findings of this analysis are shown in Figure 1 below (Ref. 14). The study concluded that the mortality associated with all methods of birth control is low compared to the risk of childbirth, with the exception of oral contraceptives in women over 40, and that the lowest mortality is associated with the condom or diaphragm backed up by early abortion.

Figure 1. Annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of woman.



The risk of thromboembolic and thrombotic disease associated with oral contraceptives increases with age after approximately age 30 and, for myocardial infarction, is further increased by cigarette smoking, hypertension, hypercholesterolemia, obesity, diabetes, or history of preeclamptic toxemia. The risk of myocardial infarction in oral contraceptive users is substantially increased in women age 40 and over, especially those with other risk factors. The use of oral contraceptives in women in this age group is not recommended.

The physician and the patient should be alert to the earliest manifestations of thromboembolic and thrombotic disorders (e.g., thrombophlebitis, pulmonary embolism, cerebrovascular insufficiency, coronary occlusion, retinal thrombosis, and mesenteric thrombosis). Should any of these occur or be suspected, the drug should be discontinued immediately.

A four- to six-fold increased risk of post surgery thromboembolic complications has been reported in oral contraceptive users (refs. 15 and 16). If feasible, oral contraceptives should be discontinued at least 4 weeks before surgery of a type associated with an increased risk of thromboembolism or prolonged immobilization.

2. *Ocular Lesions.* There have been reports of neuro-ocular lesions such as optic neuritis or retinal thrombosis associated with the use of oral contraceptives. Discontinue oral contraceptive medication if there is unexplained, sudden or gradual, partial or complete loss of vision; sudden onset of proptosis or diplopia; papilledema; or retinal vascular lesions and institute appropriate diagnostic and therapeutic measures.

3. *Carcinoma.* Long-term continuous administration of either natural or synthetic estrogen in certain animal species increases the frequency of carcinoma of the breast, cervix, vagina, and liver. Certain synthetic progestins, none currently marketed, have been noted to increase the incidence of mammary nodules, benign and malignant, in dogs.

In humans, three case control studies have reported an increased risk of endometrial carcinoma associated with the prolonged use of exogenous estrogen in post menopausal women (Refs. 17, 18, and 19). One publication (Ref. 20) reported on the first 21 cases submitted by physicians to a registry of cases of adenocarminoma of the endometrium in women under 40 on oral contraceptives. Of the cases found in women without predisposing risk factors for adenocarcinoma of the endometrium (e.g., irregular bleeding at the time oral contraceptives were first given, polycystic ovaries), nearly all occured in women who had used a sequential oral contraceptive. These products are no longer marketed. No evidence has been reported suggesting an increased risk of endometrial cancer in users of conventional combination or progestin-only oral contraceptives.

Several studies (Refs. 8 and 21 through 24) have found no increase in breast cancer in women taking oral contraceptives or estrogens. One study (Ref. 25), however, while also noting no overall increased risk of breast cancer in women treated with oral contraceptives, found an excess risk in the subgroups of oral contraceptive users with documented benign breast disease. A reduced occurrence of benign breast tumors in users or oral contraceptives has been well-documented (Refs. 8, 21, 25, 26, and 27).

In summary, there is at present no confirmed evidence from human studies of an increased risk of cancer associated with oral contraceptives. Close clinical surveillance of all women taking oral contraceptives is, nevertheless, essential. In all cases of undiagnosed persistent or recurrent abnormal vaginal bleeding, appropriate diagnostic measures should be taken to rule out malignancy. Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease or abnormal mammograms should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception.

4. *Hepatic Adenoma.*

Benign hepatic adenomas appear to be associated with the use of oral contraceptives (Refs. 28, 29, and 30). Although benign, and rare, hepatic adenomas may rupture and may cause death through intra-abdominal hemorrhage. This has been reported in short-term as well as long-term users of oral contraceptives, although one study relates risk with duration of use of the contraceptive (Ref. 30). While hepatic adenoma is a rare lesion, it should be considered in women presenting abdominal pain and tenderness, abdominal mass or shock.

A few cases of hepatocellular carcinoma have been reported in women taking oral contraceptives. The relationship of these drugs to this type of malignancy is not known at this time.

5. *Use in Pregnancy, Birth Defects in Offspring, and Malignancy in Female Offspring.*

The use of female sex hormones—both estrogenic and progestational agents—during early pregnancy may seriously damage the offspring. It has been shown that females exposed in utero to diethylstilbestrol, a nonsteroidal estrogen, have an increased risk of developing in later

life a form of vaginal or cervical cancer that is ordinarily extremely rare (Refs. 31 and 32). This risk has been estimated as not greater than 4 per 1,000 exposures (Ref. 33). Although there is no evidence at the present time that oral contraceptives further enhance the risk of developing this type of malignancy, such patients should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception. Furthermore, a high percentage of such exposed women (from 30 to 90%) have been found to have epithelial changes of the vagina and cervix (Refs. 34 through 38). Although these changes are histologically benign, it is not known whether this condition is a precursor of vaginal malignancy. Although similar data are not available with the use of other estrogens, it cannot be presumed that they would not induce similar changes.

Several reports suggest an association between intrauterine exposure to female sex hormones and congenital anomalies, including congenital heart defects and limb-reduction defects (Refs. 39 through 42). One case control study (Ref. 42) has estimated a 4.7-fold increase in risk of limb-reduction defects in infants exposed in utero to sex hormones (oral contraceptives, hormonal withdrawal tests for pregnancy or attempted treatment for threatened abortion). Some of these exposures were very short and involved only a few days of treatment. The data suggest that the risk of limb-reduction defects in exposed fetuses is somewhat less than one in 1,000 live births.

In the past, female sex homones have been used during pregnancy in an attempt to treat threatened or habitual abortion. There is considerable evidence that estrogens are ineffective for these indications, and there is no evidence from well controlled studies that progestins are effective for these uses.

There is some evidence that triploidy and possibly other types of polyploidy are increased among abortuses from women who become pregnant soon after ceasing oral contracteptives (Ref. 43). Embryos with these anomalies are virtually always aborted spontaneously. Whether there is an overall increase in spontaneous abortion of pregnancies conceived soon after stopping oral contraceptives is unknown.

It is recommended that for any patient who has missed two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen. If the patient has not adhered to the prescribed schedule, the possibility of pregnancy should be considered at the time of the first missed period, and further use of oral contractptives should be withheld until pregnancy has been ruled out. If pregnancy is confirmed, the patient should be apprised of the potential risks to the fetus and the advisability of continuation of the pregnancy should be discussed in the light of these risks.

It is also recommended that women who discontinue oral contraceptives with the intent of becoming pregnant use an alternate form of contraception for a period of time before attempting to conceive. Many clinicians recommend 3 months.

The administration of progestin-only or progestin-estrogen combinations to induce withdrawal bleeding should not be used as a test of pregnancy.

6. *Gall Bladder Disease.*

Studies (Refs. 8 and 23) report a doubling of the risk of surgically confirmed gall bladder disease in users of oral contraceptives or estrogen for 2 or more years.

7. *Carbohydrate and Lipid Metabolic Effects.*

A decrease in glucose tolerance has been observed in a significant percentage of patients on oral contraceptives. For this reason, prediabetic and diabetic patients should be carefully observed while receiving oral contraceptives.

An increase in triglycerides and total phospholipids has been observed in patients receiving oral contraceptives (Ref. 44). The clinical significance of this finding remains to be defined.

8. *Elevated Blood Pressure.*

An increase in blood pressure has been reported in patients receiving oral contraceptives. In some women, hypertension may occur within a few months of beginning oral contraceptive use. In the first year of use, the prevalence of women with hypertension is low in users and may be no higher than that of a comparable group of nonusers. The prevalence in users increases, however, with longer exposure, and in the fifth year of use is two and a half to three times the reported prevalence in the first year. Age is also strongly correlated with the development of hypertension in oral contraceptive users. Women who previously have had hypertension during pregnancy may be more likely to develop elevation of blood pressure when given oral contraceptives (Ref. 26).

9. *Headache.*

The onset or exacerbation of migraine or development of headache of a new pattern which is recurrent, persistent, or severe, requires discontinuation of oral contraceptives and evaluation of the cause.

10. *Bleeding Irregularities.*

Breakthrough bleeding, spotting, and amenorrhea are frequent reasons for patients discontinuing oral contraceptives. In breakthrough bleeding, as in all cases of irregular bleeding from the vagina, nonfunctional causes should be borne in mind. In undiagnosed persistent or recurrent abnormal bleeding from the vagina, adequate diagnostic measures are indicated to rule out pregnancy or malignancy. If pathology has been excluded, time or a change to another formulation may solve the problem. Changing to an oral contraceptive with a higher estrogen content, while potentially useful in minimizing menstrual irregularity, should be done only if necessary since this may increase the risk of thromboembolic disease.

Following paragraph to be inserted for progestin-only oral contraceptives:

An alteration in menstrual patterns is likely to occur in women using progestin-only oral contraceptives. The amount and duration of flow, cycle length, breakthrough bleeding, spotting and amenorrhea will probably be quite variable. Bleeding irregularities occur more frequently with the use of progestin-only oral contraceptives than with the combinations and the dropout rate due to such conditions is higher.

Women with a past history of oligomenorrhea or secondary amenorrhea or young women without regular cycles may have a tendency to remain anovulatory or to become amenorrheic after discontinuation of oral contraceptives. Women with these preexisting problems should be advised of this possibility and encouraged to use other contraceptive methods.

11. *Ectopic Pregnancy.*

Ectopic as well as intrauterine pregnancy may occur in contraceptive failures. However, in oral contraceptive failures, the ratio of ectopic to intrauterine pregnancies is higher than in women who are not receiving oral contraceptives, since the drugs are more effective in preventing intrauterine than ectopic pregnancies. The higher ectopic-intrauterine ratio has been reported with both combination products and progestin-only oral contraceptives.

12. *Breast Feeding.*

Oral contraceptives given in the postpartum period interfere with lactation. There may be a decrease in the quantity and quality of the breast milk. Furthermore, a small fraction of the hormonal agents in oral contraceptives has been identified in the milk of mothers receiving these drugs (Ref. 45). The effects, if any, on the breast fed child have not been determined. If feasible, the use of oral contraceptives should be deferred until the infant has been weaned.

PRECAUTIONS

GENERAL

1. A complete medical and family history should be taken prior to the initiation of oral contraceptives. The pretreatment and periodic physical examinations should include special reference to blood pressure, breasts, abdomen and pelvic organs, including Papanicolaou smear and relevant laboratory tests. As a general rule, oral contraceptives should not be prescribed for longer than 1 year without another physical examination being performed.

2. Under the influence of estrogen-progestogen preparations, preexisting uterine leiomyomata may increase in size.

3. Patients with a history of psychic depression should be carefully observed and the drug discontinued if depression recurs to a serious degree. Patients becoming significantly depressed while taking oral contraceptives should stop the medication and use an alternate method of contraception in an attempt to determine if the symptom is drug related.

4. Oral contraceptives may cause some degree of fluid retention. They should be prescribed with caution, and only with careful monitoring, in patients with conditions which might be aggravated by fluid retention, such as convulsive disorders, migraine syndrome, or cardiac or renal insufficiency.

5. Patients with a past history of jaundice during pregnancy have an increased risk of recurrence of jaundice while receiving oral contraceptive therapy. If jaundice develops in any patient receiving such drugs, the medication should be discontinued.

6. Steroid hormones may be poorly metabolized in patients with impaired liver function and should be administered with caution in such patients.

7. Oral contraceptive users may have disturbances in normal tryptophan metabolism which may result in a relative pyridoxine deficiency. The clinical significance of this is yet to be determined.

8. Serum folate levels may be depressed by oral contraceptive therapy. Since the pregnant woman is predisposed to the development of folate deficiency and the incidence of folate deficiency increases with increasing gestation, it is possible that if a woman becomes pregnant shortly after stopping oral contraceptives, she may have a greater chance of developing folate deficiency and complications attributed to this deficiency.

9. The pathologist should be advised of oral contraceptive therapy when relevant specimens are submitted.

10. Certain endocrine and liver function tests and blood components may be affected by estrogen-containing oral contraceptives:

a. Increased sulfobromophthalein retention.

b. Increased prothrombin and factors VII, VIII, IX, and X; decreased antithrombin 3; increased norepinephrine-induced platelet aggregability.

c. Increased thyroid binding globulin (TBG) leading to increased circulating total thyroid hormone, as measured by protein-bound iodine (PBI), T4 by column, or T4 by radioimmunoassay. Free T3 resin uptake is decreased, reflecting the elevated TBG, free T4 concentration is unaltered.

d. Decreased pregnanediol excretion.

e. Reduced response to metyrapone test.

INFORMATION FOR THE PATIENT

(See Patient Package Insert below.)

DRUG INTERACTIONS

(Manufacturer to supply information on clinically significant drug-drug interactions.)

CARCINOGENESIS

See Warnings section for information on the carcinogenic potential or oral contraceptives.

PREGNANCY

Pregnancy category X. See Contraindications and Warnings.

NURSING MOTHERS

See Warnings.

ADVERSE REACTIONS

An increased risk of the following serious adverse reactions has been associated with the use of oral contraceptives (see Warnings):

Thrombophlebitis.
Pulmonary embolism.
Coronary thrombosis.
Cerebral thrombosis.
Cerebral hemorrhage.
Hypertension.
Gall bladder disease.
Congenital anomalies.

There is evidence of an association between the following conditions and the use of oral contraceptives, although additional confirmatory studies are needed:

Mesenteric thrombosis.
Benign hepatomas.
Neuro-ocular lesions, e.g., retinal thrombosis and optic neuritis.

The following adverse reactions have been reported in patients receiving oral contraceptives and are believed to be drug related:

Nausea, usually the most common adverse.

Vomiting, reaction, occurring in approximately 10% or less of patients during the first cycle. Other reactions, as a general rule, are seen much less frequently or only occassionally.

Gastrointestinal symptoms (such as abdominal cramps and bloating).
Breakthrough bleeding.
Spotting.
Change in menstrual flow.
Dysmenorrhea.
A memorrhea during and after treatment.
Temporary infertility after discontinuance of treatment.
Edema.
Chloasma or melasma which may persist.
Breast changes: tenderness, enlargement, and secretion.
Change in weight (increase or decrease).
Change in cervical erosion and cervical secretion.
Possible diminution in lactation when given immediately postpartum.
Cholestatic jaundice.
Migraine.
Increase in size of uterine leiomyomata.
Rash (allegric).
Mental depression.
Reduced tolerance to carbohydrates.
Vaginal candidiasis.

The following adverse reactions have been reported in users of oral contraceptives, and the association has been neither confirmed nor refuted:

Premenstrual-like syndrome.
Intolerance to contact lenses.
Change in corneal curvature (steepening).
Cataracts.
Changes in libido.
Chorea.
Changes in appetite.
Cystitis-like syndrome.
Headache.
Nervousness.
Dizziness.
Hirsutism.
Loss of scalp hair.
Erythema multiforme.
Erythema nodosum.
Hemorrhagic eruption.
Vaginitis.
Porphyria.
Impaired renal function.

ACUTE OVERDOSE

Serious ill effects have not been reported following acute ingestion of large doses of oral contraceptives by young children. Overdosage may cause nausea, and withdrawal bleeding may occur in females.

DOSAGE AND ADMINISTRATION

To achieve maximum contraceptive effectiveness, (insert name of drug) must be taken exactly as directed and at intervals not exceeding 24 hours.

(Manufacturer to supply information on routine administration and specific instructions on handling problems such as breakthrough bleeding, amenorrhea, etc.)

Use of oral contraceptives in the event of a missed menstrual period:

1. If the patient has not adhered to the prescribed dosage regimen, the possibility of pregnancy should be considered after the first missed period (or after 45 days from the last menstrual period if the progestin-only oral contraceptives are used) and oral contraceptives should be withheld until pregnancy has been ruled out.

2. If the patient has adhered to the prescribed regimen and misses two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen.

HOW SUPPLIED

(Manufacturers to supply information on available dosage forms, potency, color, and packaging.)

REFERENCES

1. Novak, E. R. (ed.), Textbook of Gynecology, Williams and Wilkins, 1975.

2. Inman, W. H. W., M. P. Vessey, B. Westerholm, and A. Engelund, "Thromboembolic disease and the steroidal content of oral contraceptives. A report to the Committee on Safety of Drugs," *Brit Med J* 2:203–209, 1970.

3. Stolley, P. D., J. A. Tonascia, M. S. Tockman, P. E. Sartwell, A. H. Rutledge, and M. P. Jacobs, "Thrombosis with low-estrogen oral contraceptives," *Am J Epidemiol* 102:197–208, 1975.

4. Royal College of General Practitioners, "Oral contraception and thromboembolic disease," *J Coll Gen Pract* 13:267–279, 1967.

5. Inman, W. H. W. and M. P. Vessey, "Investigation of deaths from pulmonary, coronary and cerebral thrombosis and embolism in women of childbearing age," *Brit Med J* 2:193–199, 1968.

6. Vessey, M. P. and R. Doll, "Investigation of relation between use of oral contraceptives and thromboembolic disease. A further report," *Brit Med J* 2:651–657, 1969.

7. Sartwell, P. E., A. T. Masi, F. G. Arthes, G. R. Greene, and H. E. Smith, "Thromboembolism and oral contraceptives: an epidemiological case control study," *Am J Epidemiol* 90:365–380, 1969.

8. Boston Collaborative Drug Surveillance Program, "Oral contraceptives and venous thromboembolic disease, surgically confirmed gallbladder disease and breast tumors," *Lancet* 1:1399–1404, 1973.

9. Collaborative Group for the Study of Stroke in Young Women, "Oral contraception and increased risk of cerebral ischemia or

thrombosis," *N Engl J Med* 288:871–878, 1973.

10. Collaborative Group for the Study of Stroke in Young Women, "Oral contraceptives and stroke in young women: associated risk factors," *JAMA* 231:718–722, 1975.

11. Mann., J. I., and W. H. W. Inman, "Oral contraceptives and death from myocardial infarction," *Brit Med J* 2:245–248, 1975.

12. Mann, J. I., W. H. W. Inman, and M. Thorogood, "Oral contraceptive use in older women and fatal myocardial infarction," *Brit Med J* 2:445–447, 1976.

13. Mann, J. I., M. P. Vessey, M. Thorogood, and R. Doll, "Myocardial infarction in young women with special reference to oral contraceptive practice," *Brit Med J* 2:241–245, 1975.

14. Tietze, C., J. Bongaarts, and B. Schearer, "Mortality associated with the control of fertility," *Family Planning Perspectives* 8:6–14, 1976.

15. Vessey, M. P., R. Doll, A. S. Fairbairn, and G. Glober, "Post-operative thromboembolism and the use of oral contraceptives," *Brit Med J* 3:123–126, 1970.

16. Greene, G. R., P. E. Sartwell, "Oral contraceptive use in patients with thromboembolism following surgery, trauma, or infection," *Am J Pub Health* 62:680–685, 1972.

17. Smith, D. C., R. Prentice, D. J. Thompson, and W. L. Herrmann, "Association of exogenous estrogen and endometrial carcinoma," *N Engl J Med* 293:1164–1167, 1975.

18. Ziel, H. K., and W. D. Finkle, "Increased risk of endometrial carcinoma among users of conjugated estrogens," *N Engl J Med* 293:1167–1170, 1975.

19. Mack, T. N., M. C. Pike, B. E. Henderson, R. I. Pfeffer, V. R. Gerkins, M. Arthur and S. E. Brown, "Estrogens and endometrial cancer in a retirement community," *N Engl J Med* 294:1262–1267, 1976.

20. Silverberg, S. G., and E. L. Makowski, "Endometrial carcinoma in young women taking oral contraceptive agents," *Obstet Gynecol* 46:503–506, 1975.

21. Vessey, M. P., R. Doll, and P. M. Sutton, "Oral contraceptives and breast neoplasia: a retrospective study," *Brit Med J* 3:719–724, 1972.

22. Vessey, M. P., R. Doll, and K. Jones, "Oral contraceptives and breast cancer. Progress report of an epidemiological study," *Lancet* 1:941–943, 1975.

23. Boston Collaborative Drug Surveillance Program, "Surgically confirmed gallbladder disease, venous thromboembolism and breast tumors in relation to postmenopausal estrogen therapy," *N Engl J Med* 290:15–19, 1974.

24. Arthes, F. G., P. E. Sartwell, and E. F. Lewison, "The pill, estrogens, and the breast. Epidemiologic aspects," *Cancer* 28:1391–1394, 1971.

25. Fasal, E., and R. S. Paffenbarger, "Oral contraceptives as related to cancer and benign lesions of the breast," *J Natl Cancer Inst* 55:767–773, 1975.

26. Royal College of General Practitioners, "Oral Contraceptives and Health," London, Pitman, 1974.

27. Ory, H., P. Cole, B. MacMahon, and R. Hoover, "Oral contraceptives and reduced risk of benign breast diseases," *N Engl J Med* 294:419–422, 1976.

28. Baum, J., F. Holtz, J. J. Bookstein, and E. W. Klein, "Possible association between benign hepatomas and oral contraceptives," *Lancet* 2:926–928, 1973.

29. Mays, E. T., W. M. Christopherson, M. M. Mahr, and H. C. Williams, "Hepatic changes in young women ingesting contraceptive steroids. Hepatic hemorrhage and primary hepatic tumors," *JAMA* 235:730–732, 1976.

30. Edmondson, H. A., B. Henderson, and B. Benton, "Liver-cell adenomas associated with use of oral contraceptives," *N Engl J Med* 294:470–472, 1976.

31. Herbst, A. L., H. Ulfedler, and D. C. Poskanzer, "Adenocarcinoma of the vagina," *N Engl J Med* 284:878–881, 1971.

32. Greenwald, P., J. J. Barlow, P. C. Nasca, and W. Burnett, "Vaginal cancer after maternal treatment with synthetic estrogens," *N Engl J Med* 285:390–392, 1971.

33. Lanier, A. P., K. L. Noller, D. G. Decker, L. Elveback, and L. T. Kurland, "Cancer and stilbestrol. A follow-up of 1719 persons exposed to estrogens in utero and born 1943–1959," *Mayo Clin Proc* 48:793–799, 1973.

34. Herbst, A. L., R. J. Kurman, and R. E. Scully, "Vaginal and cervical abnormalities after exposure to stilbestrol in utero," *Obstet Gynecol* 40:287–298, 1972.

35. Herbst, A. L., S. J. Robboy, G. J. Macdonald, and R. E. Scully, "The effects of local progesterone on stilbestrol-associated vaginal adenosis," *Am J Obstet Gynecol* 118:607–615, 1974.

36. Herbst, A. L., D. C. Poskanzer, S. J. Robboy, L. Friedlander, and R. E. Scully, "Prenatal exposure to stilbestrol: a prospective comparison of exposed female offspring with unexposed controls," N Engl J Med 292: 334–339, 1975.

37. Stafl, A., R. F. Mattingly, D. V. Foley, W. Fetherston, "Clinical diagnosis of vaginal adenosis," *Obstet Gynecol* 43:118–128, 1974.

38. Sherman, A. I., M. Goldrath, A. Berlin, V. Vakhariya, F. Banooni, W. Michaels, P. Goodman, and S. Brown, "Cervical-vaginal adenosis after in utero exposure to synthetic estrogens," *Obstet Gynecol* 44:531–545, 1974.

39. Gal, I., B. Kirman, and J. Stern, "Hormone pregnancy tests and congenital malformation," *Nature* 216:83, 1967.

40. Levy, E. P., A. Cohen, and F. C. Fraser, "Hormone treatment during pregnancy and congenital heart defects," *Lancet* 1:611, 1973.

41. Nora, J. J., and A. H. Nora, "Birth defects and oral contraceptives," *Lancet* 1:941–942, 1973.

42. Janerich, D. T., J. M. Piper, and D. M. Glebatis, "Oral contraceptives and congenital limb-reduction defects," *N Engl J Med* 291:697–700, 1974.

43. Carr, D. H., "Chromosome studies in selected spontaneous abortions: I. Conception after oral contraceptives," *Canad Med Assoc J* 103:343–348, 1970.

44. Wynn, V., J. W. H. Doar, and G. L. Mills, "Some effects of oral contraceptives on serum-lipid and lipoprotein levels," *Lancet* 2:720–723, 1966.

45. Laumas, K. R., P. K. Malkani, S. Bhatnagar, and V. Laumas, "Radioactivity in the breast milk of lactating women after oral administration of 3 H-norethynodrel," *Amer J Obstet Gynecol* 98:411–413, 1967.

The patient labeling for oral contraceptives drug products is set forth below:

Brief Summary Patient Package Insert

Oral contraceptives taken as directed are about 99% effective in preventing pregnancy. (The mini-pill, however, is somewhat less effective.) Forgetting to take your pills increases the chance of pregnancy.

Women who have or have had clotting disorders, cancer of the breast or sex organs, unexplained vaginal bleeding, a stroke, heart attack, angina pectoris, or who suspect they may be pregnant should not use oral contraceptives. Birth control pills are not recommended for women past the age of 40 because they increase the risk of heart attacks.

Most side effects of the pill are not serious. The most common side effects are nausea, vomiting, bleeding between menstrual periods, weight gain, and breast tenderness. However, proper use of oral contraceptives requires that they be taken under your doctor's continuous supervision, because they can be associated with serious side effects which may be fatal. Fortunately, these occur very infrequently. The serious side effects are:

1. Blood clots in the legs, lungs, brain, heart or other organs.
2. Liver tumors, which may rupture and cause severe bleeding.
3. Birth defects if the pill is taken while you are pregnant.
4. High blood pressure.
5. Gallbladder disease.

Notify your doctor if you notice any unusual physical disturbance while taking the pill.

Although the estrogen in oral contraceptives causes breast cancer and other cancers in certain animals, it is not known whether or not oral contraceptives can cause cancer in humans. At this time there is no definite evidence that they do.

The leaflet given you with your supply of pills discusses in much more detail the benefits and risks of oral contraceptives. It also provides information on other forms of contraception. Read it carefully. If you have any questions, consult your doctor.

Caution. Oral contraceptives are of no value in the prevention or treatment of venereal disease.

Detailed Patient Labeling

What You Should Know About Oral Contraceptives

Oral contraceptives ("the pill") are the most effective way (except for sterilization) to prevent pregnancy. They are also convenient and, for most women, free of serious or unpleasant side effects. Oral contraceptives must always be taken under the continuous supervision of a physician.

It is important that any woman who considers using an oral contraceptive understand the risks involved. Although the oral contraceptives have important advantages over other methods of contraception, they have certain risks that no other method has. Only you can decide whether the advantages are worth these risks. This leaflet will tell you about the most important risks. It will explain how you can help your doctor prescribe the pill as safely as possible by telling him about yourself and being alert for the earliest signs of trouble. And it will tell you how to use the pill properly, so that it will be as effective as possible. There is more detailed information available in the leaflet prepared for doctors. Your pharmacist can show you a copy; you may need your doctor's help in understanding parts of it.

Who Should Not Use Oral Contraceptives

A. If you have any of the following conditions you should not use the pill:

1. Clots in the legs or lungs.
2. Angina pectoris.
3. Known or suspected cancer of the breast or sex organs.

4. Unusual vaginal bleeding that has not yet been diagnosed.

5. Known or suspected pregnancy.

B. If you have had any of the following conditions you should not use the pill:

1. Heart attack or stroke.

2. Clots in the legs or lungs.

C. Although it is your decision, it is recommended that if you are over 40 years old you do not use the pill because of an increased risk of heart attacks from the pill.

DECIDING TO USE ORAL CONTRACEPTIVES

If you do not have any of the conditions listed above and are thinking about using oral contraceptives, to help you decide, you need information about the advantages and risks of oral contraceptives and of other contraceptive methods as well. This leaflet describes the advantages and risks of oral contraceptives. Except for the IUD and abortion, which have their own exclusive risks, the only risks of other methods of contraception are those due to pregnancy should the method fail or not be used conscientiously. Your doctor can answer questions you may have with respect to other methods of contraception. He can also answer any questions you may have after reading this leaflet on oral contraceptives.

1. What Oral Contraceptives Are and How They Work. Oral Contraceptives are of two types. The most common, often simply called "the pill" is a combination of an estrogen and a progestin, the two kinds of female hormones. The amount of estrogen and progestin can vary, but the amount of estrogen is most important because both the effectiveness and some of the dangers of oral contraceptives are related to the amount of estrogen. This kind of oral contraceptive works principally by preventing release of an egg from the ovary. When the amount of estrogen is 50 micrograms or more, and the pill is taken as directed, oral contraceptives are more than 99% effective (i.e., there would be less than one pregnancy if 100 women used the pill for 1 year). Pills that contain 20 to 35 micrograms of estrogen vary slightly in effectiveness, ranging from 98% to more than 99% effective. (Manufacturer may insert pregnancy rate for his product found in clinical trials, if product is a combination).

The second type of oral contraceptive, often called the "mini-pill", contains only a progestin. It works in part by preventing release of an egg from the ovary but also by keeping sperm from reaching the egg and by making the uterus (womb) less receptive to any fertilized egg that reaches it. The mini-pill is less effective than the combination oral contraceptive, about 97% effective. (Manufacturer may insert pregnancy rate for his product found in clinical trials if product is a progestin-only oral contraceptive.) In addition, the progestin-only pill has a tendency to cause irregular bleeding which may be quite inconvenient, or cessation of bleeding entirely. The progestin-only pill is used despite its lower effectiveness in the hope that it will prove not to have some of the serious side effects of the estrogen-containing pill (see below) but it is not yet certain that the mini-pill does in fact have fewer serious side effects. The discussion below, while based mainly on information about the combination pills, should be considered to apply as well to the mini-pill.

2. Other Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:

PREGNANCIES PER 100 WOMEN PER YEAR

	Percent effective
Intrauterine device (IUD), 2–3. That is,	97–98
Condom (rubber), 6–13	87–94
Diaphragm with cream or jelly, 2–33	67–98
Coitus interruptus (withdrawal), 6–16	84–94
Rhythm, 6–19	81–94
Foams and jellies alone, 38–42	58–62
No contraception, 60–80.	

The figures (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the condom (rubber), coitus interruptus (withdrawal), or rhythm may achieve lower pregnancy rates than those given above, which are the average results for large groups of women. Conscientious use of the diaphragm along with cream or jelly is reported to be 98% effective. Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

3. The Dangers of Oral Contraceptives.

a. *Abnormal blood clotting.* Blood clots (in various blood vessels of the body) are the most common of the serious side effects of oral contraceptives. A clot can result in a stroke (if the clot is in the brain), a heart attack (if the clot is in a blood vessel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal. Clots also occur rarely in the blood vessels of the eye, resulting in blindness or impairment of vision in that eye. There is evidence that the risk of clotting increases with higher estrogen doses. It is therefore important to keep the dose of estrogen as low as possible, so long as the oral contraceptive used has an acceptable pregnancy rate and doesn't cause unacceptable changes in the menstrual pattern.

The risk of abnormal clotting increases with age in both users and nonusers of oral contraceptives, but the increased risk from the contraceptive appears to be present at all ages. For women aged 20 to 44 it is estimated that about 1 in 2,000 using oral contraceptives will be hospitalized each year because of abnormal clotting. Among nonusers in the same age, about 1 in 20,000 would be hospitalized each year. For women under 35 who use oral contraceptives the risk of death due to lung clots or stroke is about 1 in 66,000 each year; among nonusers of this age, the risk of death would be 1 in 500,000 each year. For women 35 and over, users would have a 1-in-25,000 risk of death each year, compared with 1-in-200,000 for nonusers.

Even without the pill the risk of having a heart attack increases with age and is also increased by such heart attack risk factors as high blood pressure, high cholesterol, obesity, diabetes, and cigarette smoking. Oral contraceptives further increase the risk of heart attack 3 to 5 times. It is estimated that users of oral contraceptives age 40 to 44 have about a 1-in-1,000 chance each year of having a heart attack, compared with a 1-in-5,000 chance in nonusers. Users age 30 to 39 would have a 1-in-10,000 risk, while nonusers in this age group would have about a 1-in-25,000 risk. These are average figures. If you have none of the heart attack risk factors mentioned above, you will have a smaller risk than is listed. If you have several risk factors, you will have a greater risk than average.

Because of the increased risk of heart attacks, oral contraceptives are not recommended for women over 40. They should never be used at any age by women who have had a stroke, a heart attack, or angina pectoris, or who have had blood clots in the legs or lungs or elsewhere.

b. *Formation of tumors.* When certain animals are given female sex hormones continuously for long periods, cancers may develop in the breast, cervix, vagina, and liver.

No proof exists at present that oral contraceptives cause cancer in humans, but it remains possible they will be discovered in the future to do so. Several studies have found no increase in breast cancer in users, although one study suggested oral contraceptives might cause an increase in breast cancer in women who already have benign breast disease (e.g., cysts).

Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease, or abnormal mammograms or who were exposed to the estrogen, stilbestrol, during their mother's pregnancy must be followed very closely by their doctors if they choose to use oral contraceptives instead of another method of contraception. Many studies have shown that women taking oral contraceptives have less risk of getting benign breast disease than those who have not used oral contraceptives. Recently, strong evidence has emerged that estrogens (one component of oral contraceptives), when given for periods of more than one year to women after the menopause, increase the risk of cancer of the uterus (womb). There is also some evidence that a kind of oral contraceptive which is no longer marketed, the se-

quential oral contraceptive, may increase the risk of cancer of the uterus. There remtains no evidence, however, that the oral contraceptives now available increase the risk of this cancer.

Oral contraceptives do cause, very rarely, a benign (non-malignant) tumor of the liver. These tumors do not spread, but they may rupture and cause internal bleeding, which may be fatal. A few cases of cancer of the liver have been reported in women using oral contraceptives, but it is not yet known whether the drug caused them.

c. *Dangers to a developing child if oral contraceptives are used in pregnancy.* Oral contraceptives should not be taken by pregnant women because they may damage the developing child. They cause an increased risk of heart defects and limb defects in the child. In addition, the developing female child whose mother has received DES (diethylstilbestrol), an estrogen, during pregnancy has a risk of getting cancer of the vagina or cervix in her teens or young adulthood. This risk is estimated to be not more than 4 in 1,000. It is possible that other estrogens, such as the estrogens in oral contraceptives, could have the same effect in the female child if the mother takes them during pregnancy.

If you stop taking oral contraceptives to become pregnant, use another method of contraception for up to 3 months. The reason for this is that there is evidence from studies in women who have had "miscarriages" soon after stopping the pill, that the lost fetuses are more likely to be abnormal. Whether there is an overall increase in "miscarriage" in women who become pregnant soon after stopping the pill as compared with women who do not use the pill is not known, but it is possible that there may be.

d. *Gallbladder disease.* Women who have used oral contraceptives for 2 years or longer have twice as great a risk as nonusers of having gallbladder disease requiring surgery.

e. *Other side effects of oral contraceptives.* Some women using oral contraceptives experience unpleasant side effects that are not dangerous and are not likely to damage their health. Some of these may be temporary. Your breasts may feel tender, nausea and vomiting may occur, you may gain or lose weight, and your ankles may swell. A spotty darkening of the skin, particularly of the face, is possible and may persist. You may notice unexpected vaginal bleeding or changes in your menstrual period.

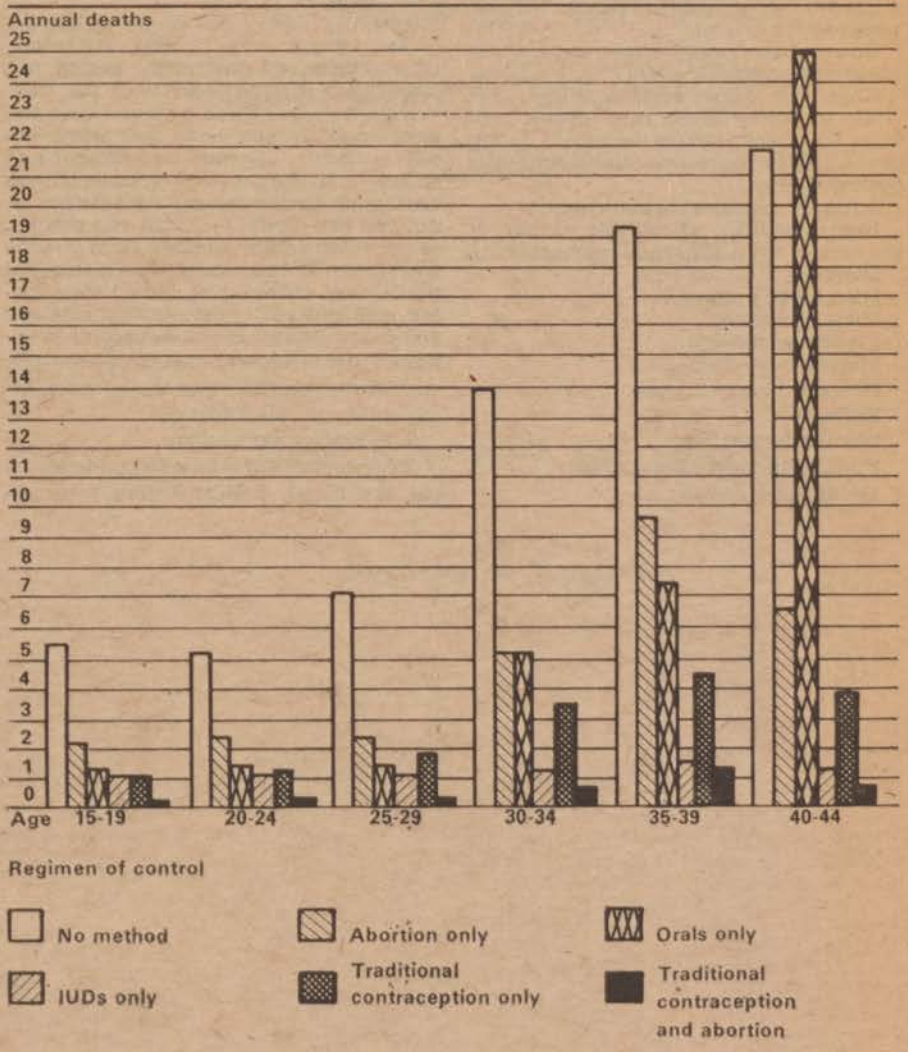
More serious side effects include worsening of migraine, epilepsy, and kidney or heart disease because of a tendency for water to be retained in the body when oral contraceptives are used. Other side effects are growth of preexisting fibroid tumors of the uterus; mental depression; and liver problems with jaundice (yellowing of the skin). Your doctor may find that levels of sugar and fatty substances in your blood are elevated; the long-term effects of these changes are not known. Some women develop high blood pressure while taking oral contraceptives, which ordinarily returns to the original levels when the oral contraceptive is stopped.

Other reactions, although not proved to be caused by oral contraceptives, are occasionally reported. These include more frequent urination and some discomfort when urinating, kidney disease, nervousness, dizziness, some loss of scalp hair, an increase in body hair, an increase or decrease in sex drive, appetite changes, cataracts, and a need for a change in contact lens prescription or inability to use contract lenses.

After you stop using oral contraceptives, there may be a delay before you are able to become pregnant. As discussed previously, you should wait a few months after stopping the pill before you try to become pregnant. During these few months, use another form of contraception. You should consult your physician before resuming use of oral contraceptives after childbirth, especially if you plan to nurse your baby. Drugs in oral contraceptives are known to appear in the milk, and the long-range effect on infants is not known at this time. Furthermore, oral contraceptives may cause a decrease in your milk supply as well as in the quality of the milk.

4. Comparison of the Risks of Oral Contraceptives and Other Contraceptive Methods. The many studies on the risks and effectiveness of oral contraceptives and other methods of contraception have been analyzed to estimate the risk of death associated with various methods of contraception. This risk has two parts: (a) the risk of the method itself (e.g., the risk that oral contraceptives will cause death due to abnormal clotting), and (b) the risk of death due to pregnancy or abortion in the event the method fails. The results of this analysis are shown in the bar graph below. The height of the bars is the number of deaths per 100,000 women each year. There are six sets of bars, each set referring to a specific age group of women. Within each set of bars, there is a single bar for each of six different contraceptive methods. ("Traditional contraception" means diaphragm or condom.)

Figure 1. Annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of woman.



This analysis is based on present knowledge and new information could, of course, alter it. The analysis shows that the risk of death from all methods of birth control is low compared to the risks of childbirth, *except for oral contraceptives in women over 40.* It shows that the lowest risk of death is associated with the condom or diaphragm (traditional contraception) backed up by early abortion in case of failure of the condom or diaphragm to prevent pregnancy. Also, at any age the risk of death (due to unexpected pregnancy) from use of traditional contraception even without a backup of abortion is generally the same as, or less than, that from use of oral contraceptives.

HOW TO USE ORAL CONTRACEPTIVES AS SAFELY AND EFFECTIVELY AS POSSIBLE, ONCE YOU HAVE DECIDED TO USE THEM

1. What to Tell your Doctor.

You can make use of the pill as safely as possible, by telling your doctor if you have any of the following:

a. Conditions that mean you should not use oral contraceptives:

Clots in the legs or lungs.

Clots in the legs or lungs in the past.

A stroke, heart attack, or angina pectoris.

Known or suspected cancer of the breast or sex organs.

Unusual vaginal bleeding that has not yet been diagnosed.

Known or suspected pregnancy.

b. Conditions that your doctor will want to watch closely or which might cause him to suggest another method of contraception:

A family history of breast cancer.

Breast nodules, fibrocystic disease of the breast, or an abnormal mammogram.

Diabetes.

High blood pressure.

High cholesterol.

Cigarette smoking.

Migraine headaches.

Heart or kidney disease.

Epilepsy.

Mental depression.

Fibroid tumors of the uterus.

Gallbladder disease.

c. Once you are using oral contraceptives, you should be alert for signs of a serious adverse effect and call your doctor if they occur:

Sharp pain in the chest, coughing blood, or sudden shortness of breath (indicating possible clots in the lungs).

Pain in the calf (possible clot in the leg).

Crushing chest pain or heaviness (indicating possible heart attack).

Sudden severe headache or vomiting, dizziness or fainting, disturbance of vision or speech, or weakness or numbness in an arm or leg (indicating a possible stroke).

Sudden partial or complete loss of vision (indicating a possible clot in the eye).

Breast lumps (you should ask your doctor to show you how to examine your own breasts).

Severe pain in the abdomen (indicating a possible ruptured tumor of the liver).

Severe depression.

Yellowing of the skin (jaundice).

2. How to Take the Pill So That It Is Most Effective.

(Manufacturer to supply information on dosage and administration and what to do if patient has forgotten to take one or two pills.)

At times there may be no menstrual period after a cycle of pills. Therefore, if you miss one menstrual period but have taken the pills *exactly as you were suppsoed to,* continue as usual into the next cycle. If you have not taken the pills correctly, *you may be pregnant* and should stop taking oral contraceptives until your doctor determines whether or not you are pregnant. Until you can get to your doctor, use another form of contraception. If two consecutive menstrual periods are missed, you should stop taking pills until it is determined whether you are pregnant. If you do become pregnant while using oral contraceptives, you should discuss the risks to the developing child with your doctor.

3. Periodic Examination.

Your doctor will take a complete medical and family history before prescribing oral contraceptives. At that time and about once a year thereafter, he will generally examine your blood pressure, breasts, abdomen, and pelvic organs (including a Papanicolaou smear).

SUMMARY

Oral contraceptives are the most effective method, except sterilization, for preventing pregnancy. Other methods, when used conscientiously, are also very effective and have fewer risks. The serious risks of oral contraceptives are uncommon and the "pill" is a very convenient method of preventing pregnancy.

If you have certain conditions or have had these conditions in the past, you should not use oral contraceptives because the risk is too great. These conditions are listed in the booklet. If you do not have these conditions, and decide to use the "pill," please read the booklet carefully so that you can use the "pill" most safely and effectively.

Oral contraceptives are not recommended for women over 40 years of age.

Interested persons may, on or before February 7, 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 heading of this document) regarding the physician and patient labeling. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(Secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: December 3, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-36030 Filed 12-3-76;1:01 pm]

federal register

TUESDAY, DECEMBER 7, 1976

PART VI:

OFFICE OF TELECOMMUNICATIONS POLICY

■

PRIVACY ACT OF 1974

Systems of Records

OFFICE OF TELECOMMUNICATIONS POLICY

PRIVACY ACT OF 1974

Notice of Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a, Pub. L. 93-579), the Office of Telecommunications Policy hereby gives notice that the systems of records published at 40 FR 42311, September 11, 1975, are adopted and continue in effect.

This notice is published in accordance with the requirement of Section (e)(4) of 5 U.S.C. 552a to annually publish in the Federal Register notice of the existence and character of this Office's system of records.

Thomas J. Houser,
Director.

OTP File No. 1

System name: Bioeffects Project Resumes—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Principal investigator.

Categories of records in the system: This system contains abstracts on Biological Effects of Nonionizing Electromagnetic Radiation research projects conducted or funded by the Federal Government.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of research projects. Used by OTP personnel and program personnel from other cognizant Federal agencies as part of OTP's coordination of the Federal Government's multiagency program to assess the biological effects of nonionizing electromagnetic radiation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Individual's name is used as one identifier of the project. Not alphabetical.

Safeguards: Office locked after business hours.

Retention and disposal: Records are retained permanently.

System manager(s) and address: Deputy Assistant Director for Frequency Management, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504 (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information comes from the agency conducting or sponsoring the research.

OTP File No. 2

System name: Congressional Relations System—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Members of Congress who have corresponded with OTP.

Categories of records in the system: Correspondence with members of Congress.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are maintained to appraise OTP Congressional liaison personnel of the interests of members of Congress. Records are for internal use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: Alphabetically by name.

Safeguards: Administratively controlled access.

Retention and disposal: Destroyed when member of Congress leaves office.

System manager(s) and address: Assistant to the Director for Congressional and Media Relations, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 3

System name: Contractor Record System—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Individuals doing work under contract to OTP.

Categories of records in the system: Copies of all invoices and bills and evaluations of contractors' performance.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to maintain a financial accounting of all contracts let by OTP. Evaluation of contractor's performance maintained for future reference in relation to subsequent contracts. Routine disclosure of information contained in the system of records may be made to other Federal agencies at their request. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: Contracts are filed by number. Record can be retrieved alphabetically by name by use of a 3 x 5 cross-reference card file.

Safeguards: Locked file cabinets.

Retention and disposal: Permanent retention.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 4

System name: Employee Reports of Financial Interests and Employment—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: All OTP personnel at or above Government Service Grade 13.

Categories of records in the system: OTP Forms 7 and 8, "Confidential Statement of Employment and Financial Interest," required of certain employees and contractors contain a statement of the financial interests of the employee or contractor and the members of his immediate family and the employment of the immediate family or any other employment by the OTP employee or contractor.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized OTP personnel for ascertaining conflicts or apparent conflicts of interest and recommending appropriate action to the employee or to the OTP. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in alphabetical order in folder designated "financial interest reports."

Retrievability: Alphabetical by name.

Safeguards: Kept in closed safe with combination lock except when being used by authorized OTP personnel who are instructed as to their confidentiality and permitted use.

Retention and disposal: Maintained by OTP until employee leaves and then destroyed by burning.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 5

System name: General Personnel Records (Official personnel folder and records related thereto)—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Current OTP employees and those formerly employed by the OTP (death, resignation, retirement, and separation).

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain information about an individual relating to birth date; Social Security Number; veteran preference; tenure; handicap; past and present salaries, grades, and position titles; letter of commendation, reprimand, charges, and decision on charges; notice of reduction-in-force; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training; minority group designator; records relating to life insurance, health benefits, and designation of beneficiary; training; performance ratings, data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

This system also consists of a variety of records containing information about an individual relating to position management actions; position classification actions; promotion records; evaluation records; clearance upon separation; suggestion files; financial and tax matters, incoming letters of complaint; employee and former employee locator information; jury duty records; participation in and implementation of special emphasis programs; Combined Federal Campaign records; Unemployment Compensation notices; outside employment statements; savings bond records; and correspondence files pertaining to any of the personnel information referred to in this notice.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used: (a) To provide information to a prospective employer of an employee or former OTP employee. (b) To provide data for the automated Central Personnel Data File (CPDF). (c) To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations. (d) To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, investigation for security clearance, the letting of a contract, or 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 on the matter. (e) If necessary, obtain relevant information or other pertinent information 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. (f) To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses. (g) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (h) These records may also be disclosed to the Civil Service Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders, and regulations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Alphabetically by name.

Safeguards: Kept in locked file cabinet except when being used by authorized OTP personnel who are instructed as to their confidentiality and permitted use.

Retention and disposal: Records are maintained permanently.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 6

System name: Inventory Control of Property—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: OTP personnel.

Categories of records in the system: Records of Federal Government Property charged out to OTP personnel. File card contains name of individual and a list of all property assigned to the individual.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record is used when in-

dividual separates from OTP to account for property charged out in the individual's name. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 card file.

Retrievability: Alphabetically by name.

Safeguards: Administratively controlled access.

Retention and disposal: Card destroyed when individual separates from OTP.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Contesting record procedures: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 7

System name: Library Circulation Control Records—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Library users.

Categories of records in the system: Individuals who borrow library materials, receive library materials on distribution, or request the purchase of library materials.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information is used by the Library Staff to identify the location of materials withdrawn from the library collection and to distribute library publications in response to a request. Lists of names are used for the distribution of periodicals.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Distribution lists are maintained in folders in file cabinets. Book cards are kept in card files.

Retrievability: By name of individual or publication.

Safeguards: Administratively controlled access.

Retention and disposal: Individual's name is crossed out when material is returned to the library, and is removed from distribution lists at such person's request or when such person separates from OTP.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system comes from the individuals to whom it pertains.

OTP File No. 8

System name: Military Personnel System—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Military personn detailed to OTP.

Categories of records in the system: System contains evaluation reports, job description, documents relating to assignments, and letters of commendation.

Authority for maintenance of the system: AFR 36-10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare evaluation reports and correspondence relative to future assignment. Only user is the Military Assistant to the Director for purposes indicated. Information contained in the file relates to the individual's assignment to OTP only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders are maintained in file cabinets.

Retrievability: Alphabetically by name.

Safeguards: Maintained in locked file cabinet.

Retention and disposal: Destroyed when military detail is reassigned from OTP.

System manager(s) and address: Military Assistant to the Director, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 9

System name: Payroll/Personnel System—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Current and former OTP personnel.

Categories of records in the system: File record system for processing OTP payroll and personnel actions consisting of records of time and attendance, leave, tax withholding, bond purchase and issuance, emergency salaries, overtime and holiday pay, optional payroll deduction. Aside from payroll processing, recorded personnel data is available on a need to know basis to personnel offices in accordance with Civil Service Commission and General Services Administration regulations.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for payroll and to record annual and sick leave. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder maintained in desk drawer designated "time and attendance."

Retrievability: Alphabetically by name.

Safeguards: Kept personally by timekeeper.

Retention and disposal: Records of active personnel are kept in one folder. Records of separated personnel are kept in separate folder in same location as active records.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 10

System name: Personnel Applicant Records—OTP.

System location: 1800 G Street, N.W.,Washington, D.C., 20504.

Categories of individuals covered by the system: Individuals applying for, or inquiring about, employment with OTP.

Categories of records in the system: Contains original or copy of Standard Form 171, resume, evaluative remarks and any correspondence between the applicant and the Division Director.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Supervisory personnel evaluate qualifications and select candidates under consideration for employment. If no position is available, some applications are maintained for reference. Applications of successful candidates are removed to general personnel files.

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: By name from folder designated "personnel."

Safeguards: Administratively controlled access to file cabinets which are locked after business hours.

Retention and disposal: Files are maintained for approximately one year, then disposed of by burning.

System manager(s) and address: Files are maintained separately by division. Address inquiry to one of the following, as appropriate: Office of the Director; Office of the Assistant Director for Government Communications; Office of the Assistant Director for Frequency Management; Office of the Assistant Director for International Communications; Office of the Assistant Director for Executive Direction and Administration, Office of the General Counsel, Executive Officer. The Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Contesting record procedures: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the sytem manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

OTP File No. 11

System name: Travel Payment System—OTP.

System location: 1800 G Street, N.W., Washington, D.C., 20504.

Categories of individuals covered by the system: Personnel who travel on official business.

Categories of records in the system: Travel authorizations, travel vouchers, and travel advance records, which contain the individual's name, residence, place and mode of travel, travel dates, amount of travel advance, expenses incurred, amount of advance outstanding.

Authority for maintenance of the system: Executive Order No. 11556, section 11, and Reorganization Plan No. 1 of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Preparing disbursement schedules so that individual will be paid for travel expenses, recording the cost of travel, and compiling cost and budget information. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder in file cabinet designated "travel."

Retrievability: Alphabetically by name.

Safeguards: File cabinet is locked except when records are being used by authorized OTP personnel who are instructed as to their confidentiality and permitted use.

Retention and disposal: Records on individuals who have separated from OTP are destroyed by burning.

System manager(s) and address: Executive Officer, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C., 20504, (202) 395-5800.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager and include name and date of birth.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content may inquire in accordance with instructions appearing at 47 CFR Part 204. Inquiries should be addressed to the system manager listed above.

Contesting record procedures: See Record access procedures.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

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