AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 42—No. 105
6-1-77

PAGES
27875–28112

federal register

WEDNESDAY, JUNE 1, 1977

highlights

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

Reservations for July are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.

SUNSHINE ACT MEETINGS 28016

TRIS
CPSC issues additional interpretations as banned hazardous substances; effective 6–1–77 (Part III of this issue) 28059

STRATEGIC PETROLEUM RESERVE
FEA issues rules on acquisition of crude oil, effective 6–1–77 27908

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS
HEW/HDO announces grants for Fiscal Year 1977; applications by 7–21–77 28002

RAILROADS
DOT/FRA issues interim rules on employee sleeping quarters; effective 6–1–77 27895

ENDANGERED WILDLIFE
Interior/FWS extends protection to various species of large cats, primates, and pheasants; effective 6–1–77 (Part II of this issue) 28051

U.S. FISHERY CONSERVATION ZONE
State publishes Soviet and Japanese applications for fishing permits (Part V of this issue) 28074

INSURANCE SALES ON DOD INSTALLATIONS
DOD proposes to amend criteria; comments by 7–1–77 .. 27963

LIFE INSURANCE COMPANIES
SEC amends quarterly reporting requirements 27879

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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

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

federal register

Area Code 202 Phone 523-5240

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

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Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

MIDDLE DISTILLATES
FEA issues proposal on post-exemption monitoring of prices; comments by 7–6–77, hearings 7–11 thru 7–15 and 7–18–77 27936

BANK SECURITIES
FDIC proposes minimum standards for disclosure in connection with offer and sale; comments by 6–30–77 27955

PENSION AND RETIREMENT PLANS
Treasury/IRS issues rules on election to pay excise tax for certain pre-1975 prohibited transactions; effective 6–1–77 27882
Treasury/IRS issues rules on lump sum distributions from qualified plans for employees who separate from service 27881

HOME ENERGY CONSERVATION
FEA establishes program for weatherization assistance for low-income persons; effective 5–25–77 27899

ENERGY CONSERVATION PROGRAM FOR APPLIANCES
FEA prescribes energy efficiency test procedures for room air conditioners; effective 7–5–77 27896
FEA proposes test procedures for humidifiers and dehumidifiers (2 documents); comments by 7–21–77, hearings 7–27–77 ..... 27941, 27951

INFORMATION AND DATA ACQUISITION
HEW solicits comments on activities; comments by 7–1–77 28004

CAST IRON COOKING WARE
ITC issues report to the President on imports 28009

FEDERAL PROPERTY ASSISTANCE PROGRAM
HEW proposes new procedures on the conveyance of former Federal real estate for public health or education purposes; comments by 7–18–77 27966

MEETINGS—
Interior: Outer Continental Shelf Advisory Board, 6–28 and 6–29–77 28009
National Commission on the Observance of International Women's Year: Minnesota Coordinating Committee, 6–2 thru 6–5–77 28010
Missouri Coordinating Committee, 6–3 thru 6–5–77 28010
New Mexico Coordinating Committee, 6–3 thru 6–5–77 28010
North Dakota Coordinating Committee, 6–3 thru 6–5–77 28011
Wisconsin Coordinating Committee, 6–3 thru 6–5–77 28011
NSF: Advisory Council, Task Group #1, 6–20 and 6–21–77 28012
Advisory Council, Task Group #3, 6–20 and 6–21–77 28012
Advisory Panel for Economics, 6–17 and 6–18–77 28012
Science Applications Task Force, 6–20 and 6–21–77 28013
State: Advisory Committee on Private International Law, Study Group on Maritime Bills of Lading (2 documents), 6–23 and 6–24–77 28014
Advisory Panel on Folk Music and Jazz, 6–17–77 28013
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, 6–22–77 28013
U.S. National Committee for the International Radio Consultative Committee, Study Group 6, 6–20 and 6–21–77 28014

CANCELLED MEETING—
HEW/NIH: President's Cancer Panel, 6–7–77 28002

SEPARATE PARTS OF THIS ISSUE
Part II, Interior/FWS 28051
Part III, CPSC 28059
Part IV, ICC 28065
Part V, State 28073

contents

AGRICULTURAL MARKETING SERVICE

Rules

Oranges, grapefruit, tangerines and tangelos grown in Fla. 27875

Proposed Rules

Cherries (sweet) grown in Wash. 27912
Milk marketing orders:
Chicago 27921
Nectarines grown in Calif. 27911
Raisins produced from grapes grown in Calif. 27913

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Federal Grain Inspection Service.

AIR FORCE DEPARTMENT

Notices

Environmental statements; availability, etc.:
Luke Air Force Range, Ariz.; M-X buried trench construction and test project. 27981

ARMY DEPARTMENT

Notices

Environmental statements; availability, etc.:
Rocky Mountain Arsenal, Colo. and Tooele Army Depot, Utah; chemical material transportation 27981

CENSUS BUREAU

Notices

Surveys, determinations, etc.:
Manufacturers, supplement. 27981

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
International Air Transport Association 27976
Lineas Aereas de Nicaragua, S.A., et al. 27978

COMMERCE DEPARTMENT

See Census Bureau; Patent and Trademark Office.

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Hazardous substances and articles; administration and enforcement:
Children's wearing apparel containing TRIS; additional interpretations 28059

DEFENSE DEPARTMENT

See also Air Force Department; Army Department.

Proposed Rules

Insurance, solicitation and sale on DOD installations. 27963

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
Iowa 27892
Texas 27893

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental impact statement reform; hearing 27981

FEDERAL COMMUNICATIONS COMMISSION

Rules

Practice and procedure, domestic public radio services, etc.; transmitting facility on USDA and Interior Department lands. 27894

Proposed Rules

Citizens, industrial, public safety, and land transportation radio services:
Digital transmission systems; modifying low pass audio filtering requirements; extension of time 27974
FM broadcast stations; table of assignments:
Maine 27971
Wisconsin 27973
Radio broadcast services:
Multiple ownership of standard FM and television stations; extension of time 27971
Telephone companies:
Data processing services; inquiry; list of participants. 27971

Notices

FM broadcast applications ready and available for processing. 27982
Hearings, etc.:
Central Plains Cable TV, Inc. 27982

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Rules

Offering circular requirements for public issuance; disclosure standards 27955

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster and emergency areas:
Missouri 28006

FEDERAL ENERGY ADMINISTRATION

Rules

Energy conservation program; appliances:
Air conditioners, room 27896
Petroleum allocation and price regulations, mandatory:
Strategic Petroleum Reserve, purchase authority 27908
Weatherization assistance for low-income persons 27899

Proposed Rules

Energy conservation program, appliances:
Dehumidifiers; proposal and hearing 27951
Humidifiers; proposal and hearing 27941
Petroleum allocation and price regulations, mandatory:
Middle distillate prices; post-exemption monitoring; proposal and hearing 27936

Notices

Price and allocation interpretations; 1974-1977 indexes. 27984

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
Iowa 27976

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Amco Custom Brokerage. 27986
Barco International Corp. 27986
Oil pollution; certificates of financial responsibility 27986
Agreements filed, etc.:
Pacific Westbound Conference. 27987
Port Authority of New York & New Jersey et al. 27988

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Alabama Power Co. 27988
Cincinnati Gas & Electric Co., et al. 27989
Dean, Roscoe E., Jr., et al. 27994
Delta, Colo., City of. 27988
Florida Power & Light Co. 27989
Gulf Oil Corp. et al. 27989
Gulf States Utilities Co. 27996
Holly Energy, Inc. et al. 27991
Kansas Power & Light Co. 27991
Michigan Wisconsin Pipe Line Co 27992
Mississippi River Transmission Co. et al. 27992
Montaup Electric Co. 27993
Niagara Mohawk Corp. 27993
Pacific Power & Light Co. 27994
Public Service Co. of Oklahoma. 27994
Sabine Production Co. et al. 27994
Seattle, Wash., City of. 27989
Sillin, Lelan F., Jr. 27991
Supron Energy Corp. 27995
Wisconsin Electric Power Co. et al 27995

FEDERAL RAILROAD ADMINISTRATION

Rules

Employee hours of service; sleeping quarters construction. 27895

FEDERAL REGISTER OFFICE

Rules

CFR Checklist, 1976/1977 issuances 27875

FEDERAL RESERVE SYSTEM

Rules

Conduct standards. 27876

Notices

Board actions; applications and reports (2 documents) ... 27996, 27999
Applications, etc:
DCB Investment Co., Inc ... 28001
Fulton National Corp ... 28002

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
National Account Systems, Inc., et al ... 27877

FISH AND WILDLIFE SERVICE

Rules

Endangered and threatened species, fish, wildlife, and plants:
Captive self-sustaining populations for various species, etc ... 28051

GENERAL SERVICES ADMINISTRATION

See also Federal Register Office; Public Buildings Service.

Notices

Property management regulations, temporary:
Authority delegation to Defense Department Secretary, et al ... 28002

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Health Care Financing Administration; Human Development Office; National Institutes of Health.

Proposed Rules

Real property, surplus; disposal and utilization for educational and public health purposes:
Federal property assistance program ... 27966

Notices

Information collection and data acquisition activity, description; inquiry ... 28004

HEALTH CARE FINANCING ADMINISTRATION

Notices

Medicare utilization review options, hospitals:
Oklahoma ... 28002

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration.

HUMAN DEVELOPMENT OFFICE

Notices

Native American projects:
Financial assistance; applications and closing dates ... 28002

INDIAN AFFAIRS BUREAU

Notices

Law and order determinations:
Seneca Nation, N.Y ... 28007

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Environmental statements; availability, etc.:
Crude oil transportation system, Valdez, Alaska, to Midland, Tex ... 28008
Meetings:
Outer Continental Shelf Advisory Board ... 28009

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
Retirement income plans; pre-1975 prohibited transactions ... 27882
Income taxes:
Retirement plans; employee separated from service; lump sum distribution ... 27881

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Cooking ware, cast-iron ... 28009

INTERNATIONAL WOMEN'S YEAR OBSERVANCE, NATIONAL COMMISSION

Notices

Meetings:
Minnesota ... 28010
Missouri ... 28010
New Mexico ... 28010
North Dakota ... 28011
Wisconsin ... 28011

INTERSTATE COMMERCE COMMISSION

Notices

Abandonment of railroad services, etc.:
Carrollton Railroad Co ... 28066
Condon, Kinqua & Southern Railroad Co ... 28067
Connellsville & Monongahela Railway Co ... 28068
Missouri-Kansas-Texas Railroad Co ... 28068
Hearing assignments (2 documents) ... 28014
Motor carriers:
Household goods transportation; interstate or foreign commerce; informal conference on agency relationships ... 28014
Transfer proceedings ... 28015

JUSTICE DEPARTMENT

Notices

Meetings:
U.S. Circuit Judge Nominating Commission, Third Circuit Panel ... 28009
Pollution control; consent judgments; U.S. versus listed companies:
New York City ... 28009

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico ... 28007
Wyoming ... 28008
Wyoming; correction ... 28008
Opening of public lands:
Oregon (2 documents) ... 28007
Withdrawal and reservation of lands, proposed, etc.:
Arizona ... 28007

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
President's Cancer Panel ... 28002

NATIONAL PARK SERVICE

Notices

Environmental statements; availability, etc.:
Pictured Rocks National Lakeshore, Mich ... 28008

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Economics Advisory Panel ... 28012
National Science Foundation Advisory Council Task Groups No. 1 and 3 (2 documents) ... 28012
Science Applications Task Force ... 28013

PATENT AND TRADEMARK OFFICE

Rules

Patent cases:
Forms ... 27883

POSTAL SERVICE

Rules

Postal Service Manual:
Official mail, contractor use of; restrictions revised; correction ... 27892

PUBLIC BUILDINGS SERVICE

Proposed Rules

Procurement:
Solicitation of bids; listing of subcontractors requirement ... 27966

REVENUE SHARING OFFICE

Rules

Fiscal assistance to State and local governments:
Entitlement funds, computation and adjustment; correction ... 27883

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Exchange Act:
Inter-dealer quotation systems; submission of price quotations ... 27880
Life insurance companies and related holding companies; financial data; increased disclosure ... 27879

STATE DEPARTMENT

Notices

Fishing permits, applications:
Japan and Union of Soviet Socialist Republics ... 28074
Meetings:
Folk Music and Jazz Advisory Panel ... 28013
International Radio Consultative Committee, U.S. National Committee ... 28014
Private International Law Advisory Committee (2 documents) ... 28013
Shipping Coordinating Committee ... 28013

CONTENTS

TRANSPORTATION DEPARTMENT

See Federal Railroad Administration.

TREASURY DEPARTMENT

See also Internal Revenue Service; Revenue Sharing Office.

Notices

Notes, Treasury:
J–1981 series 28014

list of cfr parts affected in this issue

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

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

7 CFR
905 27875
PROPOSED RULES:
916 27911
923 27912
989 27913
1030 27921

10 CFR
211 27908
212 27908
430 27896
440 27899
PROPOSED RULES:
211 27936
212 27936
430 (2 documents) 27941, 27951

12 CFR
264 27876
PROPOSED RULES:
340 27955

16 CFR
13 27877
1500 28060

17 CFR
210 27879
240 (2 documents) 27879, 27880

26 CFR
11 27881
54 27882

31 CFR
51 27883

32 CFR
PROPOSED RULES:
276 27963

37 CFR
3 27883

39 CFR
111 27892

40 CFR
52 (2 documents) 27892, 27893

41 CFR
PROPOSED RULES:
5B–2 27966

45 CFR
PROPOSED RULES:
12 27966

47 CFR
1 27894
21 27894
23 27894
73 27894
74 27895
81 27895
87 27895
89 27895
91 27895
93 27895
94 27895
95 27895
97 27895
99 27895
PROPOSED RULES:
64 27971
73 (3 documents) 27971, 27973
89 27974
91 27974
93 27974
95 27974

49 CFR
228 27895

50 CFR
17 28052

FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*
27875–28112	June 1

reminders

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

Rules Going Into Effect Today

DOD/Army—Facilities engineering, natural resources; land, forest and wildlife management..... 16385; 3–28–77

CFTC—Reports; quantities for fixed reporting..... 25485; 5–17–77

EPA—Loan Guarantees for Construction of Treatment Works..... 25665; 5–18–77

FCC—Availability of aeronautical utility mobile stations to operate on any air traffic control frequency for authorized communications..... 24054; 5–12–77

—FCC Forms 402 and 402–S; revision and consolidation..... 50690; 11–17–76

—Radio broadcast services; type approved antenna monitors for AM broadcast stations operating directional antenna systems..... 24055; 5–12–77

FRS—Credit by brokers and dealers; uniform margin requirements for writing options..... 22862; 5–5–77

—Equal credit opportunity; termination proposed rulemaking and extension of effective date..... 38759; 9–13–76

NRC—Commission review of Appeal Board decisions and procedure for request for stays..... 22128; 5–2–77

SEC—Securities confirmations; delivery and disclosure requirements.... 25318; 5–17–77

DOT/CG—Navigation procedures, testing, and equipment requirements for vessels of 1600 gross tons or more when operating on navigable water of U.S. except Panama Canal and St. Lawrence Seaway..... 5955; 1–31–77

—Vessel inspection regulations. 5962; 1–31–77

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Federal Seed Act; certified seed standards; comments by 6–10–77. 25738; 5–19–77

Milk in Nebraska—Western Iowa marketing agreement; recommended decision; comments by 6–6–77..... 24744; 5–16–77

Farmers Home Administration—

Drought stricken areas; special assistance; comments by 6–6–77. 23158; 5–6–77

CIVIL SERVICE COMMISSION

Political activity of Federal employees, management and campaigning; exception of certain elections; comments by 6–6–77.... 23160; 5–6–77

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

Salmon fisheries off the Pacific coast, commercial and recreational; comments by 6–9–77..... 21412; 4–26–77

Yellowfin tuna and tuna products; importation comments by 6–10–77. 24742; 5–16–77

COMMODITY FUTURES TRADING COMMISSION

Commodity options transactions, amendment of interim regulations; comments by 6–6–77..... 18245; 4–5–77

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plan; Ohio; comments by 6–6–77..... 23162; 5–6–77

Iowa; revision to air quality implementation plan; comments by 6–6–77. 22902; 5–5–77

FEDERAL COMMUNICATIONS COMMISSION

Amateur radio service; external radio frequency amplifiers operating from 24 to 35 MHz; marketing prohibited; reply comments by 6–6–77. 12203; 3–3–77

Amateur radio service; type acceptance for equipment marketed for use; requirement; reply comments by 6–6–77..... 12204; 3–3–77

Changes in table of assignments for TV broadcast stations in Fayetteville, Ark., et al.; reply comments by 6–8–77..... 19491; 4–14–77

Computer inquiry; time for filing comments extended to 6–6–77.... 25741; 5–19–77

[First published at 42 FR 23615, May 10, 1977]

Definition and creation of classes of cable television systems; comments by 6–6–77..... 19492; 4–14–77

FM broadcast stations; certain areas in Tennessee; comments by 6–6–77. 21822; 4–29–77

FM broadcast stations, table of assignments; Macomb, Illinois; reply comments by 6–8–77.. 20153; 4–18–77

International Telex Service with Domestic Telex and TWX Services, interface; reply comments by 6–8–77.. 13139; 3–9–77

Television stations in Wisconsin, change in table of assignments; comments by 6–6–77..... 22560; 5–4–77

FEDERAL TRADE COMMISSION

Nonadjudicative procedures; disclosure of names of complainants; comments by 6–6–77..... 22897; 5–5–77

GENERAL ACCOUNTING OFFICE

Regulatory reports review; proposals, approvals; comments by 6–10–77. 26248; 5–23–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Acrylonitrile copolymers intended for use in contact with food; comments by 6–9–77..... 13562; 3–11–77

Synthetic flavoring (tomato) in food; comments by 6–6–77..... 23148; 5–6–77

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Insurance Administration—

Protective device requirements; installation as condition of coverage; comments by 6–6–77..... 22900; 5–5–77

Office of the Secretary—

Board of contract appeals and rules of procedure for handling appeals; comments by 6–10–77..... 24200; 5–12–77

INTERIOR DEPARTMENT

Bureau of Indian Affairs—

Mining on Indian lands, mineral development contracts; comments by 6–6–77..... 18083; 4–5–77

Fish and Wildlife Service—

Proposed threatened status and critical habitat for the golden coqui; comments by 6–6–77. 18106; 4–5–77

Geological Survey—

Coal-mining operating regulations; Colorado, surface reclamation standards; comments by 6–6–77. 26218; 5–23–77

LABOR DEPARTMENT

Office of the Secretary—

Farm labor contractor registration; State issuance of certificates of registration and employee identification cards; comments by 6–9–77..... 24289; 5–13–77

POSTAL SERVICE

Security of, delay, detention of, or opening of mail and procedures in handling certain requests from Government agencies; comments by 6–7–77..... 18754; 4–8–77

TRANSPORTATION DEPARTMENT

Coast Guard—

Chemical tanker standards (Imco Chemical Code); application to existing ships; comments by 6–7–77..... 23518; 5–9–77

Federal Aviation Administration—

Designated manufacturing inspection representatives, evaluation inspections, etc., performed outside plant; comments by 6–7–77. 18407; 4–7–77

Transition area; Fernandina Beach, Fla. designation; comments by 6–10–77..... 22172; 5–2–77

Next Week's Meetings

ACTUARIES, JOINT BOARD FOR ENROLLMENT

Advisory Committee on Joint Board Actuarial Examinations, Chicago, Ill. (open and closed), 6–9–77.... 25388; 5–17–77

ADMINISTRATIVE CONFERENCE OF UNITED STATES

Committee on Licenses and Authorizations, Washington, D.C. (open with restrictions), 6–8–77..... 23867; 5–11–77

AGRICULTURE DEPARTMENT
Commodity Credit Corporation—
Loan and purchase program, Washington, D.C. (open), 6–9–77. 25329; 5–17–77
Forest Service—
Apache National Forest Grazing Advisory Board, Springerville, Ariz. (open), 6–9–77.... 22385; 5–3–77
Sitgreaves Grazing Advisory Board, Show Low, Ariz. (open), 6–10–77. 22385; 5–3–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Advisory Panels:
Expansion Arts, Washington, D.C. (open-closed), 6–8 thru 6–10–77. 26256;
Special Projects (Folk Art), Washington, D.C. (open-closed), 6–10 and 6–11–77..... 26256;
Theatre, N.Y., N.Y. (open-closed), 6–11–77..... 26256; 5–23–77
College Library Program Panel Advisory Committee, Washington, D.C. (closed), 6–10–77.. 25390; 5–17–77
Education Programs Panel; Washington, D.C. (closed), 6–8 thru 6–9–77. 24347; 5–13–77
Research Grants Panel; Washington, D.C. (closed), 6–9 thru 6–10–77. 24347; 5–13–77
Special Projects Advisory Panel; Washington, D.C. (closed), 6–6 thru 6–7–77..... 24347; 5–13–77
Theatre research project consultants, N.Y., N.Y. (closed), 6–9 thru 6–11–77..... 26256; 5–23–77

CIVIL RIGHTS COMMISSION
Advisory Committees:
California, San Diego, Calif. (open), 6–10 and 6–11–77..... 24763; 5–16–77
Idaho, Lewiston, Idaho (open), 6–11–77..... 24763; 5–16–77

CIVIL SERVICE COMMISSION
Federal Prevailing Rate Advisory Committee, Washington, D.C. (closed), 6–9–77..... 26244; 5–23–77

COMMERCE DEPARTMENT
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee (partially closed) (3 documents), 6–8 and 6–9–77..... 23869; 5–11–77, 26236; 5–23–77, 26449; 5–24–77
National Oceanic and Atmospheric Administration—
American Forestry Association Conference, Washington, D.C. (open), 6–8–77..... 26683; 5–25–77
Patent and Trademark Office—
Public Advisory Committee for Trademark Affairs, Arlington, Va. and Washington, D.C. (open with restrictions), 6–8 and 6–9–77. 25520; 5–18–77

CONSUMER PRODUCT SAFETY COMMISSION
Flammable Fabrics Act National Advisory Committee, Washington, D.C. (open with restrictions), 6–6 and 6–7–77..... 26238; 5–23–77

DEFENSE DEPARTMENT
Air Force Department—
Scientific Advisory Boards:
Los Angeles, Calif. (closed), 6–8 and 6–9–77..... 22922; 5–5–77
Williams AFB, Ariz. (open), 6–7 thru 6–9–77.... 24304; 5–13–77
Office of the Secretary—
Joint Strategic Target Planning Staff Scientific Advisory Group; Orffutt Air Force Base, Neb. (closed), 6–8 thru 6–9–77..... 18422; 4–7–77
Wage Committee, Washington, D.C. (closed), 6–7–77..... 18633; 4–8–77

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL
Rural issues in compensatory education in various Appalachian states, Atlanta, Ga. (open with restrictions), 6–10 and 6–11–77..... 26709; 5–25–77
Washington, D.C. (open), 6–10 and 6–11–77..... 2386; 1–11–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
General Advisory Committee, Washington, D.C. (open-closed), 6–7 and 6–8–77..... 26238; 5–23–77

ENVIRONMENTAL PROTECTION AGENCY
Great Lakes Quality Agreement, Chicago, Ill. and Detroit, Mich. (open) (2 documents), 6–6 and 6–7–77. 21643; 4–28–77
Science Advisory Board, Ecology Advisory Committee, Washington, D.C. (open), 6–6 and 6–7–77..... 25348; 5–17–77

ENVIRONMENTAL QUALITY COUNCIL
Washington, D.C. (open), 6–6 thru 6–8–77..... 24799; 5–16–77

FEDERAL COMMUNICATIONS COMMISSION
AM Broadcasting Service Group, Washington, D.C. (open), 6–9–77. 25913; 5–20–77
Marine Services Radio Technical Commission, Washington, D.C. (open), 6–7–77..... 25944; 5–20–77
Personal Use Radio Advisory Committee, Washington, D.C. (open with restrictions), 6–9–77..... 26243; 5–23–77
Personal Use Radio Advisory Committee task on General Mobile Radio Service, Washington, D.C. (open), 6–10–77..... 26693; 5–26–77

FEDERAL PAPERWORK COMMISSION
Approved and future projects; welfare reform, housing, public works, Washington, D.C. (open), 6–10–77. 26692; 5–25–77

GENERAL SERVICES ADMINISTRATION
Architectural and Engineering Services Regional Public Advisory Panel, Boston, Mass. and Kansas City, Mo. (open) (2 documents), 6–8 thru 6–10–77. 26702; 5–25–77, 26248; 5–23–77
Health Resources Advisory Committee, National, San Diego, Calif. (open with restrictions), 6–9 and 6–10–77. 19400; 4–13–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
Advisory committees, Washington, D.C. (open and closed), 6–6 thru 6–10–77..... 23879; 5–11–77
Alcohol Training Review Committee, Rockville, Md. (open and closed), 6–6 thru 6–8–77..... 23882; 5–11–77

Education Office—
Equality of Educational Opportunity National Advisory Council, New York, N.Y. (open), 6–10–11. 25923; 5–20–77
National Advisory Council on Adult Education, Charleston, S.C. (open), 6–9 and 6–11–77..... 25382; 5–17–77
National Advisory Committee on Handicapped, Alexandria, Va. (open), 6–8 thru 6–10–77. 23178; 5–6–77
Women's Educational Programs National Advisory Council, Boston, Mass. (open), 6–8 thru 6–11–77. 26249; 5–23–77

Food and Drug Administration—
Clinical Chemistry Device Classification Panel; Washington, D.C. (open), 6–9 thru 6–10–77.. 24320; 5–13–77
Endoscopic and Electrosurgical Devices Subcommittee of the Obstetrical and Gynecological Device Classification Panel, Washington, D.C. (open), 6–9–77..... 24320; 5–13–77
Gastrointestinal Drugs Advisory Committee; Rockville, Md. (open), 6–6 thru 6–7–77..... 24320; 5–13–77
Microbiology Device Classification Panel; Washington, D.C. (partially open), 6–6 thru 6–7–77.... 24326; 5–13–77
Miscellaneous External Drug Products Panel; Rockville, Md. (open), 6–5 and 6–6–77.. 24321; 5–13–77
Obstetrical and Gynecological Device Classification Panel; Washington, D.C. (open), 6–6–77..... 24320; 5–13–77
Opthalmic Drugs Advisory Committee; Rockville, Md. (open), 6–6–77. 24320; 5–13–77
Oral Cavity Panel; Rockville, Md. (open), 5–9 thru 5–10–77. 24320; 5–13–77

Health Resources Administration—
Advisory Committee, Washington, D.C. (open-closed), 6–6 thru 6–10–77..... 25532; 5–18–77
National Advisory Council on Health Professions Education, Bethesda, Md. (open), 6–6 and 6–7–77. 25382; 5–17–77

National Institutes of Health—
Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, Bethesda, Md. (open), 6–6 thru 6–8–77.... 20505; 4–20–77

Cellular and Molecular Basis of Disease Review Committee, Bethesda, Md. (partially closed), 6–6 thru 6–10–77..... 17914; 4–4–77

Communicative Disorders Review Committee, Bethesda, Md. (open), 6–5 and 6–6–77.. 20505; 4–20–77

Neurological Disorders Program Project Review (Committees A and B), Silver Spring, Md. (open with restrictions) (2 documents), 6–9 thru 6–11–77.
20506, 20507; 4–20–77

President's Cancer Panel, Bethesda, Md. (open)..... 6–7–77 21853; 4–29–77

Research Grants Division Study Sections, Bethesda, Md. (open), 6–5 thru 6–11–77..... 23176; 5–6–77

Office of the Secretary—

Protection of Human Subjects of Biomedical and Behavioral Research, National Commission, Bethesda, Md. (open with restrictions), 6–10 and 6–11–77..... 26469; 5–24–77

INTERIOR DEPARTMENT

National Park Service—

Golden Gate National Recreation Area, San Francisco, Calif. (open), 6–11–77..... 24119; 5–12–77

Western Regional Advisory Committee, Las Vegas, Nev. (open), 6–11–77..... 25925; 5–20–77

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—

Private Security Advisory Council, Alexandria, Va. (open), 6–8 thru 6–10–77..... 25774; 5–19–77

Prisons Bureau—

National Institute of Corrections Advisory Board, Boulder, Colo. (open), 6–5 and 6–6–77.... 23557; 5–9–77

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Research and Technology Advisory Council (RTAC), Material and Structure Committee, Hampton, Va. (open), 6–7 thru 6–9–77..... 24120; 5–12–77

Space Program Advisory Council, Applications Committee, Washington, D.C. (open with restrictions), 6–7–77.
24121; 5–12–77

Space Processing Ad Hoc Advisory Subcommittee, Washington, D.C. (closed), 6–6 thru 6–8–77.. 25549; 5–18–77

NATIONAL CAPITAL PLANNING COMMISSION

Procedures for citizen participation, Washington, D.C. (open with restrictions), 6–9–77..... 25774; 5–19–77

Washington, D.C. (open), 6–9–77.
20865; 4–22–77

NATIONAL SCIENCE FOUNDATION

Advisory Panels—

Genetic Biology, Washington, D.C. (closed), 6–9 thru 6–11–77.
26493; 5–24–77

Regulatory and Developmental Biology, Washington, D.C. (closed), 6–9 thru 6–11–77.... 26493; 5–24–77

Sociology, Washington, D.C. (closed), 6–10 and 6–11–77..... 26710; 5–25–77

International Decade of Ocean Exploration Proposal Review Panel, Washington, D.C. (closed) (2 documents), 6–9 and 6–10–77.
26256; 5–23–77, 26709; 5–25–77

Regulatory Biology Advisory Panel, Washington, D.C. (closed), 6–6 and 6–7–77..... 25943; 5–20–77

Research in Science Education Subpanel, Washington, D.C. 6–5 thru 6–7–77..... 25391; 5–17–77

Science Information Activities Task Force, Washington, D.C. (open-closed) (2 documents), 6–9 and 6–10–77.
26256; 5–23–77, 26493; 5–24–77

Social and Developmental Psychology Advisory Panel, Washington, D.C. (closed), 6–6 and 6–7–77..... 25943; 5–20–77

NUCLEAR REGULATORY COMMISSION

ACRS Subcommittee and Fire Protection Working Group, Washington, D.C. (open), 6–8–77..... 25780; 5–19–77

ACRS Subcommittee, Regulatory activities, Washington, D.C. (open), 6–8–77..... 25780; 5–19–77

Reactor Safeguards Advisory Committee, Washington, D.C. (open-closed), 6–9 thru 6–11–77.. 26258; 5–23–77

Reactor Safeguards Advisory Committee, License Review; Zion generating station, Washington, D.C. (open), 6–9 thru 6–11–77..... 25780; 5–19–77

Reactor Safeguards Advisory Committee, Regulatory Activities Subcommittee, Washington, D.C. (open), 6–8–77..... 26257; 5–23–77

SCIENCE AND TECHNOLOGY POLICY OFFICE

Working Group on Basic Research in the Defense Department, Washington, D.C. (open), 6–6 and 6–7–77.
25944; 5–20–77

STATE DEPARTMENT

International Telegraph and Telephone Consultative Committee, U.S. National Committee Study Group 1, Washington, D.C. (open), 6–9–77.
26711; 5–25–77

Transnational Enterprises Advisory Committee, Washington, D.C. (open), 6–10–77..... 26710; 5–25–77

Office of the Secretary—

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 6–9–77..... 24793; 5–16–77

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Trade Negotiations Advisory Committee, Chicago, Ill. (closed), 6–8–77.
23671; 5–10–77

TRANSPORTATION DEPARTMENT

Coast Guard—

Rules of the Road Advisory Committee, San Francisco, Calif. (open), 6–8 and 6–9–77..... 23572; 5–9–77

Federal Aviation Administration—

Southern Region Air Traffic Control Advisory Committee, Atlanta, Ga. (open), 6–7–77.. 23572; 5–9–77

Pipeline Safety Operations Office—

Technical Pipeline Safety Standards Committee, Washington, D.C. (open with restrictions), 6–7 and 6–8–77..... 22968; 5–5–77

TREASURY DEPARTMENT

Internal Revenue Service—

Commissioner's Advisory Group, Washington, D.C. (open), 6–6 thru 6–7–77..... 25572; 5–18–77

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee, Washington, D.C. (open with restrictions), 6–6 thru 6–8–77.. 22969; 5–5–77

Educational Allowances Station Committee, Los Angeles, Calif., 6–8–77.
25396; 5–17–77

Health Manpower Training Assistance Review Committee, Washington, D.C., (open), 6–6 and 6–7–77..... 25573; 5–18–77

Medical School Assistance Review Committee, Washington, D.C. (open), 6–6 and 6–7–77..... 25573; 5–18–77

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Federal Seed Act Regulations, Washington, D.C. (open), 6–10–77.
25738; 5–19–77

ENVIRONMENTAL QUALITY COUNCIL

Environmental impact statement reform, Washington, D.C. (open), 6–6 thru 6–8–77..... 21836; 4–29–77

INTERNATIONAL TRADE COMMISSION

Import investigations; solder removal wicks, Washington, D.C. (open with restrictions), 6–10–77..... 26478; 5–24–77

MANAGEMENT AND BUDGET OFFICE

U.S. direct investment abroad; report forms, Washington, D.C. (open), 6–8–77..... 24778; 5–16–77

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—

Port Authority Trans Hudson Corporation, Newark, N.J. (open), 6–7–77..... 22213; 5–2–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 5562.....Pub. L. 95–32
To authorize the establishment of the Eleanor Roosevelt National Historic Site in the State of New York, and for other purposes. (May 26, 1977; 91 Stat. 171)
Price: $.35

H.R. 6205..... Pub. L. 95–33
To authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Atlantic Tunas Convention Act of 1975. (May 26, 1977; 91 Stat. 173)
Price: $.35

H.J. Res. 424.....Pub. L. 95–34
To authorize the Administrator of General Services to accept land, buildings, and equipment, without reimbursement, for the John Fitzgerald Kennedy Library, and for other purposes. (May 26, 1977; 91 Stat. 174)
Price: $.35

Table of Effective Dates and Time Periods—June 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 1	June 16	July 1	July 18	August 1	August 30
June 2	June 17	July 5	July 18	August 1	August 31
June 3	June 20	July 5	July 18	August 2	September 1
June 6	June 21	July 6	July 21	August 5	September 6
June 7	June 22	July 7	July 22	August 8	September 6
June 8	June 23	July 8	July 25	August 8	September 6
June 9	June 24	July 11	July 25	August 8	September 7
June 10	June 27	July 11	July 25	August 9	September 8
June 13	June 28	July 13	July 28	August 12	September 12
June 14	June 29	July 14	July 29	August 15	September 12
June 15	June 30	July 15	August 1	August 15	September 13
June 16	July 1	July 18	August 1	August 15	September 14
June 17	July 5	July 18	August 1	August 16	September 15
June 20	July 5	July 20	August 4	August 19	September 19
June 21	July 6	July 21	August 5	August 22	September 19
June 22	July 7	July 22	August 8	August 22	September 20
June 23	July 8	July 25	August 8	August 22	September 21
June 24	July 11	July 25	August 8	August 26	September 22
June 27	July 12	July 27	August 11	August 23	September 26
June 28	July 13	July 28	August 12	August 29	September 26
June 29	July 14	July 29	August 15	August 29	September 27
June 30	July 15	August 1	August 15	August 29	September 28

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

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

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
FPCA—National Fire Prevention and Control Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency

DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

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Title	Price
17	6.00
18 Parts:	
1–149	4.85
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19	5.65
20 Parts:	
1–399	2.45
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21 Parts:	
1–9	2.60
10–199	5.30
200–299	2.10
300–499	5.95
500–599	3.75
600–1299	2.75
1300–end	1.90
22	4.20
23	4.55
24 Parts:	
0–499	6.65
500–end	6.90
25	5.25
26 Parts:	
1 (§§ 1.0–1.169)	5.95
1 (§§ 1.170–1.300)	3.90
1 (§§ 1.301–1.400)	3.30
1 (§§ 1.401 to 1.500)	3.55
1 (§§ 1.501–1.640)	4.05
1 (§§ 1.641–1.850)	4.45
1 (§§ 1.851–1.1200)	6.05
1 (§§ 1.1201 to end)	6.95
2–29	4.05
30–39	3.45
40–299	5.40
300–499	3.60
600–end	2.20
27	7.70

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

Title	Price
28	$3.10
29 Parts:	
0–499	7.30
500–1899	5.50
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
34	1.00
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75

Title	Price
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	1.85
8	1.80
9	4.35
10–17	4.15
19–100	3.55
101–end	6.80
CFR Index	3.20

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

Title	Price
42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
70–79	4.90
80–end	6.20
48 [Reserved]	
49 Parts:	
1–99	2.05
100–199 (Rev. 12/31/76)	6.50
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 7—Agriculture

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

[Orange Reg. 75, Amdt. 11]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum grade requirements applicable to domestic and export shipments of

Florida Valencia oranges to U.S. No. 2 Russet. The amended regulation recognizes the quality of much of the Valencia oranges remaining for fresh shipment from the production area. The amendment is necessary to satisfy the current and prospective demand for such fruit.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This amendment reflects the Department's appraisal of the current and prospective demand for Valencia oranges by domestic and export market outlets. Less restrictive grade requirements on fresh shipments of such fruit are consistent with the character of much of the fruit remaining for fresh shipment.

(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 in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which this amendment is based 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 restrictions on the handling of Valencia oranges grown in Florida.

Order. The provisions of paragraphs (a)(9) and (b)(9) of § 905.564 (Orange Regulation 75; 41 FR 42177, 49474, 51029, 53007, 54917; 42 FR 5071, 8361, 9663, 10833, 18271, 24715) are revised to read as follows:

§ 905.564 Orange Regulation 75.

(a) * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 2 Russet; and

* * * * *

(b) * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 2 Russet; and

* * * * *

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

Dated May 26, 1977, to become effective May 27, 1977.

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

[FR Doc.77-15511 Filed 5-31-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Docket No. R-0101]

PART 264—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Statements of Employment and Financial Interests

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Amendment to the Board's rules of "Employee Responsibilities and Conduct."

SUMMARY: The amendment expands the number of positions for which Statements of Employment and Financial Interests are required pursuant to the Board's rules of "Employee Responsibilities and Conduct" and Executive Order 11222. It reflects additional emphasis being placed by the Board on financial reporting by key employees.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Griffith L. Garwood, Deputy Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3259).

SUPPLEMENTARY INFORMATION: At present Board officers are required to file Statements of Employment and Financial Interests. The proposal would expand this requirement to include approximately 120 additional individuals. The Board has determined that the duties and responsibilities of these positions justify a requirement that the incumbents file such reports in order to avoid any involvement in a possible conflict-of-interest situation, or the appearance of conflict-of-interest, and to carry out the purposes of Executive Order 11222.

For the foregoing reason, and pursuant to the authority in Executive Order 11222 and 5 CFR 735, § 264.735-8(a) is amended to read as follows:

§ 264.735-8 Statements of employment and financial interests.

(a) *Employees required to submit statements.* Except as provided in paragraph (b) of this section, statements of employment and financial interests shall be filed by:

(1) Employees receiving compensation equivalent to GS-13 or above whose positions are identified in Appendix A to this Part by reason of meeting the following criteria:

(i) Positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to:

(A) Contracting or procurement;

(B) Administering or monitoring grants or subsidies;

(C) Regulating or auditing private or other non-Federal enterprise; or

(D) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(ii) Positions which the Board determines require the incumbent to report employment and financial interests in order to carry out the purpose of law, executive order, this Part, and the Board's regulations.

(2) Employees receiving compensation below the equivalent to GS-13 whose positions otherwise meet the criteria in subparagraph (1) when the inclusion of the positions in Appendix A has been specifically justified by the Board in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation.

* * * * *

APPENDIX A

GENERAL

Each Head, Associate, Deputy, or Assistant Head of a Division or Office of the Board (regardless of specific title), Research Officer or Assistant to the Board.

DIVISION OF INTERNATIONAL FINANCE

Assistant to the Director.
Chief, Trade and Financial Studies Section.
Chief, International Banking Section.
Chief, U.S. International Transactions Section.
Chief, Financial Markets Section.
Economist, Financial Markets Section[1]
Chief, World Payments and Economic Activity Section.
Chief, Quantitative Studies Section.
Chief, International Development Section.

DIVISION OF BANKING SUPERVISION AND REGULATION

Chief, Banking Activities, Bank Holding Companies Section.
Chief, Nonbanking Activities, Bank Holding Companies Section.
Review Examiner, Bank Holding Companies Section.[1]
Chief, Financial Institutions Supervisory Section.
Senior Attorney, Financial Institutions Supervisory Section.
Senior Staff Assistant, Financial Institutions Supervisory Section.
Chief, Trust Activities Section.
Trust Review Examiner, Trust Activities Section.
Chief, Bank Holding Company Analysis Section.
Financial Analyst, Bank Holding Company Analysis Section.[1]
Chief Attorney, Securities Credit Regulation.
Senior Attorney, Securities Credit Regulation.
Accountant Analyst, State Bank Securities/Accounting Section.

[1] Grade 13 and above.

Foreign Banking Analyst, Foreign Banking Section.[1]
Supervisory Examiner, Foreign Banking Section.

DIVISION OF ADMINISTRATION SERVICES

Program Analyst/Construction.
Chief of Planning.
Chief of Procurement.

OFFICE OF THE CONTROLLER

Chief, Finance and Accounting Section.

DIVISION OF CONSUMER AFFAIRS

Chief, Fair Credit Practices Section.
Chief, Equal Credit Opportunity Section.
Chief, Compliance Section.
Senior Attorney.

DIVISION OF RESEARCH AND STATISTICS

Chief, Banking Section.
Economist, Banking Section.[1]
Chief, Capital Markets Section.
Economist, Capital Markets Section.[1]
Chief, Government Finance Section.
Economist, Government Finance Section.[1]
Chief, Mortgage and Consumer Finance Section.
Chief, Financial Structure Section.
Economist, Financial Structure Section.[1]
Chief, Econometric and Computer Applications Section.
Economist, Econometric and Computer Applications Section.[1]
Chief, National Income Section.
Chief, Wages, Prices and Productivity Section.
Chief, Business Conditions Section.
Chief, Financial Studies Section.
Chief, Special Studies Section.
Chief, Flow of Funds Section.

DIVISION OF FEDERAL RESERVE BANK EXAMINATIONS AND BUDGETS

Manager, Financial Examinations Section.
Senior Financial Examiner.[1]

DIVISION OF FEDERAL RESERVE BANK OPERATIONS

Architect, Building Planning Section.
Manager, Lending, Credit and Cash Services.
Manager, Payments Mechanism Section.
Program Manager for EFTS Operations.
Program Manager, EFTS Planning.

LEGAL DIVISION

Senior Attorney.

OFFICE OF BOARD MEMBERS

Administrative Assistant to the Chairman.
Staff Assistant.
Economist.

OFFICE OF STAFF DIRECTOR FOR MANAGEMENT

Assistant for Program Coordination.

OFFICE OF STAFF DIRECTOR FOR MONETARY POLICY

Economist.
Staff Assistant.

DIVISION OF DATA PROCESSING

Senior Staff Assistant.
Chief, Mathematical/Statistical Section.
Project Analyst/Programmer—Reserves, Mathematical/Statistical Section.
Project Analyst/Programmer—Models, Mathematical/Statistical Section.
Project Analyst/Programmer—Transmissions of Edited Deposit Systems, Mathematical/Statistical Section.
Project Analyst/Programmer—Capital Markets, Mathematical/Statistical Section.
Chief, Bank Holding Company Applications Section.
Chief, Data Production Section.

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of such section.

By order of the Board of Governors, effective May 26, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-15522 Filed 5-31-77;8:45 am]

See footnote 1, page 27876.

Title 16—Commercial Practices

CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket No. C-2884]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

National Account Systems, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order, among other things, requires a Chicago, Illinois, debt collection agency, and its subsidiaries, to cease using unfair and deceptive debt collection tactics; failing to disclose, in connection with the extension of consumer credit, such disclosures as are required by Federal Reserve Board regulations; and obtaining consumer credit information under false pretenses. Further, the order requires the return or destruction of unauthorized consumer credit information; the maintenance of certain prescribed records; and the establishment and maintenance of a surveillance program designed to insure the firm's employees comply with the provisions of the order.

DATES: Complaint and order issued April 22, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Carol G. Emerling, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, Calif. 90024. (213-824-7575.)

SUPPLEMENTARY INFORMATION: In the Matter of Diners Club, Inc., a corporation, National Account Systems, Inc., a corporation, NAS Creditors Service, Inc., a corporation, National Accounts System of Milwaukee, Inc., a corporation, and A. B. Hartman, Inc., a corporation. The prohibited trade practices and/or affirmative corrective actions, as codified under 16 CFR 13, are as follows:

Subpart-Acquiring Confidential Information Unfairly: § 13.1 Acquiring confidential information unfairly. Subpart-Coercing and Intimidating: § 13.356 Delinquent debtors. Subpart-Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports; 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-15 Destruction of records and/or data; 13.533-20 Disclosures; 13.533-37 Formal regulatory and statutory requirements; 13.533-45 Maintain records. Subpart-Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records; 13.1051-10 Accurate. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1365 Authorities and personages connected with; § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1513 Operations generally; § 13.1520 Personnel or staff.—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623-95 Truth in Lending Act; § 13.1675 Law or legal requirements; § 13.1740 Scientific or other relevant facts; § 13.1765 Undertakings in general.—Prices: § 13.1823 Terms and conditions; 13.1823-20 Truth in Lending Act. Subpart-Neglecting, Unfairly or Deceptively to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-75 Truth in Lending Act; § 13.1855 Identity; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-60 Truth in Lending Act. Subpart-Securing Information by Subterfuge: § 13.2168 Securing information by subterfuge. Subpart-Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

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

ORDER

National Account Systems, Inc., NAS Creditors Services, Inc., National Accounts System of Milwaukee, Inc., A. B. Hartman, Inc., for the purposes of Parts I, II, and III of this order are the only parties to whom reference is made when the term "respondents" is used.

I

It is ordered, That National Account Systems, Inc., NAS Creditors Service, Inc., National Accounts System of Milwaukee, Inc., and A. B. Hartman, Inc., their successors and assigns, their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or branch, or other device in connection with the collection of or attempting to collect consumer debts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Obtaining information on consumers from a consumer reporting agency or any other source under false pretenses.

2. Failing to keep accurate records of the sources of all information obtained on all consumers.

3. Retaining on respondents' premises any books, pamphlets, or any other writings or materials containing subscriber

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

codes or any information which would enable respondents to use subscriber codes unless respondents or their employees or agents are:

(a) Members of a consumer reporting agency; and

(b) Authorized to possess and use such codes; such authorization must expressly include collecting or attempting to collect debts for respondents and such authorization must be maintained in respondents' files.

Any such codes or information currently in respondents' possession or which subsequently come into respondents' possession and are not permitted as required in (a) and (b) must be destroyed or returned to the authorized user and a record kept of such action for three years, making such record available to the Federal Trade Commission for inspection and copying upon request.

4. Representing in any manner, directly or by implication, orally or in writing, that respondents have the authority or right to cause debtors to go to jail or to be defendants in criminal prosecutions for not paying their debts; or misrepresenting in any manner respondents' authority to affect debtors' legal rights or liabilities.

5. Representing in any manner, directly or by implication, orally or in writing, that respondents are serving legal or judicial documents upon debtors unless such is the case; or misrepresenting in any manner the status, significance or official nature of any papers sent to debtors.

6. Representing in any manner, directly or by implication, orally or in writing, that respondents or their agents are something or someone other than a debt collection agency or debt collector; or misrepresenting in any manner the official, professional or vocational status of respondents or their agents, or misrepresenting, in any manner, the position or function of any of respondents' agents, employees, and representatives.

7. Representing in any manner, directly or by implication, orally or in writing, that respondents will destroy or attempt to harm debtors' credit standings, or that respondents possess the authority or intend to disclose information regarding debtors to a consumer reporting agency; or misrepresenting in any manner the effect of any action taken by respondents on a debtor's credit standing.

8. Representing in any manner, directly or by implication, orally or in writing, that legal action has been initiated or is being initiated unless respondents have in fact instituted the legal action represented; or misrepresenting in any manner that legal action will be initiated, including but not limited to, attachment or garnishment proceedings, unless respondents are able to establish that at the time the representation was made respondents intended in good faith to institute the legal action represented.

9. Representing in any manner, directly or by implication, orally or in writing, that judgment may be entered against a debtor without the debtor having notice of the legal action and an opportunity to appear and defend himself or herself in a court of law.

10. Informing a debtor of a creditor's post judgment rights without disclosing at the same time that no judgment may be entered against the debtor unless the debtor has first been given notice and an opportunity to appear and defend himself or herself in a court of law.

11. Representing in any manner, directly or by implication, orally or in writing, the post judgment rights of a creditor unless said rights are in fact as specifically represented in the jurisdiction in which collection is sought; or misrepresenting in any manner, directly or by implication, the post judgment rights of a creditor.

12. Using abusive or obscene language when talking with or writing to debtors.

13. Placing any telephone call to any debtor, or orally contacting debtors in any manner, between the hours, in the time zone of the debtor, of 9 p.m. and 7 a.m. on weekdays, including Saturdays, and between the hours of 9 p.m. and 12 noon on Sundays.

14. Initiating more than two (2) oral conversations with any debtor in any one week regarding the collection of the same debt.

It is further ordered, That respondents, their successors and assigns, with respect to oral or written communications to persons other than the alleged debtor, cease and desist from:

(a) Communicating or threatening to communicate, or implying the fact or existence of any debt to a debtor's employer prior to any judgment;

(b) Communicating with or threatening to communicate, or implying the fact or existence of any debt to any other third parties, including former employers of the debtor other than one who might be reasonably expected to be liable therefor except with the written permission of the debtor or except where legal documents are being served according to law;

(c) Reporting a debt or an alleged debt to a consumer reporting agency unless respondents also promptly report to said consumer reporting agency the subsequent payment of said debt or alleged debt, or the resolution of any dispute concerning said debt, or alleged debt.

It is further ordered, That said respondents shall maintain for a period of three (3) years with respect to each debtor, records which shall consist of copies of all collection letters, dunning notices, requests for information and similar correspondence delivered to such debtor or third parties, or any indication of what items or documents were sent; a record or tabulation of all telephone calls made to or about the debtor showing the identity of the caller, the date of the call, the telephone number called, the purpose and result of the call and any notes or reports made in connection therewith when obtained; and copies of all documents pertaining to collection efforts such as referrals to lawyers or other agencies and legal documents utilized in collection efforts, or any indication of what items were sent.

II

It is ordered That National Account Systems, Inc., NAS Creditors Service, Inc., National Accounts System of Milwaukee, Inc., and A. B. Hartman, Inc., their successors and assigns, their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or branch, or other device, in connection with any consumer credit transaction, including, but not limited to, transactions involving the deferment of the payment of debts and/or the refinancing of any existing extension of credit or the increasing of existing obligations, as these terms are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act [15 U.S.C. Sections 1601–65 (1970), *as amended*, 15 U.S.C. Section 1601–65(a), (Supp. IV, 1974)], do forthwith cease and desist from:

1. Failing to disclose the finance charge, as "finance charge" is defined in Section 226.2 of Regulation Z, expressed and identified as an annual percentage rate, as "annual percentage rate" is defined in Section 226.2 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Failing to disclose the date on which the finance charge begins to accrue, as required by Section 226.8(b)(1) of Regulation Z.

3. Failing to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments" as is required by Section 226.8(b)(3) of Regulation Z.

4. Failing to disclose the total amount of finance charges, with a description of each amount included, using the term "finance charge," as required by Section 226.8(d)(3) of Regulation Z.

5. Failing to disclose the annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

6. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

7. Failing to make the disclosures required by Section 226.8 of Regulation Z clearly, conspicuously and in a meaningful sequence, as required by Section 226.6(a) of Regulation Z.

8. Failing in any consumer credit transaction to make all disclosures, required by Sections 226.6, 226.7, 226.8, and 226.9 of Regulation Z, and failing to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.7, 226.8, and 226.9 of Regulation Z.

III

It is further ordered, That: (a) Respondents shall deliver a copy of this order to all present and future employ-

ees and their agents engaged in debt collection and to any other person or entity connected with respondents to whom respondents presently refer or assign and to whom in the future respondents may refer or assign matters for debt collection;

(b) Respondents shall provide each of their employees with a form returnable to respondents clearly stating the employee's intention to conform his or her business practices to the requirements of this order; respondents shall require said persons to agree in writing on said form to conform his or her business practices to the requirements of this order and shall retain said statement during the period said person is so engaged, and for three (3) years thereafter, and make said statement available to representatives of the Federal Trade Commission for inspection and copying upon request;

(c) In the event such person will not agree to sign and file the form set forth in paragraph (b) above with respondents and conform to the provisions of this order, respondents shall not use or engage or continue the use or engagement of such person to collect debts or aid or assist respondents in the collection of debts;

(d) Respondents shall inform each person and entity described in paragraph (a) above that respondents shall not use or engage or shall terminate the use or engagement of any such person or entity unless such person or entity's business practices conform to the requirements of this order; and that respondents are obligated by this order to terminate the use or engagement of those persons or entities who engage on their own in the acts or practices prohibited by this order;

(e) Respondents shall institute a program of reasonable surveillance of their officers, employees and their agents engaged in debt collection, adequate to reveal whether the business practices of each said person conform to the requirements of this order;

(f) Upon receiving information from any source (including but not limited to respondents' program of surveillance, and representatives of the Federal Trade Commission) indicating reasonable proof of a violation of any provision of this order by any person or entity described in paragraph (a) above, respondents shall within 72 hours notify such person or entity by certified mail, return receipt requested, that such violation of this order has occurred ("Termination Notice"), and that respondents shall forthwith discontinue dealing with said person or entity. Immediately after such notification, respondents shall permanently discontinue dealing with said person or entity;

(g) Respondents shall retain evidence of compliance with this order and all Termination Notices and make such evidence available to representatives of the Federal Trade Commission for inspection and copying upon request;

(h) Respondents shall prepare and maintain a list of all employees containing the names of all such persons and their aliases, if any, and their last known addresses and telephone numbers for three (3) years following the date of their last employment with respondents; such list shall be made available to representatives of the Federal Trade Commission for inspection and copying upon request.

IV

It is further ordered That respondents National Account Systems, Inc., a corporation, NAS Creditors Service, Inc., a corporation, National Accounts System of Milwaukee, Inc., a corporation A. B. Hartman, Inc., a corporation, and Diners Club, Inc., a corporation, hereinafter referred to as respondents, shall not use independent agents or other entities knowingly for the purpose of circumventing any provision of this Order.

It is further ordered That respondents 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 subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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.

It is further ordered That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with more restrictive agreements, orders or directives of any kind obtained by any other governmental agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by, the Federal Trade Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15525 Filed 5-31-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5828, 34-13564, AS-218]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Quarterly Reporting Requirements for Life Insurance Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final amendments of rules.

SUMMARY: These amendments correct errors in the text of amendments of rules adopted in a prior accounting series release relating to quarterly reporting requirements for life insurance companies. In addition, they prescribe requirements for the interim financial information to be presented in notes to financial statements by foreign private issuers which file Form 6-K rather than Form 10-Q.

EFFECTIVE DATE: Effective for reports filed for interim periods in fiscal years beginning after December 25, 1976.

FOR FURTHER INFORMATION CONTACT:

Edward R. Cheramy, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8020).

SUPPLEMENTARY INFORMATION: On February 28, 1977, the Commission issued Securities Exchange Act Release No. 13309 (42 FR 13122) which proposed to correct errors in previously published amendments of rules and prescribed requirements for the interim financial information to be presented in notes to financial statements by certain foreign private issuers. (This release was corrected by a notice of correction appearing at 42 FR 15072.)

The Commission considered the comments received and has determined to adopt the amendments of the rules as proposed.

BACKGROUND

On September 20, 1976, the Commission issued Accounting Series Release No. 197 (41 FR 42645) adopting amendments of rules to require increased disclosure of interim financial data by life insurance companies and related holding companies.

Subsequent to publication of the release three errors were noted in the text of the amendments adopted. This release corrects those errors. In addition, a technical amendment relating to foreign private issuers which file Form 6-K (17 CFR 249.306) rather than Form 10-Q (17 CFR 249.308a) is also adopted.

The first correction is in Regulation S-X, Rule 3-16 (17 CFR 210.3-16) in which the reference in paragraph (t)(1)(i)(C)(*v*)(*a*) to subsection (d) is changed to subsection (*iv*).

The other changes relate to the exemptions from the requirements to file quarterly reports on Form 10-Q in Rules 13a-13 and 15d-13 under the Securities Exchange Act of 1934 (17 CFR 240.13a-13 and 240.15d-13). The Commission's intention when issuing ASR 197 was to require "actively traded" life insurance companies and related holding companies to begin filing Form 10-Q in 1977 and other life insurers in 1978 (with a reconsideration of these less actively traded companies by September 30, 1977). "Actively traded" for these purposes was to include those "listed" life insurance companies (with securities registered under section 12(b) of the

Securities Exchange Act of 1934) and those companies whose shares are traded over-the-counter which meet the specific criteria of Rule 3-16(t) (17 CFR 210.3-16). An error was made in drafting the exemptive language of Rules 13a-13 and 15d-13 (17 CFR 240.13a-13 and 15d-13). As previously written these rules could have been interpreted to not require the the filing of Form 10-Q by life insurance companies and holding companies having only life insurance subsidiaries which are listed on a national exchange (i.e., section 12(b) securities). This interpretation was not the Commission's intent.

Because the impact of these corrections is limited to only a few companies, and because the Commission's intent to require life insurance companies and their related holding companies whose securities are registered under section 12(b) of the Securities Exchange Act of 1934 (i.e., listed on a national exchange) to file Form 10-Q's beginning in 1977 was previously expressed in ASR 197, the Commission is not changing the effective date of the requirements of Rules 13a-13 and 15d-13 (17 CFR 240.13a-13 and 15d-13). As previously published the requirements of these rules regarding life insurance companies and related holding companies are effective for reports filed for quarterly periods in fiscal years beginning after December 25, 1976.

TECHNICAL AMENDMENTS

The impact of the disclosure requirements of Rule 3-16(t) of Regulation S-X (17 CFR 210.3-16) on certain foreign private issuers was unforeseen at the time of its adoption.

Rule 15d-13 (17 CFR 240.15d-13) provides for an exemption from Form 10-Q reporting for registrants subject to the reporting requirements of Form 6-K. Rule 15d-16 (17 CFR 240.15d-16) governs the applicability of Form 6-K and requires reporting thereon by "every foreign private issuer," with several enumerated exceptions. Form 6-K calls for reporting to the Commission on a current basis of certain information, including interim financial information, which has been made public pursuant to foreign law, filed with a foreign stock exchange, or distributed to the security holders. Thus, foreign registrants with a few limited exceptions, are not required to report interim financial information on Form 10-Q, nor on Form 6-K unless the information has otherwise been compiled and made available to the specific parties.

The Commission believes that to require certain foreign private issuers (i.e., those that file on Form 6-K) to provide data pursuant to Rule 3-16(t) (17 CFR 210.3-16) that they do not otherwise provide would be inconsistent with the present requirements of Form 6-K and possibly could create an unreasonable reporting burden on such issuers. An amendment to the rule, by addition of new paragraph (t)(6), is therefore adopted to exempt foreign registrants from the application of that rule, except to the extent that the information called for in the rule has been furnished the Commission. Thus amended, the rule will require disclosure in the annual reports of foreign registrants of interim financial information required to be reported to the Commission on Form 6-K. The content of the disclosures will conform to the extent practicable with the existing requirements of paragraphs (1) through (4) of Rule 3-16(t).

TEXT OF AMENDMENTS

COMMISSION ACTION

The Commission hereby adopts amendments to §§ 210.3-16 and 240.13a-13, and 240.15d-13, Title 17, Chapter II, Code of Federal Regulations, as given below.

1. In Part 210 (Regulation S-X), § 210.3-16 is amended by changing the reference to (d) in paragraph (t)(1)(i)(C) (*v*)(*a*) *to* (*iv*) and adding a new paragraph (t)(6) as follows:

§ 210.3-16 General notes to financial statements (see Release No. AS-4).

* * * * *

(t) * * *

(6) Paragraphs (t)(1) through (t)(4) of this section shall not apply to a foreign private issuer not required to report quarterly financial information on Form 10-Q (§ 249.308a of this chapter); *Provided, however*, That a foreign registrant which reports or is required to report interim financial information on Form 6-K (§ 249.306 of this chapter) shall disclose such data in the manner provided in paragraphs (t)(1) through (t)(4) of this section with respect to the financial information reported on Form 6-K.

2. In Part 240, §§ 240.13a-13 and 240.15d-13 are amended by revising paragraphs (c)(1) thereof to read as follows:

§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

* * * * *

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i) of § 213.3-16 of this chapter; or

* * * * *

§ 240.15d-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

* * * * *

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i) of § 210.3-16 of this chapter; or

* * * * *

These amendments are adopted pursuant to authority in sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78*l*, 78*o*(d) and 78w) of the Securities Exchange Act of 1934. Pursuant to section 23(a) of the Exchange Act, the Commission has considered the effect that the amendments would have on competition and has concluded that, to the extent the amendments impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purpose of the securities laws.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77-15424 Filed 5-31-77;8:45 am]

[Release No. 34-13544; File No. S7-641]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Extension of Temporary Rule for Submission of Price Quotations to Inter-Dealer Quotation System

AGENCY: Securities and Exchange Commission.

ACTION: Extension of temporary rule provision.

SUMMARY: The Commission has extended the expiration date of paragraph (f)(4)(T) of § 240.15c2-11, a rule which presently requires market-makers to obtain certain basic information on the issuers of securities for which they publish price quotations in the over-the-counter markets. Paragraph (f)(4)(T) extends the exemptive provisions of § 240.15c2-11 to broker-dealers who submit quotations to weekly inter-dealer quotation systems on the basis of previous price quotations appearing regularly in such a system.

DATES: The expiration date of paragraph (f)(4)(T) of § 240.15c2-11 has been extended to July 31, 1977.

ADDRESSES: All communications on this matter should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-641 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard M. Smith, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 755-7918.

SUPPLEMENTARY INFORMATION: The Securities Exchange Commission (the "Commission") announced today the extension of temporary paragraph (f)(4)(T) of § 240.15c2-11[1] to July 31, 1977 pursuant to the Securities Exchange Act of 1934 (the "Act")[2] particularly Sections 2, 3, 11A, 15 and 23 thereof.[3] Paragraph (f)(4)(T) of § 240.15c2-11 was first temporarily adopted on July 15, 1976.[4] Its expiration date was later ex-

[1] 17 CFR 240.15c2-11(f)(4).

[2] 15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975).

[3] 15 U.S.C. 78 (b), (c) (k-1), (o) and (w).

[4] Exchange Act Release No. 34-12630 (July 15, 1976), 41 FR 30008 (July 21, 1976), 9 Sec. Docket 1114 (July 28, 1976).

tended by the Commission to February 28, 1977[3] and subsequently to April 30, 1977.[4] Temporary paragraph (f)(4)(T) of § 240.15c2-11 exempts from the provisions of that Section the publication and submission of quotations respecting securities traded over the counter which have been the subject, at least once each fifth business day, of both bid and ask quotations at specified prices reported to, and published by, an inter-dealer quotation system.

The staff of the Commission has engaged in extensive discussions with those persons directly affected by § 240.15c2-11 and has determined that a considerable number of questions remain as to the ultimate course, if any, which the Commission should take in revising that Section. Until such time as those questions are resolved, the Commission believes it is consistent with the public interest and the protection of investors to extend the expiration date of temporary paragraph (f)(4)(T) of § 240.15c2-11 to July 31, 1977.

The pertinent text of the rule, as amended temporarily, is as follows:

§ 240.15c2-11 Initiation or resumption of quotations without specific information.

* * * * *

(f) The provisions of this section shall not apply to:

* * * * *

(4)(T) The publication or submission of a quotation respecting a security which, at least once each fifth business day, has been the subject of both bid and ask quotations at specified prices reported to, and published by, an inter-dealer quotation system (i) which has reported to the broker or dealer who wishes to submit such a quotation that records of the system reflect that at least one registered broker or dealer has made, or

(ii) to which a registered broker or dealer who wishes to submit such a quotation has reported or represented that he has made both bid and ask quotations at specified prices on each of at least 12 business days within the previous 30 calendar days, with no more than 4 business days in succession without a reflection of the existence of such a two-way quotation.

This temporary subsection shall expire on July 31, 1977.

The Commission considered this matter at an open meeting on April 28, 1977 and determined at that time to extend the previous expiration date of this temporary subsection. Through inadvertence, however, an order was not entered at that time announcing the Commission's determination. Therefore, this order, extending the expiration date of paragraph (f)(4)(T) of Section 240.15c2-11 to July 31, 1977, is effective, *nunc pro tunc*, as of April 30, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 16, 1977.

[FR Doc.77-15462 Filed 5-31-77;8:45 am]

[3] Exchange Act Release No. 34-12969 (November 15, 1976), 41 FR 50646 (November 17, 1976), 10 Sec. Docket 953 (November 30, 1976).

[4] Exchange Act Release No. 34-13310 (February 28, 1977), 42 FR 13109 (March 9, 1977) 11 Sec. Docket 1880 (March 15, 1977).

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7488]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Lump Sum Distributions From Qualified Retirement Plans in the Case of an Employee Who Has Separated From Service

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to lump sum distributions from qualified plans in the case of an employee who separates from service and subsequently forfeits retirement benefits otherwise due him under the plan. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The temporary regulations provide rules concerning the time in which the forfeiture must occur. In general, the temporary regulations affect recipients of distributions made on account of an employee's separation from service.

DATE: The temporary regulations are effective for distributions made in taxable years of recipients beginning after December 31, 1973.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3603).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 30, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 402(e) of the Internal Revenue Code of 1954, 40 FR 18802. The amendments were proposed to conform the regulations to section 2005(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 988). These temporary regulations are being published in advance of final regulations to change the rules published in proposed regulations § 1.402(e)-2(d)(1)(vii) regarding the time limit within which a forfeiture of benefits must occur in the case of an employee who has separated from service. The changes made by these temporary regulations are the result of public comments on proposed § 1.402(e)-2(d)(1)(vii). Comments regarding other portions of the proposed regulations are still being considered. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

EXTENSION OF FORFEITURE TIME LIMIT

A distribution from a qualified employee plan receives favorable tax treatment if it is a "lump sum distribution." Under Code section 402(e)(4)(A), a distribution is a lump sum distribution only if the entire amount to which the employee is entitled under the plan is distributed within one taxable year. Under proposed § 1.402(e)-2(d)(1)(vii), a distribution can be a lump sum distribution if the employee forfeits the amount which is not distributed. The forfeiture must occur within a relatively short period of time, often within the same taxable year in which the distribution is made.

Many plans provide that the forfeiture will take place at a later time, so that a distribution would not be a lump sum distribution under the rules in the proposed regulations. These temporary regulations extend the time for the forfeiture to occur. Therefore, in many cases distributions will be eligible for favorable tax treatment even though they would not have qualified for that treatment under the proposed regulations.

FILING RETURN BEFORE FORFEITURE

The recipient of a distribution may be required to file his income tax return before the forfeiture has taken place. Under these temporary regulations, he may assume that the forfeiture will occur within the time period allowed by the regulations. Accordingly, he will be able to compute his income tax using the favorable tax treatment for lump sum distributions.

ROLLOVER BEFORE FORFEITURE

Under Code section 402(a)(5) or 403(a)(4), a lump sum distribution may be "rolled-over," tax-free, to an individual retirement savings arrangement. The rollover must occur within 60 days after the distribution. Accordingly, a recipient is likely to roll over a distribution before amounts subject to forfeiture are actually forfeited. After a rollover has been made, it may be determined that the distribution was not a lump sum distribution because the required forfeiture did not occur. These temporary regulations provide that in such a case, the contribution will be treated as an excess contribution to the individual retirement savings arrangement in the taxable year in which it is so determined that the distribution was not a lump sum distribution, rather than in the taxable year of the actual contribution.

DRAFTING INFORMATION

The principal author of this regulation was Richard Johnson of the Legislation and Regulations Division of the Of-

fice of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 are amended by adding the following new section at the appropriate place:

§ 11.402(e)(4)(A)–1 Lump sum distributions in the case of an employee who has separated from service.

(a) *Balance to the credit of an employee.* Section 402(e)(4)(A) provides that in order for a distribution or payment from a qualified plan to be a lump sum distribution, the distribution or payment must represent the employee's balance under the plan. The employee's balance does not include any amount which is forfeited under the plan (even though the amount may be reinstated) as of the close of the taxable year of the recipient within which the distribution is made. In addition, in the case of an employee who has separated from service, the employee's balance does not include an amount which is subject to forfeiture not later than the close of the plan year within which the employee incurs a one-year break in service (within the meaning of section 411) if—

(1) By reason of the break in survice, the amount is actually forfeited at or prior to the close of that plan year, and

(2) The break in service occurs within 25 months after the employee's separation from service. In the case of a plan which uses the elapsed time method of crediting service, the break in service may occur within 25 months of the employee's severance from service. See Department of Labor regulations relating to the elapsed time method for the date an employee severs from service.

An employee may assume that an amount subject to forfeiture will be treated as forfeited by the date prescribed in subparagraphs (1) and (2) of this paragraph if, under the plan, forfeiture will occur not later than that date. Therefore, he may assume that a distribution is a lump sum distribution at the time it is made, if the other requirements for lump sum distributions are satisfied. However, if the amount is not forfeited by that date, the amount will be taken into account in determining the balance to the credit of the employee. Accordingly, the distribution will not be a lump sum distribution because it did not include the employee's entire balance under the plan.

(b) *Rollover contribution.* As described in paragraph (a) of this section, an employee may assume that a distribution is a lump sum distribution even though part of the balance of his account has not been forfeited at the time the distribution is made. He may then roll the distribution over as a contribution to an individual retirement arrangement pursuant to section 402(a)(5) or 403(a)(4). It may be subsequently determined that the distribution is not a lump sum distribution because an amount subject to forfeiture was not in fact forfeited within the time required in paragraph (a) of this section. In that case, the contribution will be an excess contribution to the individual retirement arrangement, deemed made in the first taxable year of the employee in which it can be determined that an amount subject to forfeiture will not be forfeited.

(c) *Effective date.* This section is effective for distributions made in taxable years of recipients beginning after December 31, 1973.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: May 24, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-15526 Filed 5-26-77;4:48 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7489]

PART 54—PENSION EXCISE TAXES

Election To Pay an Excise Tax for Certain Pre-1975 Prohibited Transactions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the election to pay an excise tax for certain pre-1975 prohibited transactions. Changes in the applicable law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to persons who wish to save certain pension, etc., plans from disqualification by paying an excise tax.

DATE: The regulations are effective June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas F. Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3737).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 6, 1976, the FEDERAL REGISTER published proposed amendments to the Pension, etc., Excise Tax Regulations (26 CFR Part 54) under section 2003(c)(1)(B) of the Employee Retirement Income Security Act of 1954 (88 Stat. 978). Identical temporary regulations (26 CFR 141.4975–14) were published on the same date (41 FR 32889). Interested parties were given the opportunity to submit comments and to request a public hearing on the proposed amendments by September 20, 1976. No such comments or requests were received. This Treasury decision adopts those proposed amendments with one revision, which is discussed below.

AVAILABILITY OF ELECTION

Under the final regulations the election is available for persons who, before January 1, 1975, engaged in transactions which were prohibited transactions within the meaning of sections 503 (b) and (g) of the Code.

EFFECT OF ELECTION

If the election is made, exempt status will not be denied under section 501 (a) on account of the transaction with respect to which the election is made. However, section 6501 (relating to limitations on the assessment and collection of tax) and section 6511 (relating to limitations on the filing of a claim for credit or refund) will operate without regard to the election.

TIME FOR ELECTING

Under the proposed amendments an election must be made prior to the later of December 6, 1976, or 120 days after notice is given by the Service under § 1.503(a)–1(b) of the Income Tax Regulations that a prohibited transaction has been committed. The final regulations revise the proposed amendments by permitting the district director and the disqualified person electing to pay the excise tax to extend these limitations by mutual agreement.

COMPUTATION OF TAX AND CORRECTION

For purposes of determining the amount of tax and what constitutes correction, regulations in the private foundation area are incorporated by reference.

DRAFTING INFORMATION

The principal author of this regulation was Thomas F. Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, 36 CFR 141.4975–14 is superseded and 26 CFR Part 54 is amended by adding § 54.4975–14 as follows:

§ 54.4975–14 Election to pay an excise tax for certain pre-1975 prohibited transactions

(a) *In general.* Section 2003(c)(1)(B) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978) provides an election to pay an excise tax by cer-

tain persons involved prior to 1975 in prohibited transactions within the meaning of section 503 (b) or (g).

(b) *Effect of election.* If a valid election is made under this section with respect to a particular transaction, any loss of exemption under section 501(a) because of a prohibited transaction within the meaning of section 503 (b) or (g) shall not apply. Instead, the person who made the election referred to in this section shall be subject to the taxes which would have been imposed by section 4975 (a) or (b) as though section 4975 had imposed a tax in respect of the transaction. (However, section 4975(f)(1), relating to joint and several liability, shall not apply to any person who has not made an election under this section, and interest for late payment of tax shall not begin to accrue until after the date of the election.) Such an election is irrevocable. However, the making of the election does not affect the application of section 6501 for purposes of assessment and collection of tax and section 6511 for purposes of filing a claim for credit or refund with respect to taxpayers and to taxable years of taxpayers whose tax liability is or may be affected by reason of the nonapplication of a denial of exempt status.

(c) *Method of election.* A person shall make the election referred to in this section by filing the form issued for such purpose by the Internal Revenue Service, including therein the information required by such form and the instructions issued with respect thereto, and by paying the tax which the taxpayer indicates is due at the time the return is filed. To be valid the election must be made prior to the later of December 6, 1976, or 120 days after the date of notification referred to in § 1.503(a)-1(b) of this chapter (Income Tax Regulations), relating to loss of exemption for certain prohibited transactions. If there has been no notification of loss of exemption, the election may be made at any time. However, these limitations do not preclude an agreement between the disqualified person and the district director to extend the time within which the election is permitted.

(d) *Computation of section 4975 excise tax.* To the extent applicable, and solely for purposes associated with the payment of a section 4975 excise tax under the election referred to in this section, § 53.4941(e)-1 of this chapter (Foundation Excise Tax Regulations) is controlling.

(Section 2003(c)(1)(B) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: May 24, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-15527 Filed 5-26-77;4:47 pm]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Interim Regulations

Correction

In FR Doc. 77-13851 appearing at page 24731 in the issue for Monday, May 16, 1977 make the following corrections:

(1) On page 24734, third column, in the 9th line of § 51.27(a)(1), "§ 51.21 (p)" should have read "§ 51.2(p)".

(2) On page 24735, middle column, in paragraph (ii) of § 51.27(c)(2), delete the 8th line and insert the following in its place: "year) divided by its total revenues in that * * *".

Title 37—Patents, Trademarks, and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

PART 3—FORMS FOR PATENT CASES

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: Patent and Trademark Office amends Forms for Patent Cases to assist applicants and other parties in complying with changes previously made in the Rules in Patent Cases.

DATES: Effective date: June 30, 1977. Comments must be received on or before August 1, 1977.

ADDRESSES: Send comments to: Commissioner of Patents and Trademarks, Attention: Louis O. Maassel, Washington, D.C. 20231.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis O. Maassel by telephone at 703-557-3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations by deleting §§ 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.21, and 3.25 since § 1.61, which required a petition, was re-3.11a, 3.12, 3.12a, 3.13, 3.13a, 3.14, 3.14a, 3.16, 3.16a, 3.17, 3.17a, 3.18, 3.18a, 3.23, 3.23a, 3.26, 3.26a, 3.28, 3.29, 3.31, 3.31a, 3.32, 3.32a, 3.33, 3.36, 3.37, 3.39, 3.41, 3.43, 3.46, 3.50, 3.52, 3.53, and 3.54 and by adding a new § 3.33a. These sections are suggested forms for use in patent cases.

These revisions conform the language of the forms, where necessary, to changes which have previously been made in Part 1 of this chapter and also alter the language in the forms where incorrect or inconsistent. These revisions do not effect any changes in practice and do not impose a burden on anyone. Consequently, procedures for public comment prior to the adoption of these revisions are not deemed necessary.

The general nature of the changes in the forms are as follows:

1. The oath and declaration forms for patent applications have been amended to include a reference to the filing and issuance of inventor's certificates. Such a requirement is set forth in current §§ 1.65 and 1.67 of Title 37 CFR.

2. The oath and declaration forms for patent applications have been amended to include the statement by applicant acknowledging the responsibility to disclose information to the Patent and Trademark Office. Such statement will be required by § 1.65 effective January 1, 1978, but may optionally be used prior to that date, as suggested in the notice published on January 28, 1977, in the FEDERAL REGISTER, 42 FR 5588 at 5590, and on February 22, 1977, in the Official Gazette (Patent Section), 955 O.G. 1054 at 1056.

3. "United States" has been changed to "United States of America" to give the full name.

4. In many instances the forms were changed to avoid use of only the masculine gender.

Sections 3.28 and 3.29 have been revised to omit the obsolete requirement for a petition.

Section 3.41 has been revised to delete requirements no longer needed under current internal procedures.

Section 3.52 has been amended by reordering the items and by deletion of an outdated item.

Section 3.54 is a revised version of the wording currently found in § 201.06(a) of the Manual of Patent Examining Procedure.

A period of 60 days after publication of this notice in the FEDERAL REGISTER is set for written comment by the public. The Patent and Trademark Office will evaluate the changes in light of the written comments received within 60 days after the close of the period for comment. The Office will then publish in the FEDERAL REGISTER and Official Gazette an indication of its adherence to or alteration in the forms as here published, as well as any reply to any especially significant comments received.

Pursuant to the authority contained in section 6 of Title 35, United States Code, the following changes are made in Part 3 of Chapter I of Title 37 of the Code of Federal Regulations.

1. The Table of Contents to Part 3 is revised to read as follows:

Sec.

3.1	[Reserved]
3.2	[Reserved]
3.3	[Reserved]
3.4	[Reserved]
3.5	[Reserved]
3.6	[Reserved]
3.7	[Reserved]
3.11	Oath to accompany application for patent.
3.11a	Declaration to accompany application for patent.
3.12	Oath to accompany application for patent, by an administrator (or executor).
3.12a	Declaration to accompany application for patent, by an administrator (or executor).
3.13	Oath not accompanying application.
3.13a	Declaration not accompanying application.

Sec.
3.14 Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.
3.14a Supplemental declaration for amendment presenting claims for matter disclosed but not originally claimed.
3.16 Combined oath and power of attorney in original application.
3.16a Combined declaration and power of attorney in original application.
3.17 Oath in division or continuation application.
3.17a Declaration in division or continuation application.
3.18 Oath in copending application containing additional subject matter.
3.18a Declaration in copending application containing additional subject matter.
3.21 [Reserved]
3.22 Design patent application; specification.
3.23 Design patent application; oath.
3.23a Design patent application; declaration.
3.25 [Reserved]
3.26 Plant patent application; oath.
3.26a Plant patent application; declaration.
3.28 Reissue application by the inventor, offer to surrender.
3.29 Reissue application by the assignee, offer to surrender.
3.31 Reissue application, oath; by the inventor.
3.31a Reissue application, declaration; by inventor.
3.32 Reissue application, oath; by assignee.
3.32a Reissue application, declaration; by assignee.
3.33 Oath as to loss of letters patent.
3.33a Declaration as to loss of letters patent.
3.36 Power of attorney or authorization of agent, not accompanying application.
3.37 Revocation of power of attorney or authorization of agent.
3.39 Amendment.
3.41 Notice of appeal from the Primary Examiner to the Board of Appeals.
3.43 Disclaimer in patent.
3.44 Interference; preliminary statement of domestic inventor.
3.45 Interference; preliminary statement of foreign inventor.
3.46 Interference; disclaimer during interference.
3.47 Interference, notice of taking testimony.
3.48 Interference; form of depoeition.
3.49 Interference; certificate of officer.
3.50 Waiver of patent rights under § 1.139.
3.51 Application transmittal letter.
3.52 Amendment transmittal letter.
3.53 Terminal disclaimer in application.
3.54 Division-continuation program application transmittal form.
3.61 Symbols for draftsmen.

AUTHORITY: 35 U.S.C. 6, unless otherwise noted.

NOTE.—The following forms illustrate the manner of preparing various papers to be filed in the Patent and Trademark Office. Applicants and other parties will find their business facilitated by following them. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of Part 1 of this chapter or of the statute. Before using any form the pertinent sections of Part 1 and sections of the statute should be studied carefully.

§ 3.1 [Reserved]

2. Section 3.1 is reserved.

§ 3.2 [Reserved]

3. Section 3.2 is reserved.

§ 3.3 [Reserved]

4. Section 3.3 is reserved.

§ 3.4 [Reserved]

5. Section 3.4 is reserved.

§ 3.5 [Reserved]

6. Section 3.5 is reserved.

§ 3.6 [Reserved]

7. Section 3.6 is reserved.

§ 3.7 [Reserved]

8. Section 3.7 is reserved.

9. Section 3.11 is revised to read as follows:

§ 3.11 Oath to accompany application for patent.

As a below named inventor, being duly sworn (or affirmed), I depose and say that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the attached specification; that

I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows:

_____

Full name of sole or first Inventor_____

_____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

Full name of second joint Inventor, if any___

_____

Inventor's signature_____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

(Supply similar information and signature for third and subsequent joint inventors.)

_____,

_____, ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.

[SEAL]

(Signature of notary or officer)

_____

(Signature of notary or officer)

10. Section 3.11a is revised to read as follows:

§ 3.11a Declaration to accompany application for patent.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the attached specification; that

I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows: _____

_____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first Inventor_____

_____

Inventor's signature_____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

Full name of second joint Inventor, if any

_____

Inventor's signature_____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

(Supply similar information and signature for third and subsequent joint inventors.)

11. Section 3.12 is revised to read as follows:

§ 3.12 Oath to accompany application for patent, by an administrator (or executor).

I (A)_____, being duly sworn (or affirmed), depose and say that I am a citizen of_____, and a resident of_____, that I am the administrator of the estate (or executor of the last will and testament) of (B)_____, deceased, late a citizen of_____, and resident of_____, that I verily believe the said (B)_____ to be the original, first and sole inventor of the improvement in_____ described and claimed in the foregoing specification; that I do not know and do not believe that the same was ever known or used in the United States of America before the invention thereof by the said (B)_____, or patented or described in any printed publication in any country before the said invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by the said (B)_____ or his or her legal representatives or assigns more than twelve months prior to this application; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said invention has been filed by the said (B)_____ or his or her representatives or assigns in any country foreign to the United States of America, except as follows:_____

(A)_____
(Signature)
Administrator, etc.

_____,
_____, ss:

Sworn to and subscribed before me this ____ day of _____, 19_____.

[SEAL]

_____
(Signature of notary or officer)

_____
(Official character)

NOTE. (A) Name of administrator or executor; (B) Name of deceased inventor.

12. Section 3.12a is revised to read as follows:

§ 3.12a Declaration to accompany application for patent, by an administrator (or executor).

I, (A) _____, hereby declare that I am a citizen of _____ and a resident of _____, that I am the administrator of the estate (or executor of the last will and testament), of (B) _____, deceased, late a citizen of _____ and resident of _____, that I verily believe the said (B) _____ to be the original, first and sole inventor of the improvement in _____ described and claimed in the foregoing specification; that I do not know and do not believe that the same was ever known or used in the United States of America before the invention thereof by the said (B) _____, or patented or described in any printed publication in any country before the said invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by the said (B) _____, or his or her legal representatives or assigns more than twelve months prior to this application; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said invention has been filed by the said (B) _____, or his or her representatives or assigns in any country foreign to the United States of America, except as follows: _____

I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(A) _____
(Signature)

_____
Date

NOTE.—(A) Name of administrator or executor; (B) Name of deceased inventor.

13. Section 3.13 is revised to read as follows:

§ 3.13 Oath not accompanying application.

As a below named inventor, being duly sworn (or affirmed), I depose and say that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the specification of application Serial No. _____, filed _____; that I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows: _____

Full name of sole or first Inventor_____

_____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

Full name of second joint Inventor, if any_____

_____

Inventor's signature_____

Date: _____

Residence _____

Citizenship _____

Post Office Address_____

_____

(Supply similar information and signature for third and subsequent joint inventors.)

_____,

_____, ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.

[SEAL]

_____
(Signature of notary or officer)

_____
(Official character)

14. Section 3.13a is revised to read as follows:

§ 3.13a Declaration not accompanying application.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the specification of application Serial No. _____, filed _____; that I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows: _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first Inventor _____

_____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address _____

_____

Full name of second joint inventor, if any

Date: ---
Inventor's signature ---
Residence ---
Citizenship ---
Post Office Address ---

(Supply similar information and signature for third and subsequent joint inventors.)

15. Section 3.14 is revised to read as follows:

§ 3.14 Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.

I, ---, as the inventor
(name)
named in the application for letters patent for an improvement in ---, Serial No. ---, filed in the United States Patent and Trademark Office on or about the ---- day of ---, 19 ---, being duly sworn (or affirmed) depose and say that the subject matter of the foregoing (1) amendment was part of my invention, was invented before the filing of the original application, above identified, for such invention; that I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year before said application, or in public use or on sale in the United States of America more than one year before the date of said application, that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said application in the United States of America, and has not been abandoned.

(Signature)

---,
---, ss:

Sworn to and subscribed before me this ---- day of ---, 19---

---
(Signature of notary or officer)

[SEAL]

(Official character)

NOTE.—(1) If the supplemental oath does not accompany the amendment, the amendment should be identified. See § 1.67.

16. Section 3.14a is revised to read as follows:

§ 3.14a Supplemental declaration for amendment presenting claims for matter disclosed but not originally claimed.

I, ---, the inventor named
(name)
in the application for letters patent for an improvement in ---, Serial No. ---, filed in the United States Patent and Trademark Office on or about the ---- day of ---, 19---, declare that the subject matter of the foregoing (1) amendment was part of my invention, was invented before the filing of the original application, above identified, for such invention; that I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year before said application, or in public use or on sale in the United States of America more than one year before the date of said application, that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said application in the United States of America, and has not been abandoned.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature ---
Date: ---

NOTE.—(1) If the supplemental declaration does not accompany the amendment, the amendment should be identified. See § 1.67.

17. Section 3.16 is revised to read as follows:

§ 3.16 Combined oath and power of attorney in original application.

As a below named inventor, being duly sworn (or affirmed), I depose and say that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: --- described and claimed in the attached specification; that

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representative or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns except as follows:

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: --- Address all telephone calls to --- at telephone no. ---

Address all correspondence to ---
Full name of sole or first inventor ---

Inventor's signature ---
Date: ---

Residence ---
Citizenship ---
Post Office Address ---

Full name of second joint inventor, if any ---

Inventor's signature ---
Date: ---
Residence ---
Citizenship ---
Post Office Address ---

(Supply similar information and signature for third and subsequent joint inventors.)

---, ---, ss:

Sworn to and subscribed before me this ---- day of ---, 19---

---
(Signature of notary or officer)

[SEAL]

(Official character)

18. Section 3.16a is revised to read as follows:

§ 3.16a Combined declaration and power of attorney in original application.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: --- described and claimed in the attached specification, that

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application an any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows:

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: --- Address all telephone calls to --- at telephone No. ---

Address all correspondence to ---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first Inventor ---

Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
_____
Full name of second joint Inventor, if any
_____
Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
_____

(Supply similar information and signature for third and subsequent joint inventors.)

19. Section 3.17 is revised to read as follows:

§ 3.17 Oath in division or continuation application.

[This form of oath may be used with an application disclosing and claiming only subject matter disclosed in a prior copending application of the same inventor.]

As a below named inventor, being duly sworn (or affirmed), I depose and say that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the attached specification; that this application discloses and claims only subject matter disclosed in my or our prior pending application Serial No. _____ filed _____; that

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said prior application, that the same was not in public use or on sale in the United States of America more than one year prior to said prior application, that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said prior application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said prior application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said invention has been filed in any country foreign to the United States of America by me or my legal representatives or assigns, except as follows: _____

Full name of sole or first Inventor _____
_____
Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
Full name of second joint Inventor, if any _____
_____
Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
_____

(Supply similar information and signature for third and subsequent joint inventors.)

_____, ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.

[Seal] _____
(Signature of notary or officer)

_____
(Official character)

20. Section 3.17a is revised to read as follows:

§ 3.17a Declaration in division or continuation application.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: _____ described and claimed in the attached specification; that this application discloses and claims only subject matter disclosed in my or our pending application Serial No. _____, filed _____; that

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said prior application, that the same was not in public use or on sale in the United States of America more than one year prior to said prior application, that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said prior application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said invention has been filed in any country foreign to the United States of America by me or my legal representatives or assigns, except as follows: _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first Inventor _____
_____
Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
_____
Full name of second joint Inventor, if any _____
_____
Inventor's signature _____
Date: _____
Residence _____
Citizenship _____
Post Office Address _____
_____

(Supply similar information and signature for third and subsequent joint inventors.)

21. Section 3.18 is revised to read as follows:

§ 3.18 Oath in copending application containing additional subject matter.

[This form of oath may be used with an application disclosing and claiming subject matter disclosed in a prior co-pending application of the same inventor and also disclosing additional subject matter.]

I, _____, being sworn (or affirmed), depose and say that I am a citizen of _____ and resident of _____, that I verily believe that I am the original, first and sole inventor of the improvement in _____ described and claimed in the foregoing specification; that this application in part discloses and claims subject matter disclosed in my earlier filed pending application, Serial No. _____ filed _____; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, that, as to the subject matter of this application which is common to said earlier application I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application; that said common subject has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and that no application for patent or inventor's certificate on said invention has been filed by me or my representatives or assigns in any country foreign to the United States of America, except as follows: _____; that as to the subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States of America more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application; and that no application for patent or inventor's certificate on said invention has been filed by me or my representatives or assigns in any country foreign to the United States of America except as follows: _____

Inventor's full name: _____
_____
(Signature)

_____
_____ } ss:
_____ }

Sworn to and subscribed before me this _____ day of _____, 19_____.

[SEAL] _____
(Signature of notary or officer)

_____
(Official character)

22. Section 3.18a is revised to read as follows:

§ 3.18a Declaration in copending application containing additional subject matter.

(Sections 1.65 and 1.68 provide for a declaration in lieu or in place of an oath in certain instances.)

(This form of declaration may be used with an application disclosing and claiming subject matter disclosed in a prior copending application of the same inventor and also disclosing additional subject matter.)

I, _____, declare that I am
(name of inventor)
a citizen of _____ and resident of _____, that I verily believe that I am the original, first and sole inventor of the improvement in _____ described and claimed in the foregoing specification; that this application in part discloses and claims subject matter disclosed in my earlier filed pending application, Serial No. _____, filed _____; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, that, as to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application; that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and that no application for patent or inventor's certificate on said invention has been filed by me or my representatives or assigns in any country foreign to the United States of America, except as follows _____; that, as to the subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States of America more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application; and that no application for patent or inventor's certificate on said invention has been filed by me or my representatives or assigns in any country foreign to the United States of America, except as follows: _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____

_____
(Signature)

Date: _____

§ 3.21 [Reserved]

23. Section 3.21 is deleted.

24. Section 3.23 is revised to read as follows:

§ 3.23 Design patent application; oath.

As a below named inventor, being duly sworn (or affirmed), I depose and say that my residence, post office address and citizenship are as stated below next to my name; that I believe I am the original, first and sole inventor (if only one name is listed below), or a joint inventor (if plural inventors are named below) of the design entitled: _____ which is described and claimed in the attached specification, that I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application, that said design has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than six months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this design has been filed by me or my legal representatives or assigns in any country foreign to the United States of America except as follows: _____

Full name of sole or first Inventor _____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address _____

Full name of second joint Inventor, if any _____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address _____

(Supply similar information and signature for third and subsequent joint inventors.)

_____, _____ ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.

_____
(Signature of notary or officer)

_____
(Official character)

25. Section 3.23a is revised to read as follows:

§ 3.23a Design patent application; declaration.

As a below named inventor, I declare that: My residence, post office address and citizenship are as stated below next to my name; that I believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the design entitled: _____ which is described and claimed in the attached specification, that I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application, that said design has not been patented or made the subject of an inventor's certificate issued before the date of the application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than six months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that said design has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than six months prior to this application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this design has been filed by me or my legal representatives or assigns in any country foreign to the United States of America except as follows _____

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of sole or first Inventor _____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address _____

Full name of second joint Inventor, if any _____

Inventor's signature _____

Date: _____

Residence _____

Citizenship _____

Post Office Address _____

(Supply similar information and signature for third and subsequent joint inventors.)

§ 3.25 [Reserved]

26. Section 3.25 is deleted.

27. Section 3.26 is revised to read as follows:

§ 3.26 Plant patent application; oath.

I, _____, being sworn (or affirmed) depose and say that I am a citizen of _____ and resident of _____, that I verily believe myself to be the original, first and sole inventor of the new and distinct variety of _____ described and claimed in the foregoing specification; that I have asexually reproduced the said new and distinct variety; that I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America

on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said new and distinct variety of plant has been filed by me or my representatives or assigns in any country foreign to the United States of America, except as follows: _____

Inventor's full name: _____
Post Office Address: _____

_____
(Signature)

_____,
_____, ss:

Sworn to and subscribed before me this _____ day of _____, 19 _____.

[SEAL]

_____
(Signature of notary or officer)

_____
(Official character)

28. Section 3.26a is revised to read as follows:

§ 3.26a Plant patent application; declaration.

I declare that my residence, post office address and citizenship are as stated below next to my name; that I verily believe myself to be the original, first and sole inventor of the new and distinct variety of _____ described and claimed in the foregoing specification; that I have asexually reproduced the said new and distinct variety; that I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on said new and distinct variety of plant has been filed by me or my representatives or assigns in any country foreign to the United States of America, except as follows: _____

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of inventor _____
Residence _____
Citizenship _____
Post Office Address _____

_____
(Signature)

Date: _____

29. Section 3.28 is revised to read as follows:

§ 3.28 Reissue application by the inventor, offer to surrender.

To the Commissioner of Patents and Trademarks:

The undersigned applicant of the accompanying reissue application for the reissue of letters patent for an improvement in _____, No. _____ granted to him _____, 19_____, of which he is now sole owner (or of which _____ is now sole owner by assignment, and on whose behalf and with whose assent the accompanying application is made), hereby offers to surrender said letters patent. Filed herewith is an abstract of title, duly certified (or an order for a title report), as required in such cases.

_____
(Signature)

[Assent of assignee to reissue]

The undersigned, assignee of the entire (or of an undivided) interest in the above-mentioned letters patent, hereby assents to the accompanying application.

_____
(Signature)

30. Section 3.29 is revised to read as follows:

§ 3.29 Reissue application by the assignee, offer to surrender.

To the Commissioner of Patents and Trademarks:

The undersigned applicant of the accompanying reissue application for the reissue of letters patent for an improvement in _____, No. _____, granted _____ 19_____, to _____, now deceased, of which he is now owner by assignment of the entire interest, hereby offers to surrender said letters patent. Filed herewith is an abstract of title (or an order for a title report).

_____
(Signature)

NOTE.—To be used when the inventor is dead; may also be used with appropriate changes when the reissue application does not seek to enlarge the claims of the original patent.

31. Section 3.31 is revised to read as follows:

§ 3.31 Reissue application, oath; by the inventor.

I, _____, being duly sworn (or affirmed) depose and say that I am a citizen of _____, and a resident of _____; that I verily believe myself to be the original, first and sole inventor of the invention described and claimed in letters patent No. _____ and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before my invention thereof, that (continue with the statements under paragraphs 5 and 6 of § 1.175(a), and at least an allegation under one of the appropriate paragraphs 1–4)

_____
Inventor's full name _____
Post Office address _____

_____
(Signature)

_____,
_____, ss:

Subscribed and sworn to before me this _____ day of _____, 19_____.

[Seal]

_____
(Signature of notary or officer)

_____
(Official character)

32. Section 3.31a is revised to read as follows:

§ 3.31a Reissue application, declaration; by inventor.

(Sections 1.65 and 1.68 provide for a declaration in lieu or in place of an oath in certain instances.)

I, _____, declare that I am a citizen of _____, and a resident of _____; that I verily believe myself to be the original, first and sole inventor of the invention described and claimed in letters patent No. _____ and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before my invention thereof, that (continue with the statements under paragraphs 5 and 6 of § 1.175(a), and at least an allegation under one of the appropriae paragraphs 1–4).

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of sole inventor (include at least one given name) _____
Post Office Address _____
Signature _____
Date: _____

33. Section 3.32 is revised to read as follows:

§ 3.32 Reissue application, oath; by assignee.

I, _____, _____
(name of company officer) (title)
of _____, being duly sworn (or
(name of company)
affirmed), depose and say that I am a citizen of _____ and resident of _____, that the entire title to letters patent No. _____ for _____, granted on _____ to _____ is vested in _____
(name of inventor) (name of company)
_____, that I verily believe said _____
(inventor)
_____ to be the original, first and sole inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before the invention thereof by said _____; that
(name of inventor)
(continue with the statements under paragraphs 5 and 6 of § 1.175(a), and at least an allegation under one of the appropriate paragraph 1–4.)

Assignee's full name _____

Name of officer of assignee _____
_____
Post Office address _____
_____
Signature _____
_____,
_____, ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.
[Seal] _____
(Signature of notary or officer)
_____
(Official character)

NOTE: May be used only when the reissue application does not seek to enlarge the claims of the original patent.

34. Section 3.32a is revised to read as follows:

§ 3.32a Reissue application, declaration; by assignee.

I, _____, _____
(name of company officer) (title)
of _____, declare that I am a
(name of company)
citizen of_____ and resident of _____, that the entire title to letters patent No. _____ for _____, granted on _____ to _____ is vested in
(name of inventor)
_____, that I verily believe said
(name of company)
_____ to be the original, first
(inventor)
and sole inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before the invention thereof by said _____;
(name of inventor)
that (continue with the statements under paragraphs 5 and 6 of § 1.175(a), and at least an allegation under one of the appropriate paragraphs 1–4.)

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.
Assignee's full name _____
_____
Name of officer of assignee _____
_____
Post Office Address _____
_____
Signature _____
Date _____

35. Section 3.33 is revised to read as follows:

§ 3.33 Oath as to loss of letters patent.

I, _____ being duly sworn (or
(inventor or assignee)
affirmed), depose and say that letters patent No. _____ granted to _____ on _____, 19_____, has been either lost or destroyed, that I have made a diligent search for said patent in all places where the same would probably be found, if existing, and that I have not been able to find it.

_____
(Signature)
_____,
_____, ss:
Subscribed and sworn to before me this _____ day of _____, 19_____.
[Seal] _____
(Signature of notary or officer)
_____
(Official character)

36. Section 3.33a is added which reads as follows:

§ 3.33a Declaration as to loss of letters patent.

I, _____, hereby declare that
(inventor or assignee)
letters patent No. _____ granted to _____ on _____, 19____, has been either lost or destroyed, that I have made a diligent search for said patent in all places where the same would probably be found, if existing, and that I have not been able to find it.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

_____
(Signature)
_____
(Date)

37. Section 3.36 is revised to read as follows:

§ 3.36 Power of attorney or authorization of agent, not accompanying application.

[If the power of attorney or authorization of agent be given at any time other than that of making application for letters patent, it will be in substantially the following form:]

To the Commissioner of Patents and Trademarks

I, the undersigned, having on or about the _____ day of _____, 19_____, made application for letters patent for an improvement in _____, serial number _____, hereby appoint _____ of _____, State of _____, Registration No. _____ and telephone No. _____, as my attorney (or agent), to prosecute said application, and to transact all business in the Patent and Trademark Office connected therewith.

_____
(Signature)
_____
(Date)

38. Section 3.37 is revised to read as follows:

§ 3.37 Revocation of power of attorney or authorization of agent.

To the Commissioner of Patents and Trademarks

I, the undersigned, having on or about the _____ day of _____, 19_____, appointed _____, of _____, State of _____, as my attorney (or agent) to prosecute an application for letters patent, which application was filed on or about the _____ day of _____, 19_____, for an improvement in _____, serial number _____, hereby revoke the power of attorney (or authorization of agent) then given.

_____
(Signature)
_____
(Date)

39. Section 3.39 is revised to read as follows:

§ 3.39 Amendment.

Applicant _____
Serial No_____
Filed _____
For _____
Date _____
Group Art Unit_____
Examiner _____

To the Commissioner of Patents and Trademarks

In response to the office letter of _____, 19_____, please amend as follows:
Page _____, line _____, change "_____" to —_____—.
Page _____, line _____, after "_____" insert —_____—.
Page _____, line _____, to end, cancel.
Cancel claims _____ inclusive.
Rewrite claim _____ as follows _____
(See § 1.121(b)).
Add the following claims:

REMARKS

(Here state nature and purpose of the amendments and make all explanations necessary for a response to the rejections and objections of record, etc. See §§ 1.111, 1.115–1.126, 1.135.)

Respectfully,

_____
Applicant

_____
Date

By _____
His Attorney (or Agent) (Include telephone number)

40. Section 3.41 is revised to read as follows:

§ 3.41 Notice of appeal from the Primary Examiner to the Board of Appeals.

In re application of _____
_____
Serial No _____
Filed _____
For _____
Group Art Unit _____
Examiner _____

To the Commissioner of Patents and Trademarks

Sir: Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Primary Examiner finally rejecting claims _____

Appeal Fee $50.00:
[ ] Enclosed.
[ ] Not required (fee paid in prior appeal in this application).

[ ] Charge to Deposit Account No. _____ (One additional copy of this Notice is enclosed herewith.)

_____
(Signature) (§ 1.191(b))

_____
Date

41. Section 3.43 is revised to read as follows.

§ 3.43 Disclaimer in patent.

To the Commissioner of Patents and Trademarks

I, _____, residing at _____ (name of disclaimant) _____ represent that I am (here state the exact interest of the disclaimant; if assignee, set out liber and page, or reel and frame, where assignment is recorded) of United States Patent No. _____, granted to _____ on the _____ day of _____, 19_____, for _____, and that I have reason to believe that without any deceptive intention, claims of said letters patent are too broad or invalid, and therefore hereby disclaim claim(s) _____ of said patent.

Signed at _____, State of _____ this _____ day of _____, 19_____

_____
(Signature)

Name and address of signer _____
_____
_____

42. Section 3.46 is revised to read as follows:

§ 3.46 Interference; disclaimer during interference.

_____
v.
_____, Interference No. _____

In the matter of the above identified interference, under the provisions of and for the purpose set forth in § 1.262, I hereby disclaim the subject matter of all the counts of said interference.

_____
(Signature of inventor)

_____
(Date)

I, the undersigned, _____, (full name of officer) _____ of _____, (title of office) assignee of the entire right, title, and interest in the application of _____, Serial No. _____, filed _____, for _____, hereby assents to the foregoing disclaimer.

[CORPORATE SEAL] _____ Company, Inc.

By _____
(Signature of officer and title of office)

Date: _____

43. Section 3.50 is revised to read as follows:

§ 3.50 Waiver of patent rights under § 1.139.

Group Art Unit _____
Examiner _____

To the Commissioner of Patents and Trademarks.

I, the undersigned, having on _____ filed an application for patent, Serial No. _____ entitled _____, hereby waive my right to an enforceable patent based on said application or on any continuing application filed after the expiration of thirty (30) months from the earliest U.S. effective filing date of said application and subject to acceptance by the Commissioner, and request that an abstract of the disclosure thereof be published in the Official Gazette, that the complete application be opened to inspection by the general public upon publication of said abstract, and that the application be considered pending for the purpose of interference; and I further expressly abandon said application, the abandonment to take effect five (5) years after the earliest United Staes effective filing date of the application unless within that period interference proceedings have been initiated.

_____
(Date)

_____
(Signature of inventor)

44. Section 3.52 is revised to read as follows:

§ 3.52 Amendment transmittal letter.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Serial No. _____
Filed _____
Group Art Unit _____
Examiner _____

For:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Sir: Transmitted herewith is an amendment in the above-identified application.

The fee has been calculated as shown below.

Claims as amended

(1)	(2) Claims remaining after amendment	(3)	(4) Highest number previously paid for	(5) Present extra	(6) Rate	(7) Additional fee
Total claims	(1)	Minus.	(2)	=.....×	$2 =	
Independent claims	(1)	...do...		=.....×	10 =	
			Total additional fee for this amendment			

[1] If the entry in col. 2 is less than the entry in col. 4, write "0" in col. 5.
[2] If the "Highest number previously paid for" in this space is less than 10, write "10" in this space.

1. [ ] No additional fee is required.
2. [ ] A check in the amount of $_____ is attached.
3. [ ] Charge $_____ to Deposit Account No. _____
   A duplicate copy of this sheet is enclosed.
4. [ ] Please charge any additional fees or credit overpayment to Deposit Account No. _____ A duplicate copy of this sheet is enclosed.

45. Section 3.53 is revised to read as follows:

§ 3.53 Terminal disclaimer in application.

In re application of _____
Serial Number _____
Filed _____
For _____
Group Art Unit _____
Examiner _____

To the Commissioner of Patents and Trademarks:

I, _____, residing at _____ (full name of signer) _____ in the county of _____ and State of _____ represent that I am _____
_____
(here state exact interest of the disclaimant and, if an assignee, set out the liber and page or reel and frame where the assignment is recorded)

_____ of application Serial No. _____, filed on the _____ day of _____, 19____ for _____. I hereby disclaim the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of Patent No. _____ and hereby agree that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. _____, this agreement to run with any patent granted on he above-identified application and to be bindnig upon the grantee, its successor or assigns.

_____
(Date)

_____
(Signature)

46. Section 3.54 is revised to read as follows:

§ 3.54 Division-continuation program application transmittal form.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. _____

Anticipated Classification of this application:

Class _____ Subclass _____

Prior application:

Examiner _____

Art Unit _____

THE COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231.

SIR This is a request for filing a [ ] continuation [ ] divisional application, under 37 CFR 1.60, of pending prior application Serial No. _____ filed on _____ of _____
Date

_____
(Inventor currently of record in prior application)

for _____
(title of invention)

1. [ ] Enclosed is a copy of the prior application, including the oath or declaration as originally filed.

I hereby verify that the attached papers are a true copy of prior application Serial No. _____ as originally filed on _____, (date) and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2. [ ] Prepare a copy of the prior application.

3. [ ] The filing fee is calculated below:

Claims as filed in the prior application, less any claims cancelled by amendment below

For—	Number filed	Number extra	Rate	Fee
Total claims		−10=	×$82=	
Independent claims		− 1=	×$10=	
Basic fee (minimum amount required)				$65
Total filing fee				

4. [ ] The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Account No. _____. A duplicate copy of this sheet is enclosed.

5. [ ] A check in the amount of $_____ is enclosed.

6. [ ] Cancel in this application original claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

7. [ ] Amend the specification by inserting before the first line the sentence:—This is a [ ] continuation, [ ] division, of application serial no. _____, filed _____.

8. [ ] Transfer the drawings from the prior application to this application and abandon said prior application as of the filing date accorded this application. A duplicate copy of this sheet is enclosed for filing in the prior application file. (May only be used if signed by person authorized by § 1.138 and before payment of base issue fee.)

8a. [ ] New formal drawings are enclosed.

8b. [ ] Priority of application serial no. _____ filed on _____ in _____ is (country) claimed under 35 U.S.C. 119.

[ ] The certified copy of the priority application has been filed in prior application serial no. _____, _____, filed _____.

9. [ ] The prior application is assigned of record to _____.

10. [ ] The power of attorney in the prior application is to _____ (name, registration number, and address)

a. [ ] The power appears in the original papers in the prior application.

b. [ ] Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. [ ] Address all future communications _____ (May only be completed by applicant, or attorney or agent of record.)

_____ _____
(date) (signature)

Address of signer:

_____ [ ] Inventor(s)
_____ [ ] Assignee of complete interest
[ ] Attorney or agent of record
[ ] Filed under § 1.34(a)

Dated: May 12, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: May 15, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77-15348 Filed 5-31-77; 8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Contractor Use of Agency Official Mail; Miscellaneous Revisions in Regulations Governing Official Mail Privilege of Federal Agencies

Correction

In FR Doc. 77-13435, appearing at page 24266 in the issue of May 13, 1977, in the second column on page 24270, immediately before the last paragraph which begins "(1) *Application.*", insert the phrase "c. *Controlled Circulation*".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 739-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Iowa: Approval and Disapproval of Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document formally approves revised air pollution control regulations as part of the Iowa State Implementation Plan (SIP). Two subrules are disapproved. Approval of the regulations means they can be enforced by the EPA as well as the State.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108 (816-374-3791).

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10865), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, the State of Iowa plan for the implementation of the National Ambient Air Quality Standards (NAAQS). On November 5, 1976 (41 FR 48750), the agency announced that the State proposed to revise its implementation plan by making a number of amendments to the Iowa Rules and Regulations Relating to Air Pollution Control. These amendments were adopted in public hearings after public notice by the Iowa Air Quality Commission (IAQC) and, in one case, by the Department of Environmental Quality (DEQ) Executive Committee. Rules adopted by the Executive Committee affect all divisions of the DEQ. The significant changes are discussed below.

On November 20, 1975, a new Chapter 52 of the Iowa Administrative Code was adopted by the Executive Committee, establishing a procedure for release, upon request, of information submitted to the DEQ. The procedure provides for confidential treatment of data which are subject to a valid claim of confidentiality and specifically exempts air emissions data from confidential treatment. The chapter was made effective on January 19, 1976.

In accordance with the above action, the IAQC abolished its own regulation 2.1(4), "Confidentialfty," effective February 16, 1976.

Chapter 3, of the Air Pollution Control Regulations, is amended to require the director, upon written request, to determine the acceptability of the location of proposed new equipment.

Chapter 3 now also requires that permit applications be complete before the 60-day limit for approval or denial begins.

The director can now require new permits for portable equipment which has been moved, as well as for modifications to existing stationary sources. He can also require additional control equipment on a portable source if, in its new location, it will prevent the attainment or maintenance of ambient air quality standards.

Exempted from permit requirements are fugitive dust controls, unless a control efficiency can be assigned to the equipment, equipment which eliminates all emissions to the atmosphere, and equipment which emits odors, unless it also emits particulate matter or other air contaminants.

According to Chapter 3, variances from New Source Performance Standards (NSPS) are not allowed.

Chapter 4, "Emission Standards," is amended to include, by reference, the federal NSPS for electric arc furnaces promulgated September 23, 1975 (40 FR 43850), and also by reference, any changes made before December 31, 1975, in the previously adopted NSPS.

The director is now allowed to impose an exhaust gas limit of 0.1 grain of particulate matter per standard cubic foot on any process which, though meeting the emission limits of the process weight rate table, will cause air pollution, as defined by Iowa State law.

A new Chapter 14, "Rules of Practice," has been adopted. This chapter specifies an organization for the IAQC, its general methods of operation, rules of practice, and provides a description of the various forms used by the DEQ Air Quality Management Division.

The above revisions to Chapters 2, 3, 4 and 14 were adopted by the IAQC on February 12, 1976, and became effective April 26, 1976.

A section of Chapter 14, describing a reporting form provided to owners of vehicles which have been cited for violation, has been reworded to specifically make submission of the form voluntary rather than mandatory. This corrects an error in the original printing of Chapter 14. The corrected version became effective June 7, 1976.

Section 4.3(3) is amended to increase the sulfur dioxide (SO_2) emission limit to 8-pounds-per-million Btu heat input for existing solid fuel-burning sources over 500-million-Btu-per-hour

heat input except for those sources located in specified counties of the State. A limit of 6-pounds-per-million Btu heat input applies to sources over 500-million Btu per-hour heat input located in the following counties: Black Hawk (Waterloo); Clinton (Clinton); Des Moines (Burlington); Dubuque (Dubuque); Jackson, Lee (Keokuk); Linn (Cedar Rapids); Louisa, Muscatine, and Scott (Davenport). A 6-pound limit is in effect statewide for new sources under 250-million Btu heat input.

It should be noted that the presently approved SIP emission limit for SO_2 from solid fuel-burning sources is 5-pounds-per-million Btu heat input. The State adopted a 6-pound limit, but requested that EPA not take action approving it as part of the SIP pending further revision of the regulations. The regulation adopted by the State is intended to supplant both the previous State regulation of 6-pounds-per-million Btu and the federally approved SIP regulation of 5-pounds-per-million Btu.

Liquid fuel-burning sources are limited to 2.5 pounds of SO_2 per-million Btu except for sources subject to NSPS.

Once a violation of the SO_2 ambient standards has occurred, the director may subject all solid fuel-burning sources within 20 kilometers of that particular monitoring site to a 6-pounds-per-million Btu emission limit rather than the 8-pound limit.

The revisions to Section 4.3(3) were adopted April 15, 1976, and became effective July 19, 1976.

In addition to the above revisions, the State has made a number of revisions in the codification and internal cross-referencing of the regulations. These are minor changes that do not affect the control strategy in the SIP.

In the notice of proposed rulemaking, public comment was solicited with regard to Iowa's amended regulations and the opportunity to request public hearing was provided. Copies of the materials submitted by the State were made available for public inspection at the Agency's Region VII office in Kansas City, Missouri; EPA headquarters in Washington, D.C.; and at the office of the Iowa DEQ. No requests for public hearing were received. Comments were received from the Iowa Manufacturers Association and the Iowa DEQ. Both commenters supported the proposed revisions to Section 4.3(3). In addition, the DEQ offered additional technical information in support of these revisions.

The challenge filed by the Administrative Rules Review Committee of the Iowa General Assembly to the revisions which specify different SO_2 limits in different counties has been rescinded by the Committee. The objection was discussed in the proposal document, but since it is withdrawn, it does not affect the approvability of the regulations.

All the above changes constitute a proposed revision to the State of Iowa SIP. The Administrator's decision to approve or disapprove revisions to a plan is based on whether or not they meet the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51 "Requirements for Preparation, Adoption and Submittal of State Implementation Plans."

After a careful review of all the changes contained in the proposed revision, the Administrator has determined that the proposed revisions to the SO_2 emission limits contained in Chapter 4 are inadequate to maintain the NAAQS for SO_2.

Technical documentation submitted to support Subrule 4.3(3)a(1), which relaxes SO_2 emission limits for major solid fuel-burning sources in all but 10 counties, was inadequate to demonstrate continued compliance with the NAAQS. Subrule 4.3(3)a(5) would reduce the allowable emissions from 8-pounds-per-million BTU to 6-pounds-per-million BTU if a violation of the NAAQS is monitored within 20 kilometers. This provision cannot be interpreted as adequately providing for attainment and maintenance of the NAAQS, since a violation of the NAAQS must occur before the section can be enforced. It could serve as a back-up provision if there was an adequate demonstration showing that within the technical limitations of predictive dispersion modeling the regulations would provide for maintenance of the NAAQS.

For the above reasons, Subrules 4.3(3)a(1) and 4.3(3)a(5) cannot be approved as part of the SIP.

Subrule 4.3(2)a, which permits the Director to impose a particulate matter emission limit of 0.1 grains-per-standard-cubic-foot of exhaust gas upon a source meeting the generally applicable process weight regulation if the Director determines that the source is causing air pollution in a specific area of the State, is being approved by the Administrator. Approval of this discretionary mechanism, however, does not in itself relieve the State from submitting to the Administrator for review and approval/disapproval, pursuant to section 110 of the Clean Air Act, a control strategy for particulate matter, including categorical or source specific-emission limitations and supporting air quality demonstrations pursuant to the call for revisions made on July 16, 1976 (41 FR 29479). The imposition of more stringent emission limitations by the Director under Subrule 4.3(2)a may result in emission limitations which are sufficient to attain NAAQS for particulate matter, in which case the plan deficiencies would be corrected upon submission to, and approval by, the Administrator of those more stringent emission limitations. However, since the limitations under Subrule 4.3(2)a are not federally enforceable until approved by the Administrator as plan revisions, and since it cannot be determined now whether exercise of Subrule 4.3(2)a will result in sufficient control to attain and maintain NAAQS, the deficiencies identified in the July 16, 1976, call for revisions for particulate matter cannot be considered to have been corrected by this approval action.

With the exception of Subrules 4.3(3)a(1) and 4.3(3)a(5) the revisions are determined to meet the requirements of section 110 and 40 CFR Part 51. Accordingly, with the exception of the specified amendments to Chapter 4, which are disapproved, this plan revision is hereby approved and made a part of the State of Iowa implementation plan.

(Sec. 110, 301, Clean Air Act as amended (42 U.S.C. 1857c-5, 1857g))

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart Q—Iowa

1. Section 52.820 is amended by adding paragraphs (c)(25) and (c)(26) as follows:

§ 52.820 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified: * * *

(25) Revisions to Rules 1.2, 2.1, 3.1, 4.1, 4.3, 4.4, and new Chapters 14 and 52 of the Iowa Administrative Code Relating to Air Pollution Control were submitted June 9, 1976, by the Department of Environmental Quality (Subrules 4.3(3)a(1) and 4.3(3)a(5) were disapproved).

(26) Additional air quality modeling to support the sulfur dioxide emission standards of Subrules 4.3(3)a(1) and 4.3(3)a(2) was submitted March 4, 1977, by the Department of Environmental Quality (Non-regulatory).

[FR Doc.77-15478 Filed 5-31-77;8:45 am]

[FRL 730-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to the Texas Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves revisions to Rules 23 and 24 of the General Rules of the State Implementation Plan (SIP) for Texas. The rules as revised reflect the requirement of applicable sources to comply with New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). Approval of the SIP revisions will help to ensure compliance with NSPS and NESHAPS requirements by applicable sources.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270 (214-749-3837).

SUPPLEMENTARY INFORMATION: On May 9, 1975, the Governor of Texas submitted revisions to Rules 23 and 24

of the General Rules. As revised, Rules 23 and 24 require applicable sources to comply with the requirements of NSPS and NESHAPS respectively. Review of the revisions indicated that Texas had met all procedural requirements for submitting SIP revisions, and that the revisions were approvable. Accordingly, a proposed approval of the revised Rules 23 and 24 was published in the FEDERAL REGISTER on March 21, 1977 (42 FR 15343).

PUBLIC COMMENTS

In the proposed approval of Rules 23 and 24, interested persons were given 30 days in which to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no evidence or data which conflicts with a final approval decision.

CURRENT ACTION

In this action, approval of the revisions to Rules 23 and 24 is being promulgated as proposed.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 1857c(a)).)

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by revising subparagraph (11) and adding subparagraph (12) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(11) Administrative revisions were submitted by the Texas Air Control Board with the semiannual report in 1974 for Sections I, II, III, IV, XI, and XIII, and with the semiannual report in 1975 for Sections I, II, XI, and XII (Nonregulatory).

(12) Revisions to Rule 23, concerning compliance with New Source Performance Standards, and Rule 24, concerning compliance with National Emission Standards for Hazardous Air Pollutants, were submitted by the Governor on May 9, 1975.

2. Section 52.2271 is amended by adding paragraph (c) as follows:

§ 52.2271 Classification of regions.

* * * * *

(c) The revision of Section II, classification of regions, submitted by the Texas Air Control Board with the semiannual in 1975 is disapproved.

[FR Doc.77-15481 Filed 5-31-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-337]

ELIMINATION OF COORDINATION PROCEDURES WITH U.S. DEPARTMENT OF AGRICULTURE AND U.S. DEPARTMENT OF THE INTERIOR

Miscellaneous Changes to Chapter

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to requests from the Office of Telecommunications Policy, the Department of the Interior, and the Department of Agriculture the Commission is deleting from its rules coordination procedures between the Commission and the U.S. Forest Service and the Bureau of Land Management for handling applications for transmitting facilities to be located on lands or reservations under the jurisdiction of these Federal departments.

EFFECTIVE DATE: June 3, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler, Safety and Special Radio Services Bureau (202-632-6497).

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1977.

Released: May 27, 1977.

In the matter of: amendment of Parts 1, 21, 23, 73, 74, 81, 87, 89, 91, 93, 94, 95, 97, and 99 of the Commission's Rules and Regulations to eliminate the coordination procedures with the U.S. Department of Agriculture and the U.S. Department of Interior when proposing to install or modify transmitting facilities on certain lands under the jurisdiction of these Departments.

1. The Commission has been advised by the U.S. Department of Agriculture and the U.S. Department of the Interior that they no longer have a need for, and consequently propose discontinuing participation in, the coordination procedures outlined in § 1.70 of the Commission's Rules and Regulations. The Office of Telecommunications Policy has concurred in this decision and is deleting these procedures from the Office of Telecommunications Policy Manual. All of these parties have requested the Commission to conform its rules by the deletion of these requirements.

2. Since the rules in question were adopted to satisfy the needs of these Federal agencies, and were designed solely for this purpose, and, since these agencies now indicate no need for such procedures, the Commission is deleting them from its rules.

3. Section 1.70 is basically a procedural rule. Therefore, we may adopt this order to delete it without first following the notice and comment procedures prescribed in Section 4 of the Administrative Procedure Act, 5 U.S.C. 553.

4. For the foregoing reasons, the Commission has concluded that the public interest will be served by adopting these rule amendments.

Accordingly, *it is ordered*, Pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 1, 21, 23, 73, 74, 81, 87, 89, 91, 93, 95, 97, and 99 are amended, effective June 3, 1977, as set forth in the attached appendix.

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

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

PART 1—PRACTICE AND PROCEDURE

I. Part 1 of the Commission's Rules is amended as follows:

§ 1.70 [Deleted]

1. Section 1.70 is deleted.

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

II. Part 21 is amended as follows:

1. Section 21.15 is amended by deleting and reserving paragraph (b).

§ 21.15 Technical content of applications.

* * * * *

(b) [Reserved]

* * * * *

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICE

III. Part 23 is amended as follows:

1. Section 23.20 is amended by deleting and reserving paragraph (c).

§ 23.20 Assignment of frequencies.

* * * * *

(c) [Reserved]

* * * * *

PART 73—RADIO BROADCAST SERVICES

IV. Part 73 is amended as follows:

1. Section 73.18 is amended by deleting and reserving paragraph (b).

§ 73.18 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

2. Section 73.215 is amended by deleting and reserving paragraph (b).

§ 73.215 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

3. Section 73.515 is amended by deleting and reserving paragraph (b).

§ 73.515 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

4. Section 73.624 is amended by deleting and reserving paragraph (b).

§ 73.624 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

5. Section 73.711 is amended by deleting and reserving paragraph (b).

§ 73.711 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

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

V. Part 74 is amended as follows:

1. Section 74.12 is amended by deleting and reserving paragraph (b).

§ 74.12 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

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

VI. Part 81 is amended as follows:

1. Section 81.31 is amended by deleting and reserving paragraph (c).

§ 81.31 Supplemental information required.

* * * * *

(b) [Reserved]

PART 87—AVIATION SERVICES

VII. Part 87 is amended as follows:

1. Section 87.31 is amended by deleting and reserving paragraph (e).

§ 87.31 Application for ground station authorization.

* * * * *

(e) [Reserved]

* * * * *

PART 89—PUBLIC SAFETY RADIO SERVICES

VIII. Part 89 is amended as follows:

1. Section 89.55 is amended by deleting and reserving paragraph (f).

§ 89.55 Filing of applications.

* * * * *

(f) [Reserved]

PART 91—INDUSTRIAL RADIO SERVICES

XI. Part 91 is amended as follows:

1. Section 91.54 is amended by deleting and reserving paragraph (f).

§ 91.54 Filing of applications.

* * * * *

(f) [Reserved]

PART 93—LAND TRANSPORTATION RADIO SERVICES

X. Part 93 is amended as follows:

1. Section 93.54 is amended by deleting and reserving paragraph (f).

§ 93.54 Filing of applications.

* * * * *

(f) [Reserved]

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

XI. Part 94 is amended as follows:

1. Section 94.25 is amended by deleting and reserving paragraph (e).

§ 94.25 Filing of applications.

* * * * *

(e) [Reserved]

* * * * *

PART 95—CITIZENS RADIO SERVICE

XII. Part 95 is amended as follows:

1. Section 95.17 is amended by deleting and reserving paragraph (e).

§ 95.17 Filing of applications.

* * * * *

(e) [Reserved]

* * * * *

PART 97—AMATEUR RADIO SERVICE

XIII. Part 97 is amended as follows:

1. Section 97.41 is amended by deleting and reserving paragraph (f).

§ 97.41 Application for station license.

* * * * *

(f) [Reserved]

* * * * *

PART 99—DISASTER COMMUNICATIONS SERVICE

XIV. Part 99 is amended as follows:

1. Section 99.11 is amended by deleting and reserving paragraph (g).

§ 99.11 Applications.

* * * * *

(g) [Reserved]

* * * * *

[FR Doc.77-15467 Filed 5-31-77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Docket No. HS-2, Notice No. 5]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Interim Rules on Construction or Reconstruction of Railroad Employee Sleeping Quarters; Revision

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Revision to interim rule.

SUMMARY: This document revises the Federal Railroad Administration (FRA) interim rules on the construction(or reconstruction) of railroad sleeping quarters in the vicinity of switching or humping operations to correct an error in the original interim rules. The revision deletes a requirement that an application for approval of a construction site within one-half mile of switching or humping operations contains a separate estimate of the number of anhydrous ammonia cars passing through the facility. The FRA has determined that a separate estimate of anhydrous ammonia cars is not essential to evaluation of proposed construction sites.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: John A. McNally (202-426-9178), Principal Lawyer: Grady C. Cothen, Jr. (202-426-8285)

SUPPLEMENTARY INFORMATION: Section 2(a)(4) of the Hours of Service Act, as amended (45 U.S.C. 62(a)(4)), prohibits the construction or reconstruction of railroad employee sleeping quarters within or in the immediate vicinity, as determined in accordance with rules prescribed by the Secretary of Transportation, of any area where switching or humping operations are performed. On December 3, 1976, FRA published in the FEDERAL REGISTER interim rules for determining whether proposed locations are sufficiently removed from switching or humping operations in light of all relevant factors (FR Doc. 76-3560; 41 FR 53028).

The effect of the revision set forth below is to delete the requirement that a carrier seeking approval of a site for the construction or reconstruction of sleeping quarters within one-half mile of switching or humping operations must include in its application an estimate of the average daily number of anhydrous ammonia cars passing through the facility. The rule had been erroneous in suggesting that such cars are required to be handled under FRA Emergency Order No. 5 (39 FR 38230; October 30, 1974). FRA has determined that requiring development of a separate computation of anhydrous ammonia cars is not essential to the evaluation of proposed sites. Under the rule as revised, such cars must still

be included in the overall estimate of placarded hazardous materials cars which a petition for approval must contain.

Since this revision is purely procedural and relates to regulations mandated by statute, it is not subject to the Department of Transportation policy concerning the evaluation of regulatory impact (41 FR 16200; April 16, 1976).

In consideration of the foregoing, paragraph (b)(7)(ii) of Rule 2, published at page 53030 of Vol. 41, FEDERAL REGISTER, is revised to read as follows:

Rule 2 *Approval procedure: Construction between one-third and one-half mile (1,760 to 2,640 feet) (536 to 804 meters).*

* * * * *

(b) * * *

(7) * * *

(ii) number of DOT Specification 112A and 114A tank cars transporting flammable gas subject to FRA Emergency Order No. 5.

* * * * *

Issued at Washington, D.C., on May 10, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-15420 Filed 5-31-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Room Air Conditioners

AGENCY: Federal Energy Administration.

ACTION: Final Rule.

SUMMARY: This rule prescribes final test procedures for room air conditioners. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: July 5, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-4635.

James E. Merna (Media Relations), Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-9833.

Elliott D. Light (Office of the General Counsel), Room 5116—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-9750 or (202) 566-9380.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for room air conditioners pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163).

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general provisions, and a Subpart C, containing proposed energy efficiency improvement targets. A further proposal of Subpart C will be necessary in order to meet the requirements of section 325 (a)(1) of the Act as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94-385).

By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Among its provisions, the notice issued July 22 set forth proposed test procedures for room air conditioners. A notice clarifying the sampling provision of the proposed air conditioner test procedure was issued March 24, 1977 (42 FR 16811, March 30, 1977). Today FEA is establishing Part 430 as an amendment to Chapter II of Title 10, Code of Federal Regulations, by prescribing final room air conditioner test procedures in Subpart B and certain associated definitions and general provisions in Subpart A of Part 430.

Both the July 22 and the March 24 notices solicited oral and written comments from interested persons. A public hearing on the July 22 notice was scheduled September 10, 1976. Because only one respondent, the Association of Home Appliance Manufacturers (AHAM), requested the opportunity to present its views orally, the public hearing was not held. Instead, on September 30, 1976, the AHAM representativese prsented their views to FEA at a conference held in the offices of FEA. A hearing originally scheduled on April 15, 1977, for the March 24 notice was held on April 14, 1977.

B. DISCUSSION OF COMMENTS

Comments were received from both consumers and industry. Comments from consumers accounted for a majority of the comments received. Most of the comments of consumers, however, concerned the content of the label and the manner in which the energy-related information should be expressed. As will be discussed below, such comments are not relevant to this regulation, but will be considered in the development of regulations pertaining to labels. Comments from industry were directed to the label as well as more technical questions concerning the proposed test procedure. The major issues raised by the comments are discussed below.

1. Representative Average-Use Cycle and Useful Information. Several comments focused criticism upon the determination of the representative average-use cycle for room air conditioners of 750 hours annually and upon the utility to the consumer of knowing the estimated annual operating cost for room air conditioners which would be developed under FEA's proposal.

In responding to these comments it is important to note that section 323(a)(4)(A) of the Act imposes a duty upon the Administrator to prescribe test procedures for determining the estimated annual operating costs of room air conditioners and other covered products unless he determines, pursuant to sections 323(a)(6) and 323(b), that such test procedures cannot be "reasonably designed" or would be "unduly burdensome to conduct." Moreover, in section 323(b)(2), the Act requires that one element of the estimated annual operating cost shall be a representative average-use cycle, as determined by the Administrator.

FEA has reviewed these comments, as discussed further below, and has determined that it is appropriate to include in the test procedures which are being prescribed at this time for room air conditioners a test procedure for the determination of estimated annual operating costs, which test procedure incorporates a representative average-use cycle of 750 hours per year.

(a) Representative average-use cycle. The proposed regulations contained a representative average-use cycle representing a national average annual air conditioner use time of 750 hours. Criticism of the representative average-use cycle was directed at the meaningfulness of any average annual use figure as well as the value of 750 hours contained in the proposed regulations. It was also noted that the proposal was unclear as to whether this was 750 hours of operation time or of compressor operating time.

The comments took issue with the use of a national average air conditioner usage figure on the grounds that it would often either underestimate or overestimate the time of operation of a particular air conditioner, depending upon the geographic area in which it was used. Thus, any value for the estimated annual operating cost of room air conditioners based on the average use figure would be similarly inaccurate. The conclusion reached in the comments, however, was that test procedures for the estimated annual operating cost should not be prescribed at all. As discussed above, this is not a viable alternative. No suggestions were provided with regard to how the estimated annual operating cost might be otherwise determined.

Although the average annual operating time of air conditioners is admittedly an approximation and may, in some cases, misstate the actual operating time of a particular unit, it is representative of actual use. Since the estimated annual operating cost of all air conditioners will be rated using the same value for the annual operating time, consumers will have a valid basis for comparing different units. The average-use figure thus effectuates the purpose of the Act. For this reason, it has been retained in the final regulations.

Comments were also directed at the 750 hour figure itself. The only data sub-

mitted were for air conditioner usage in New York City for 1974–1975. The data were neither fully explained nor was there any attempt to show how the data affect the national average. It should be noted that the methodology used to arrive at the 750 hour figure included determination of the average hours of air conditioner operation in 138 cities (including New York) weighted by population. A change in the value for New York City would not significantly change the value of the national average.

In the proposed regulations, the average usage cycle was established to be 750 hours. This value is adopted in the final regulations. The phrase "hours of compressor operation" has been added to the final regulations to make clear that the 750 hour figure applies to compressor operating time.

(b) *Usefulness to Consumers.* For many of the reasons stated above, FEA believes that an estimated annual operating cost for room air conditioners incorporating a 750-hour representative average-use cycle is likely to assist consumers in making purchasing decisions.

Moreover the utility to the consumer of this information on appliance labels is subject to the further review of the FTC. Section 324(c)(1)(A) of the Act provides that the estimated annual operating costs may not be included on any label if the FTC *"determines that such disclosure is not likely to assist consumers in making purchasing decisions* or is not economically feasible," in which case the FTC "shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under Section 323) * * *" (Emphasis added.)

Accordingly, the comments concerning the desirability of including cost data on the label (as well as all consumer comments regarding the label) have been forwarded to the FTC for consideration in developing labeling rules applicable to room air conditioners.

2. *Use of nameplate values; number to be tested.* Comments were received regarding the method by which the test variables (energy consumption and cooling capacity) should be derived. Specifically, it was suggested that nameplate rather than measured values for these parameters should be used in the required calculations. Comments were also directed at the proposed sampling provision (section 430.23(f)).

The comments directed at the proposed sampling provision are closely tied to the industry suggestion that nameplate values for electrical input and cooling capacity be used to determine the measures of energy consumption applicable to room air conditioners. As proposed, the sampling provision of § 430.23(f) required testing of units taken from actual production. The FEA sampling provision was thus to be applied after room air conditioning units were in full production.

Manufacturers pointed out that the nameplate values are determined prior to production through procedures which include the testing of units which are representative of production units. Such testing includes calorimeter testing (the laboratory methodology incorporated in Appendix F). Production units are monitored to assure the accuracy of the nameplate values by manufacturers using test methods which correlate with the calorimeter procedure.

The industry objected to the sampling provision on general grounds that it would severely disrupt current industry practice by requiring that the rating of air conditioning units be delayed until after production was initiated. This could create serious scheduling problems in their advertising and distribution programs. As an alternative, the industry proposed that nameplate values be used and that tolerances be placed on actual test values related to the nameplate value. A manufacturer, under the industry approach, must demonstrate that a particular production unit, when tested in accordance with the test methodology of Appendix F, would be within these tolerances.

The purpose of FEA's sampling provision was to assure that the values determined by a manufacturer for measures of energy consumption could be validly compared with the values of such measures given by other manufacturers. FEA also intended that testing of room air conditioners not be unduly burdensome to conduct. The industry commented that a sampling approach did not fulfill these purposes. First, a manufacturer could meet the FEA requirement despite significant variability in the energy consumption and cooling capacity values of production units simply by testing a large number of units. Second, application of sampling to production units to determine the rating of a particular basic model would be burdensome.

The industry comments raise serious questions regarding the effect of the proposed sampling provision on present industry practice. However, the need for representative, comparable values for the various measures of energy consumption remains paramount. For this reason, the suggestion that nameplate values be used as the basis for these measures is rejected. The nameplate value provides no guarantee that it is representative of the typical or average performance of room air conditioners.

Having determined not to use nameplate values, the industry's criticisms of the proposed sampling provision still remain. A large part of the difficulty with this provision is due to its scope. Tests procedures prescribed under section 323 of the Act are intended to be used, for example, for labeling under section 324, in monitoring of the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, proposed § 430.23(f) has been limited in the final test procedures to testing which section 323(c) of the Act would require regarding the advertising of room air conditioners. The sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(f) of the final test procedures. Section 430.24(f) is similar to proposed § 430.23(f) but with several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Even pre-production testing pursuant to section 323(c) must be calorimetric testing.

Manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(f). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In response to comments from the industry certain technical changes have also been made in the sampling language. Specifically, the mean of the sample is required to be within 5 percent of the estimate of the true mean of the basic model population.

3. *Energy savings features.* As noted in the comments, the proposed regulations did not provide a mechanism by which the contribution of special design features to reduced energy consumption could be evaluated. One comment identified an optional automatic fan control as such an energy saving feature and recommended a methodology by which the amount of energy saved by this feature could be calculated.

The automatic fan cycle is designed to reduce energy consumption of air conditioners by shutting off the fan when the thermostat turns off the compressor. As with most energy saving features, the automatic fan may be optional with the user. However, unlike features on other appliances, use of the optional fan cycle may be attended by effects which may act to reduce the theoretical savings or which actually result in greater energy

consumption. In particular, it is not known how the cycling of the fan will affect the operation time of the compressor. For example, thermostats generally sense air temperature as it arrives at the air conditioner. With the fan also turned off, the thermostat may sense a temperature other than room temperature. This may cycle the air conditioner on and off more frequently than would occur if the fan operated independently of the thermostat. Consequently, compressor running time would increase and the amount of energy saved by cutting off the fan would be reduced.

Compressor running time may also increase if air conditioner use patterns were changed as a result of the automatic fan. Such a change might result if fan shut-off were to affect the distribution of conditioned air in the room in which the air conditioner is installed. The user may find lower thermostat settings necessary to achieve the same level of comfort achieved on the normal cycle.

The problems cited above should not be read to suggest that the Agency will not, under any circumstances, consider the energy savings of automatic fan cycles. However, until it is clear how these factors can be taken into account, it is not possible to evaluate the value of the automatic fan cycle. Manufacturers are encouraged to submit data with regard to the energy savings attributable to the automatic fan cycle.

While the final regulations do not make provision for the optional automatic fan control or other energy savings features FEA intends to propose modifications to the final regulations when it can be determined that a particular design feature contributes to reduced energy consumption and when this contribution can reasonably be quantified.

C. Regulations Prescribed

1. Test procedures. The test procedures for room air conditioners prescribed today are included in Subpart B and are substantially the same as those proposed. As with the proposed procedures, tests methods and conditions are based upon two national standards—American National Standard Z234.1–1972, "Room Air Conditioners," and American Society of Heating, Refrigerating and Air Conditioning Engineers Standard 16–69, "Method of Testing for Rating Room Air Conditioners." The applicable provisions of each of these standards is incorporated in and made a part of FEA's regulations prescribing test procedures for room air conditioners. For purposes of FEA's program, the incorporated provisions of the referenced standards remain applicable as presently written, regardless of any subsequent amendment of either standard by the standard setting organizations, until further amendment by FEA.

2. General provisions. Also prescribed today are certain general provisions and certain definitions applicable to room air conditioners which were previously proposed in Subpart A (41 FR 19977, 41 FR 31237). No comments were received regarding these definitions. All definitions appearing in section 321 of the Act were incorporated into the regulations by reference. Definitions of the terms "Administrator," "Btu," and "FEA" have been added to Subpart A for the purpose of clarification. The definition of the term "basic model" for room air conditioners has been changed. The proposed definition defined basic model as having identical electrical and cooling output ratings. FEA has determined that this definition was too restrictive since every room air conditioner manufactured will possess slightly different ratings. The new definition of basic model requires that all room air conditioners within a basic model have essentially identical functional physical and electrical characteristics. The intent is to create basic models that contain room air conditioners that perform with essentially identical cooling output and energy input ratings, but may differ slightly due to manufacturing tolerances. Further, acceptable physical differences can include non-functional characteristics such as trim, color, mounting method, sales model number, and brand name.

It should be noted that some of the definitions prescribed today may be applicable to test procedures for other appliances (some of which have recently been proposed). While these definitions are final, comments to the effect that any of these definitions are inapplicable to a particular appliance will be evaluated to determine whether amendment or modification is appropriate.

3. Application of test procedures. As discussed previously, the final room air conditioner test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. Instructions how to apply the standard test methodology will be proposed for comment as these other elements of the appliance program are developed.

The requirements of § 430.24(f) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. Unit Costs of Energy

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information will soon be provided in a following issue of the Federal Register.

In consideration of the foregoing, Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective July 5, 1977.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–384; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., May 24, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

Chapter II of Title 10, Code of Federal Regulations is amended by establishing Part 430, to read as follows:

Subpart A—General Provisions

Sec.
430.1 Purpose and scope.
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
430.23 Units to be tested [Reserved].
430.24 Representations regarding measures of energy consumption.

Appendices A–E [Reserved]
Appendix F—Uniform test method for measuring the energy consumption of room air conditioners.

Subpart A—General Provisions

§ 430.1 Purpose and scope.

This part establishes the regulations for the implementation of Part B of Title III (42 U.S.C. 6291–6309) of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by Pub. L. 94–385, which establishes an energy conservation program for consumer products other than automobiles.

§ 430.2 Definitions.

For purposes of this part, words shall be defined as provided for in section 321 of the Act and as follows—

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by Pub. L. 94–385.

"Administrator" means the Administrator of the Federal Energy Administration.

"Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and:

(1)–(5) [Reserved]

(6) With respect to room air conditioners, having essentially identical functional physical and electrical characteristics.

"FEA" means the Federal Energy Administration.

"Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed

space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

Subpart B—Test Procedures

§ 430.21 Purpose and scope.

This subpart contains test procedures required to be prescribed by FEA pursuant to section 323 of the Act.

§ 430.22 Test procedures for measures of energy consumption.

(a)–(e) [Reserved]

(f) *Room air conditioners.*—(1) The estimated annual operating cost for room air conditioners, expressed in dollars per year, shall be determined by multiplying the following three factors: (i) Electrical input power in kilowatts as determined in accordance with 4.2 of Appendix F to this subpart, (ii) The representative average-use cycle of 750 hours of compressor operation per year, and (iii) A representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy efficiency ratio for room air conditioners, expressed in Btu's per watt-hour, shall be the quotient of: (i) The cooling capacity in Btu's per hour as determined in accordance with 4.1 of Appendix F to this subpart divided by: (ii) The electrical input power in watts as determined in accordance with 4.2 of Appendix F to this subpart the resulting quotient then being rounded off to the nearest 0.1 Btu per watt-hour.

(3) The average annual energy consumption for room air conditioners, expressed in kilowatt-hours per year, shall be determined by multiplying together the following two factors: (i) Electrical input power in kilowatts as determined in accordance with 4.2 of Appendix F to this subpart, and (ii) A representative average use cycle of 750 hours of compressor operation per year, the resulting product then being rounded off to the nearest kilowatt-hour per year.

(4) Other useful measures of energy consumption for room air conditioners shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix F to this subpart.

§ 430.23 Units to be tested. [Reserved]

§ 430.24 Representations regarding measures of energy consumption.

(a)–(e) [Reserved]

(f) Room air conditioners.—(1) Except as provided in paragraph (f)(4) of this paragraph, no manufacturer, distributor, retailer, or private labeler of room air conditioners may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(f) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is a probability of not less than 0.95 that the mean of the sample is within ±5 percent of the estimate of the true mean of such measures of the basic model.

(2) The sample selected for paragraph (f)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (f)(1) of this section are satisfied at each rating.

(4) Whenever a rule applicable to room air conditioners is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

APPENDIX F—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ROOM AIR CONDITIONERS

1. *Test method.* The test method for testing room air conditioners shall consist of application of the methods and conditions in American National Standard (ANS) Z234.1-1972, "Room Air Conditioners," sections 4, 5, 6.1, and 6.5, and in American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 16-69, "Method of Testing for Rating Room Air Conditioners."

2. *Test conditions.* Establish the test conditions described in sections 4 and 5 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

3. *Measurements.* Measure the quantities delineated in section 5 of ANS Z234.1-1972.

4. *Calculations.* 4.1 Calculate the cooling capacity (expressed in Btu/hr) as required in section 6.1 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

4.2. Determine the electrical power input (expressed in watts) as required by section 6.5 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

[FR Doc.77-15419 Filed 5-31-77;8:45 am]

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Establishment of Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration (FEA) hereby establishes regulations for a program of weatherization assistance for low-income persons. These regulations set forth the requirements for the development and implementation of a weatherization program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher energy costs and to conserve needed energy.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary M. Bell, Director, Office of Weatherization Assistance, Room 6443, Federal Energy Administration, Washington, D.C. 20461 (202-566-3091).

SUPPLEMENTARY INFORMATION:

A. *Introduction.*
B. *Definitions.*
C. *Allocation of funds.*
D. *State applications.*
E. *Local applications.*
F. *Administrative requirements.*
G. *Minimum program requirements.*
H. *Allowable expenditures:*
1. Labor costs,
2. Installation costs,
3. Cost of weatherization materials,
4. Administrative costs.
I. *Standards for weatherization.*
J. *Eligible dwelling units.*
K. *Administrative review.*
L. *Technical assistance.*

A. INTRODUCTION

On April 1, 1977, the Federal Energy Administration published a proposed rule (42 FR 17470) to establish a program of weatherization assistance for low-income persons.

FEA received 50 written comments on the proposed rulemaking, and 106 individuals testified at the public hearings held by the Regional Offices during the week of April 18, 1977, and by the National Office on April 25, 1977. Virtually all of the commenters supported the goals and concept of the proposal, but many suggestions were made that resulted in significant changes in the final rule.

With the issuance of this final rule, the Federal Energy Administration (FEA) amends Chapter II of Title 10, Code of Federal Regulations, to establish a program of weatherization assistance for low-income persons pursuant to Part A, 42 U.S.C. 6861-6872, of Title IV of the Energy Conservation and Production Act (Act), Pub. L. 94-385, 90 Stat. 1125 et seq.

Although most of the comments FEA received addressed specific sections or items in the proposed rulemaking, some comments were more general. Thirteen commenters expressed the view that grants should be made directly to Community Action Agencies (CAA's) to avoid creating a new bureaucracy. Since the enabling legislation provides, with certain clearly defined exceptions, that funding for weatherization projects must be administered by the States, FEA has not incorporated this suggestion in the final rulemaking.

Twelve commenters recommended that FEA should model its guidelines more closely after those developed by the Community Services Administration (CSA) for its weatherization program. However, since the Act delegates responsibility for implementing the legislation, which is markedly different in many respects from CSA's authorizing legisla-

tion, to FEA. FEA's guidelines must articulate the requirements of the Act.

Three commenters suggested that FEA should coordinate with CSA, Department of Labor (DOL) and the Administration on Aging (AOA) in developing regulations. FEA is sensitive to the importance of coordination with other agencies but considers that the extent to which it has coordinated its activities with those of other relevant agencies is sufficient.

B. DEFINITIONS—§ 440.3

FEA received six comments on the definitions in the proposed rulemaking, all of which suggested that ventilation and vapor barriers should be specifically included under "weatherization materials." The final guidelines have added vapor barriers to the materials cited in the proposed definition. Furthermore, some of the definitions have been modified, some eliminated and others added, either to clarify language used in the proposed regulation or to reflect changes made by the final rulemaking. Specifically, the following revisions have been made—"annual degree days" has been eliminated and "cooling degree days" and "heating degree days" have been added in order to clarify the allocation formula; "Indian" has been replaced by "Native American"; "sub-grantee" has been defined more precisely; and definitions of "local applicant" and "CETA", as an abbreviation for the Comprehensive Employment and Training Act of 1973, have been added.

C. ALLOCATION OF FUNDS—§ 440.10

Proposed § 440.10 sets forth the allocation provisions for funding of the program. Two comments were received stating that allocating a base of $100,000 to each State is unjustified because of the great difference in need between the States. With one exception, FEA believes that the need factor is adequately treated by the percentage allocation provided by the proposed formula. With the exception of Alaska, each State will be allocated a base of $100,000.

FEA has received three comments regarding Alaska's allocation under the formula. The commenters have recommended that Alaska be exempted from the allocation formula and that Alaska's allocation be determined separately. Because of these comments as well as the reasons indicated in the proposed rulemaking, FEA believes an adjustment is merited. Accordingly, Alaska will be given a base allocation of $200,000 which is double the amount awarded to each of the other States. FEA believes that with this adjustment adequate provision has been made to address the unique problems encountered in Alaska.

FEA has retained in this final regulation the proposed formula for establishing the percent of each State's share of the remaining appropriated funds.

Twelve comments were received questioning FEA's assumption that the cost of weatherizing a multi-family unit is half the cost of weatherizing a single family unit. No reasonable alternatives were proposed in these comments, nor was any hard data (on a nationwide basis) produced. FEA will retain the 0.5 factor assigned to renter-occupied dwelling units because, although an approximation, it represents a reasonable and workable correlation between the cost of weatherizing this type of dwelling unit and the greater cost of weatherizing single-family dwelling units.

Six commenters recommended that degree days not be squared because squaring overremphasizes climate in comparison to the number of dwelling units eligible for assistance. FEA has concluded, however, that squaring the degree day factor places a greater emphasis on the States with extremes of climate where the greatest need for weatherization and potential for energy conservation is found.

Four comments were received recommending that more emphasis be given to cooling degree days in the formula because the proposed formula was biased in favor of the colder States. Four comments were received recommending that even greater weight be given to heating degree days because weighting the funds in favor of the Northern tier will yield the greatest energy savings. FEA has retained the weighting provided by the percentages of total residential energy used for heating or cooling respectively in the proposed formula because it is consistent with the potential for energy savings.

One commenter recommended inclusion in the formula of a factor for regional cost of living differences, and another recommended a factor for the number of senior citizens in a State. FEA has concluded, however, that the factors included in the formula are sufficient to distribute the funds equitably. A factor for senior citizens is unnecessary because the Act requires that priority be given to assisting elderly low-income persons. Moreover, most weatherization projects in operation at this time report expending 80–90 percent of their resources for weatherizing the dwellings of the low-income elderly. A factor for regional cost of living differences is unnecessary because, in general, those areas with a higher cost of living are the Northern Tier States which are already receiving a greater share of the available funds than the "sunbelt" States. With respect to Alaska, the Office of Management and Budget (OMB) Poverty Guidelines take into account regional cost of living differences by increasing the poverty level to 25 percent above that established for the other States.

D. STATE APPLICATIONS—§ 440.12

Proposed § 440.12 sets forth the application procedures for a State.

One commenter recommended that FEA require the participation of State agencies on aging and State agencies assisting handicapped individuals in need of weatherization. This commenter also recommended that these agencies be permitted to participate in the development of priorities for the provision of weatherization assistance to elderly and handicapped individuals. It should be noted that the regulation does not restrict the participation of interested persons in the development of the State plan and that these persons may present their views at the public hearing for the proposed plan. FEA wishes to give the States maximum flexibility in the planning phase of the program and declines to mandate the participation of any particular organization.

FEA will require the budget to include a justification and explanation of any amounts which an applicant seeks to expend for tools and equipment or transportation costs or vehicle repair or insurance. This provision is necessary to make certain that the limited funding available will be used to the maximum extent practicable to purchase weatherization materials.

FEA has also made minor technical revisions to proposed § 440.12 but the final version contains no additional substantive changes or additional submission requirements.

E. LOCAL APPLICATIONS—§ 440.13

FEA has revised proposed § 440.13 to provide greater clarity. Only one substantive change was made: to require the Regional Administrator to give written notice to all local applicants in a State if a State does not participate in the program. The 30 day application period for a local applicant only commences to run upon receipt of written notice. FEA believes this creates a fairer opportunity for local applicants by putting them on notice of their potential eligibility for direct funding.

Three commenters recommended that the definition of "local applicant" include non-profit corporations, consortia of local agencies, and other community based organizations. There may be many organizations other than CAA's, units of general purpose local government, and Indian tribal councils which are capable of establishing and operating a weatherization project. However, FEA is restricted to its definition of local applicant by the Act.

F. ADMINISTRATIVE REQUIREMENTS—§ 440.14

Three commenters recommended that the final rulemaking should provide a right of appeal for a CAA which applied for, and was denied, allocation or priority funding. FEA is concerned that permitting a CAA to appeal the denial of funding to a Regional Administrator could unduly delay approval of a State plan, thereby preventing timely distribution of funds to other sub-grantees. Although the final rulemaking does not permit a CAA to appeal a denial of funding, final § 440.14(e) requires that a Governor or Regional Administrator, in determining whether or not a CAA's emergency energy conservation program has been effective in meeting the purpose of the Act or has the capacity to support a weatherization project of the scope for which the grant application was made, shall consider specific factors. These factors were not included in the proposed regulation. The regulation now requires

that the Governor or Regional Administrator consider the extent to which an existing program meets its goals, the quality of work performed, and the number, qualifications and experience of staff members. This will provide a clearer basis for the determination without delaying implementation of the program.

HEW suggested that various State agencies dealing with the problems of the elderly and handicapped should be afforded the opportunity to review and comment on proposed State plans. FEA considers this suggestion to be unworkable in light of applicable time constraints. Furthermore, the Policy Advisory Council's (PAC's) already perform a similar function to that identified by the commenter.

Section 440.14 has been changed in several other respects. First, the notice provision in paragraph (a) specifically requires a State to give not less than 10 days notice reasonably calculated to inform prospective sub-grantees that a hearing will be held. Second, subparagraphs (G) and (H) have been added to subparagraph (b)(1) and require a final State plan to include, for any area to be served by a weatherization project, estimates of the number of eligible dwelling units in which the elderly and handicapped reside. Third, subparagraph (B) has been added to subparagraph (b)(2) and requires a final State plan to include an explanation of the method used to select each area to be served by a weatherization project. Fourth, subparagraph (F) has been redesignated subparagraph (H) and new subparagraphs (F) and (G) have been added as additional submission requirements for the plan. Subparagraph (F) requires a statement of the amount of weatherization grant funds allocated to a State. Subparagraph (G) requires an estimate of the expected average cost per dwelling unit to be weatherized. These changes facilitate FEA's review of the plan.

G. MINIMUM PROGRAM REQUIREMENTS—§ 440.15

The final rulemaking expands proposed § 440.15(a) by adding subparagraph (7) which states that the procedures required by this paragraph shall also ensure that low-income Native Americans receive benefits equivalent to the assistance provided to other low-income persons within a State unless the applicant has made a recommendation in accordance with § 440.12(b)(10).

Subparagraph (2) has been added to § 440.15(c) to require that a PAC shall be responsive to the needs of, and include a person who represents, Native Americans.

H. ALLOWABLE EXPENDITURES—§ 440.16

1. *Labor costs.* FEA received 56 comments, including one from CSA, three from State Governors, 10 from representatives of State agencies, 25 from Community Action Agencies, and 18 from other interested parties, to the effect that labor should be an allowable expenditure under this section. Thirteen commenters suggested that if a grantee could certify and document bona fide but unsuccessful attempts to secure labor from volunteers, training participants and public service employment workers, the appropriate State PAC should be authorized to waive the restriction on using grant funds for labor. After giving lengthy and thorough consideration to the many comments, FEA has determined not to adopt this suggestion at this time for the following reasons: First, the Act requires that funds be applied to the purchase of materials to the maximum extent practicable; second, the Act requires that labor be provided by volunteers and CETA workers to the maximum extent practicable; third, the Act states that financial assistance under the program should supplement, and not supplant, State or local funds in order to maximize the total amount of funding available for weatherization activities; fourth, allowing labor costs could divert funding from weatherization assistance to a public employment resource and manpower training program. While this latter objective may be independently desirable, the Act does not give FEA a mandate to incorporate it in its weatherization assistance program.

The determination to prohibit labor as an allowable program expenditure was made only after considerable debate and review. This determination was based in part upon the fact that neither FEA nor the commenters were able to obtain hard data on the number of paid workers needed to supplement volunteers, training participants, and public service employment workers, or firm assurances that adequate CETA positions would be made available to support FEA's weatherization program. Still, the projected availability of large amounts of CETA funds during the period of FEA's weatherization program lends compelling support to the position that States will have fully adequate funds to support the installation of the weatherization materials purchased under this regulation. FEA intends to monitor this situation closely during the program year. If FEA determines, after review of ongoing programs and analysis of data regarding the adequacy of manpower, that sufficient volunteers, training participants, and public service employment workers are not available to support this effort, FEA will reconsider this issue, but such reconsideration will necessarily have to include a review of how States used their available CETA funds.

Twenty-one commenters proposed that if labor costs are disallowed FEA should, by formal agreement with DOL, attempt to ensure the availability of an adequate supply of CETA manpower for local weatherization projects. FEA is in the process of developing a cooperative agreement to secure coordination with DOL.

Ten commenters advocated including costs of supervision as allowable expenditures. Proposed § 440.16(b) provided that expenses incurred for supervisors or foremen are allowable as administrative expenses, and this provision is retained in the final rulemaking.

2. *Installation Costs.* FEA received nine comments recommending that the purchase price of weatherization materials installed by the supplier constitute an allowable expenditure. FEA has decided against adopting this recommendation because the purchase price represents an expenditure for labor to the extent the price of materials includes installation costs.

3. *Cost of Weatherization Materials.* Proposed § 440.16(a) limited allowable costs for weatherization materials to their purchase price F.O.B., but not including mechanical equipment valued in excess of fifty dollars; the cost of transporting weatherization materials, including the costs of maintaining, operating and insuring vehicles used to transport materials, but excluding the costs of purchasing or leasing any vehicles; and taxes. Nineteen commenters expressed the view that transportation costs should include expenditures to purchase and lease vehicles. FEA has determined that the authorized level of funding for this program would be overburdened by an allowance for vehicle purchase and leasing costs.

Six commenters suggested that FEA include the costs of transporting work crews as allowable expenditures. FEA has adopted this suggestion and has made the cost of transporting work crews and tools and equipment an allowable expenditure. In order to ensure the maximum utilization of program funds for the purchase of weatherization materials, FEA has determined that there must be a limit placed on these expenditures. Since the Act provides that the Weatherization Assistance Program is to be coordinated with other Federal programs, and since FEA is aware that the majority of the weatherization projects receiving grant funds under this part will be ongoing programs, FEA has determined that funds should be made available for transportation principally to new projects which require start-up money. After considering the limit to be placed on the total transportation costs within a State in this light, FEA has set a maximum of $7,500 of a State's allocation on such expenditures. This limitation is contained in § 440.16(a)(2).

Seven commenters recommended that essential storage and insurance costs constitute allowable expenditures. FEA will not allow these costs in order to maximize the funding available to purchase weatherization materials. However, FEA has amended § 440.16(b) to provide that allowable administrative expenditures may include the costs of liability insurance for personal injury and property damage for a weatherization project.

FEA received 45 comments urging that reasonable costs of tools and equipment necessary to the installation of weatherization materials constitute allowable expenditures. FEA agrees that for many weatherization projects, primarily new projects, these expenses will be essential. In order to maximize the expenditure of grant funds for the purchase of weather-

ization materials, while at the same time allowing start-up costs for new projects, FEA has determined that a limit must be placed on expenditures for tools and equipment. Accordingly, § 440.16(a)(3) of the final rulemaking provides that total allowable expenditures include tools and equipment not in excess of $50 per item and a total of $5000 or 1 percent of a State's allocation, whichever is less.

To implement the restriction on these expenditures, FEA now requires the budget submitted with the application to state the amount of expenditures accompanied by an explanation and justification. Accordingly, an applicant must anticipate and project its requirements with respect to transportation costs, vehicle repairs and insurance, and tools and equipment in its application.

Ten commenters recommended allowing the costs of purchasing high efficiency or alternate fuel heating units. FEA will not allow this expenditure because of the statutory prohibition on mechanical equipment in excess of $50.

Ten commenters suggested that the costs of cleaning or repairing heating and cooling sources should constitute allowable expenditures. FEA will not allow these expenses in order to maximize the amount of funds used to purchase weatherization materials. Moreover, the cleaning of heating and cooling sources, such as replacing an air filter, is only a short term energy conservation measure. Finally, the repair of heating and cooling sources entails a greater level of skill than can reasonably be expected from volunteers or public service employment workers.

HEW commented that damage to a dwelling unit caused by fire or other events beyond a resident's control should justify providing weatherization assistance to a family unit a second time. FEA agrees with this recommendation and has modified § 440.16(c) to provide an exception to the proposed rulemaking's restriction on the use of grant funds to weatherize a dwelling unit that had previously been weatherized with funds authorized under the Act. Under the final regulation, the restriction will not apply if the dwelling unit has been damaged as a result of fire, flood or other act of God and the cost of repairing the damage to weatherization materials is not paid for by insurance coverage.

4. *Administrative Costs.* Forty-one commenters considered that the 10 percent allowance for administrative costs was insufficient because, among other reasons, grantees are required to audit annually, and monitor periodically, local projects; grantees are accountable for their sub-grantees' noncompliance; and both grantees and sub-grantees have recordkeeping and reporting requirements. Because the Act directs FEA to confine the allowance for administrative costs to 10 percent of a grant, FEA is unable to incorporate these suggestions.

Six commenters recommended that local projects be entitled to the full 10 percent allowance and that an additional 10 percent should be allowed for the State's administrative budget. Two other commenters stressed the importance of ensuring that sub-grantees would receive at least some portion of the 10 percent administrative budget. FEA wishes to preserve each grantee's flexibility to establish an optimal administrative budget in light of local needs and opportunities and therefore has not adopted these recommendations.

I. STANDARDS FOR WEATHERIZATION—§ 440.17

The standards for weatherization materials and energy conservation techniques are prescribed in § 440.17. With respect to standards for weatherization materials, one commenter stated that plastic sheeting should not be used as a storm window. FEA finds no justification at this time for prohibiting its use if it meets or exceeds the standards in Appendix A and if a grantee finds it cost-effective.

Two other commenters identified a more serious problem. One stated that urea-formaldehyde foam should be excluded because it may generate toxic fumes. Another recommended the use of a low-tec solar panel. In proposed § 440.17, FEA permitted the use of weatherization materials for which it had prescribed no standard. FEA believes that this does not meet its statutory obligation to prescribe standards under the Act. Moreover, FEA seeks to preclude the use of weatherization materials which may be hazardous. Finally, a weatherization project should be required to use weatherization materials which have been demonstrated to be cost-effective and of reliable quality.

Accordingly, § 440.17(a) now provides that a weatherization project may only use weatherization materials for which standards have been prescribed by FEA. However, FEA may approve the use of a weatherization material not listed in Appendix A of the regulation at the request of a grantee or sub-grantee. In considering such a request, FEA will evaluate the extent to which the use of the material will achieve a balance of a healthful dwelling environment and maximum practicable energy conservation. Furthermore, where appropriate FEA will coordinate its evaluation with the Departments of Housing and Urban Development and Health, Education, and Welfare and the National Bureau of Standards.

With respect to approaches to weatherization, including energy conservation techniques, 22 comments were received.

Five commenters recommended that each PAC be responsible for recommending a system for inspection of completed work that will ensure:

(1) That the principles of a balanced combination of energy conserving improvements as set forth in the CSA Community Planning Guide have been adhered to;

(2) That infiltration problems have been dealt with;

(3) That insulation materials meet minimum Federal standards of effectiveness; and

(4) That quality of workmanship has been maintained in accordance with standards described on pages 27-29 of the Community Planning Guide.

Another commenter stated that the "balanced combination" approach causes problems in planning and that one should proceed "normally" with stopping cold air infiltration and with the use of attic insulation. Two additional commenters suggested that the regulation should encourage the greatest overall energy savings per dollar spent rather than the optimal weatherization of homes.

Six commenters stated that the Project Retro-Tech manual is too limited in its coverage of the techniques of weatherizing single-family homes, is applicable only to standard construction and does not cover all types of work necessary to properly weatherize a dwelling.

After full consideration of these comments, FEA continues to believe that Project Retro-Tech, at this time, is the clearest procedure available to carry out effective weatherization work. However, since FEA wishes to encourage local initiative, while at the same time discharging its statutory obligation to prescribe standards for weatherization techniques, FEA will follow the approach of proposed § 440.17(b) and will permit a grantee to use alternate techniques approved by the Regional Administrator if the alternate approach meets or exceeds Project Retro-Tech. In considering such a request, the Regional Administrator will use the evaluation criteria stated above for unlisted weatherization materials.

These exceptions for weatherization materials and energy conservation techniques will be made on a case-by-case basis. FEA will consider altering its standards, by rule, as appropriate, based upon experience with the program.

J. ELIGIBLE DWELLING UNITS—§ 440.18

Forty comments were received criticizing FEA's restrictive income eligibility criteria. The overwhelming concerns were:

1. The "near poor" and "working poor" are in great need of weatherization assistance and the program ignores this segment of the population; and

2. Different income eligibility criteria cause confusion at the local level.

The definition of "low-income" is provided by the Act and cannot be changed without legislative amendment. Accordingly, FEA has retained the criteria prescribed in the proposal.

K. ADMINISTRATIVE REVIEW—§ 440.30

This appeal procedure applies only to a State or eligible local applicant but not to a sub-grantee, such as a CAA. For example, the regulations do not provide an appeal right for a CAA which has applied as a sub-grantee and which has been denied an allocation or priority in accordance with the requirements of this part. One commenter recommended a preliminary hearing but FEA believes this would only complicate and delay the funding process.

FEA has revised proposed § 440.30 to provide greater clarity. The changes

were necessary, in part, to apply the review process to a situation where the Regional Administrator intends to deny funding to a local applicant whose application meets the requirements of this part. For example, two local applicants may submit applications that comply with the regulation to conduct weatherization projects in the same area. In this situation, neither party needs to correct its application but the Regional Administrator must choose one or the other. In this event, the Regional Administrator's intent to deny one of the two applications will be subject to the review process. A similar situation arises where the level of funding precludes a grant award to all local applicants.

L. TECHNICAL ASSISTANCE

Section 416 of the Act authorizes FEA to use up to 10 percent of the sums appropriated for FEA's weatherization program in any fiscal year to provide technical assistance to a weatherization project. Two commenters recommended that FEA provide such technical assistance. However, FEA has decided not to exercise this authority in order to maximize use of funds for actual weatherization work. FEA intends, however, to provide as much necessary technical assistance as it can, utilizing whatever existing staff and resources may appropriately be devoted to this task.

The proposed regulation was reviewed in accordance with Executive Order 11821 and OMB Circular A-107 issued November 7, 1974, by Executive Order 11949 and has been determined not to be a major proposal requiring an evaluation of its inflationary impact.

(Part A of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275, 15 U.S.C. 761; Executive Order 11790, 39 FR 23185.)

In consideration of the foregoing, Part 420 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Subchapter D, Chapter II of Title 10, Code of Federal Regulations, is amended by establishing Part 440 as follows:

Sec.
440.1 Purpose and scope.
440.2 Administration of grants.
440.3 Definitions.
440.10 Allocation of funds.
440.11 Native Americans.
440.12 State applications.
440.13 Local applications.
440.14 Administrative requirements.
440.15 Minimum program requirements.
440.16 Allowable expenditures.
440.17 Standards for weatherization.
440.18 Eligible dwelling units.
440.20 Oversight responsibility.
440.21 Recordkeeping.
440.22 Quarterly reports.
440.30 Administrative review.

AUTHORITY: Part A of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275, 15 U.S.C. 761; E.O. 11790, 39 FR 23185.

§ 440.1 Purpose and scope.

This part contains the regulations adopted by the Federal Energy Administration to carry out a program of weatherization assistance for low-income persons established by Part A, 42 U.S.C. 6861-6872, of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.

§ 440.2 Administration of grants.

(a) Grant awards under this part shall be administered in accordance with the following—

(1) Federal Management Circular 73-2, 34 CFR 251, entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"

(2) Federal Management Circular 74-4, 34 CFR 255, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(3) Federal Management Circular 74-7, 34 CFR 256, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(4) Office of Management and Budget Circular A-89, entitled "Catalog of Federal Domestic Assistance;"

(5) Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(6) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(7) Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information;" and

(8) Such procedures applicable to this part as FEA may from time to time prescribe for the administration of grants.

(b) Tools and equipment acquired with grant funds provided under this part shall be the property of the grantee, as more particularly provided for by paragraph (a)(3) of this section.

§ 440.3 Definitions.

As used in this part—

"Act" means the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.

"Administrator" means the Administrator of the Federal Energy Administration.

"CAA" means a Community Action Agency.

"CETA" means the Comprehensive Employment and Training Act of 1973, 42 U.S.C. 2781 et seq.

"Community Action Agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

"Cooling degree days" means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by FEA.

"Cosmetic items" means items which, when installed, will not reduce energy costs in a cost-effective manner, including, but not limited to finishes, decorative fenestration materials, and elevation materials such as aluminum siding, board and bat, clapboard, brick, shakes, or asphalt siding.

"Director" means the Director of the Community Services Administration.

"Dwelling unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Elderly Person" means a person who is 60 years of age or older.

"Eligible State" means any of the forty-eight contiguous States, Alaska, or the District of Columbia.

"FEA" means the Federal Energy Administration.

"Family unit" means all persons living together in a dwelling unit.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grantee" means the State or other entity named in the Notification of Grant Award as the recipient.

"Handicapped person" means any individual (a) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (b) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (c) who is receiving benefits under chapter 11 or 15 of Title 38, United States Code.

"Heating degree days" means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by FEA.

"Heating or cooling source" means a device the operation of which can raise or lower temperatures within a dwelling unit as part of the permanent heating, ventilating and air conditioning system installed in the dwelling unit, including but not limited to furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.

"Indian tribe" means any tribe, band, nation or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203; 85 Stat. 688, which (a) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans; or (b) is located on, or in proximity to, a Federal or State reservation or rancheria.

"Local applicant" means a CAA or unit of general purpose local government.

"Low-income" means that income in relation to family size which (a) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (b) is the basis on which cash assistance payments have been paid during the preceding 12 month period under Titles IV and XVI of the Social Security Act or applicable State or local law.

"Mechanical equipment" means a control device or apparatus which is primarily designed to improve the heating or cooling efficiency of a dwelling unit, and which will be permanently affixed to an existing heating or cooling source, including but not limited to a flue damper, clock thermostat, filter, or replacement limit switches.

"Multi-family dwelling unit" means a dwelling unit which is located in a structure containing more than one dwelling unit.

"Native American" means a person who is a member of an Indian tribe.

"Number of low-income, owner-occupied dwelling units in the State" means the number of such dwelling units in a State, as determined by FEA.

"Number of low-income, renter-occupied dwelling units in the State" means the number of such dwelling units in a State, as determined by FEA.

"Percentage of total residential energy used for space cooling" means the national percentage of total energy used for space cooling, as determined by FEA.

"Percentage of total residential energy used for space heating" means the national percentage of total energy used for space heating, as determined by FEA.

"Regional Administrator" means a Regional Administrator of the Federal Energy Administration.

"Rental dwelling unit" means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Separate living quarters" are those in which the occupants do not live and eat with any other persons in the structure and which have either (a) direct access from the outside of the building or through a common hall, or (b) complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

"Single-family dwelling unit" means a structure containing no more than one dwelling unit.

"State" means each of the States and the District of Columbia.

"Sub-grantee" means a weatherization project which receives a grant of funds awarded under this part from a grantee.

"Tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

"Unit of general purpose local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

"Weatherization materials" means items intended primarily to improve the heating or cooling efficiency of a dwelling unit including, but not limited to, ceiling, wall, floor and duct insulation, vapor barriers, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

§ 440.10 Allocation of funds.

(a) FEA shall provide financial assistance, from sums appropriated for any fiscal year, only upon annual application.

(b) FEA shall determine the allocation for each State as follows—

(1) The first five million dollars appropriated shall be divided equally among the eligible States; an additional one hundred thousand dollars shall be allocated to Alaska.

(2) The percentage of the remaining available funds allocated to each eligible State shall be determined by the following formula—

(i) The square of the number of heating degree-days in a State multiplied by the percentage of total residential energy used for space heating;

(ii) Plus the square of the number of cooling degree-days in the State multiplied by the percentage of total residential energy used for space cooling;

(iii) Multiplied by the sum of the number of low-income, owner-occupied dwelling units in the State and one-half of the number of low-income, renter-occupied dwelling units in the State;

(iv) Divided by the sum of the result produced for all States by the computation outlined in subparagraphs (i), (ii), and (iii) of this paragraph; and

(v) Multiplied by 100.

(c) The Administrator shall notify each eligible State of the amount of grant funds for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Regional Administrator may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that—

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part, and

(2) The members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Regional Administrator shall have made the determination referred to in paragraph (a) of this section, the Regional Administrator shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Regional Administrator shall make the determination prescribed in paragraph (a) of this section in the event a State shall—

(1) Not apply within the 90 day time period prescribed in § 440.14(a)(2),

(2) Recommend that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(10),

(3) File an application which FEA determines, in accordance with the procedures in § 440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State, or

(4) Have received grant funds, and FEA determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by § 440.15(a)(7).

(d) Any sums reserved by the Regional Administrator pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Regional Administrator determines is able to provide adequate weatherization assistance pursuant to this part. Where the Regional Administrator intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Regional Administrator has reserved funds pursuant to paragraph (b) of this section, the Regional Administrator shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of § 440.13.

§ 440.12 State applications.

(a) To be eligible for financial assistance under this part, a State shall submit an application to FEA in conformity with the requirements of § 440.15 not later than 90 days after the date of publication of this part. The Regional Administrator shall review each timely State application and, if the submission otherwise complies with the applicable provisions of this part, approve a final budget and issue a notice of grant award.

(b) Each application shall include—

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with § 440.14(a), except that an application by a local applicant

need not include a copy of the final State plan;

(3) A detailed description of the manner in which the minimum program requirements of § 440.15 will be met;

(4) The budget for total funds applied for under the Act which shall include a justification and explanation of any amounts requested for expenditure pursuant to § 440.16(a) (2) or (3).

(5) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded;

(6) A schedule for implementation which shall indicate the number of dwelling units which are expected to be weatherized by calendar quarter;

(7) An estimate of the number of single-family and multi-family dwelling units to be weatherized;

(8) An estimate of the minimum number of dwelling units to be weatherized where elderly persons reside;

(9) An estimate of the minimum number of dwelling units to be weatherized where handicapped persons reside;

(10) An estimate of the minimum number of dwelling units to be weatherized where Native Americans reside, or a recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to § 440.12(b);

(11) An estimate by percentage of the Federal manpower programs, volunteer labor programs or other labor sources to be used in implementing each proposed weatherization project;

(12) Any determination made in accordance with § 440.14(d) not to provide funds and the reasons for such determination, except that an application by a local applicant need not include this information; and

(13) Any further information which the Administrator finds necessary to determine whether an application meets the requirements of this part.

§ 440.13 Local applications.

(a) The Regional Administrator shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event—

(1) A State, within which a local applicant is situated, fails to submit an application within 90 days of the publication of this part; or

(2) The Regional Administrator finally disapproves the application of a State pursuant to § 440.30 of this part.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Regional Administrator within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submit a timely application, the Regional Administrator shall combine the hearing on the proposed plan pursuant to § 440.14(a) with a hearing on the intention to deny the timely application of one or more local applicants, as provided in § 440.30, to the maximum extent practicable. Based upon the final plan developed by the Regional Administrator, the hearing and information submitted by a local applicant and other interested persons, the Regional Administrator shall determine whether or not to award a grant to a local applicant and the amount thereof. The Regional Administrator may provide financial assistance to a local applicant to carry out one or more weatherization projects.

§ 440.14 Administrative requirements.

(a) Before submitting an application, a State shall give not less than 10 days notice of hearing, reasonably calculated to inform prospective sub-grantees, and shall conduct one or more public hearings for the purpose of receiving comments on a proposed State plan. The proposed State plan, which shall identify and describe proposed weatherization projects including a statement of proposed sub-grantees and the amount each will receive, shall be published and made available throughout the State prior to the hearing. The notice for the hearing shall specify that copies of the plan are available and how they may be obtained. A transcript of the hearings shall be prepared and written submissions of views and data shall be accepted for the record.

(b) Subsequent to the hearing, the State shall prepare a final plan which shall identify and describe—

(1) Each area to be served by a weatherization project within the State and shall include for each area—

(i) The number of dwelling units to be weatherized;

(ii) The climatic conditions;

(iii) The type of weatherization work to be done;

(iv) The need for weatherization assistance among low-income persons;

(v) The amount of energy to be conserved;

(vi) Mechanisms for providing sources of labor;

(vii) An estimate of the number of eligible dwelling units in which the elderly reside; and

(viii) An estimate of the number of eligible dwelling units in which the handicapped reside.

(2) The manner in which the plan is to be implemented and shall include—

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a CAA;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to weatherization of single-family dwelling units for the elderly and handicapped;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than FEA weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds allocated to the State under this part;

(vii) the expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program; and

(viii) the number of rental dwelling units to be weatherized by project, if any.

(c) The plan shall insure that funds received under the Act will be allocated to a CAA carrying out a program under Title II of the Economic Opportunity Act of 1964, 42 U.S.C. 2809, or to other appropriate and qualified entities in the State or geographical area so that—

(1) funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons, taking into account the factors referred to in paragraph (b)(1) of this section; and

(2)(i) funds allocated to a geographical area served by an emergency energy conservation program carried out by a CAA under section 222(a)(12) of the Economic Opportunity Act of 1964, shall be allocated to the CAA, and (ii) priority in the allocation of funds will be given to the CAA in so much of the geographical area served by it as is not served by the emergency energy conservation program.

(d) Paragraph (c)(2) of this section shall not apply if the Governor, or the Regional Administrator acting on behalf of the Governor pursuant to § 440.13(c), determines on the basis of the public hearing provided under paragraph (a) of this section that an emergency energy conservation program carried out by a CAA—

(1) Has been ineffective in meeting the purpose of the Act; or

(2) Is clearly not of sufficient size and cannot in timely fashion develop the capacity to support the scope of the project to be carried out in the area with funds to be granted under this part.

(e) In making a determination pursuant to paragraph (d) of this section, the Governor, or the Regional Administrator acting on behalf of the Governor pursuant to § 440.13(c), shall evaluate the performance of the CAA and shall consider—

(1) The extent to which the emergency energy conservation program being carried out achieves the goals of the program in a timely fashion;

(2) The quality of work performed;

(3) The number, qualifications and experience of staff members; and

(4) The ability to secure volunteers, training participants and public service employment workers, pursuant to CETA.

(f) Any eligible local applicant may request in its application that the Regional Administrator determine that the allocation requirement and priority set forth in paragraph (c)(2) of this section shall not be applied. In this event, the Regional Administrator shall decide whether to make the determination as part of the notice and public hearing procedure required by § 440.30, which hearing may be consolidated by the Regional Administrator with the public hearing required by paragraph (a) of this section.

§ 440.15 Minimum program requirements.

(a) Prior to the expenditure of any grant funds each grantee shall develop, publish and implement procedures to insure that—

(1) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in § 440.18;

(2) Priority is given to identifying, and providing weatherization assistance to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate is given to single-family or other high-energy-consuming dwelling units;

(3) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the maximum extent practicable as determined by FEA, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(4) To the maximum extent practicable, the grantee will secure the services of volunteers, training participants and public service employment workers, pursuant to CETA, to work under the supervision of qualified supervisors and foremen;

(5) The limitations set forth in § 440.14(c) shall be complied with;

(6) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local or privately funded programs in order to improve thermal efficiency and to conserve energy; and

(7) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(10).

(b) If a grantee decides to weatherize rental dwelling units—

(1) No rental dwelling unit shall be weatherized without first obtaining the written permission of the owner of the dwelling unit or his agent; and

(2) The grantee shall establish procedures to be approved by the Regional Administrator to insure that—

(i) The benefits of weatherization assistance shall accrue primarily to low-income tenants;

(ii) Rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under this part; and

(iii) No undue or excessive enhancement shall occur to the value of the dwelling units.

(c) Prior to the expenditure of any grant funds, a State policy advisory council shall be established by a State, or by the Regional Administrator if a State does not participate in the program, which—

(1) Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

(2) Is broadly representative of organizations and agencies, including consumer groups, that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

(3) Has responsibility for advising the appropriate official or agency administering the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

(d) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part. Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with this paragraph or an applicable regulation, he shall notify the recipient to secure compliance. If within a reasonable period of time the recipient fails to comply, the Administrator shall (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the power and functions provided by Title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or (3) take such other action as may be provided by law.

§ 440.16 Allowable expenditures.

(a) At least 90 percent of the grant funds provided to a grantee under this part shall be used to purchase weatherization materials. Allowable expenditures for weatherization materials include only the following costs—

(1) Purchase of weatherization materials, FOB, but not including mechanical equipment valued in excess of fifty dollars per dwelling unit;

(2) An amount authorized by the Regional Administrator during any one year which shall not exceed a total expenditure, within a State, of $7,500 for—

(i) Transportation of weatherization materials, tools, equipment, and work crews, to any storage site and to the site of weatherization work, except no purchase or lease of vehicles shall be allowed; and

(ii) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(3) An amount for tools and equipment authorized by the Regional Administrator during any one year which shall not exceed a total expenditure within a State of—

(i) $50 for any one item; and

(ii) $5,000 or 1 percent of a State's allocation under this part, whichever is less; and

(4) Taxes related to other allowable expenditures for weatherization materials.

(b) No more than 10 percent of each grant awarded under this part shall be used for administrative expenses. Allowable administrative expenses shall not include any costs of labor to carry out a weatherization project, except for supervisors and foremen. Allowable administrative expenses may include liability insurance for personal injury and property damage for a weatherization project.

(c) No grant funds awarded under this part shall be used for any of the following purposes—

(1) To weatherize a dwelling unit which has been weatherized previously with grant funds authorized under this part unless such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance;

(2) To weatherize a dwelling unit which is vacant or designated for acquisition or clearance by a Federal, State, or local program within twelve months from the date weatherization of the dwelling unit would be scheduled to be completed; or

(3) To purchase cosmetic items or a heating or cooling source.

(d) The cost of weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to § 440.15(c), provides for a greater amount with respect to specific categories of units or materials.

§ 440.17 Standards and techniques for weatherization.

(a) Except as provided in paragraph (b) of this section, only weatherization materials which meet or exceed standards prescribed in Appendix A to this part shall be purchased with funds provided under this part.

(b) Weatherization materials for which standards do not exist in Appendix A may be approved by FEA for use in a weatherization project if requested by a grantee or sub-grantee.

(c) A weatherization project shall apply the approaches to weatherization contained in Project Retro-Tech, FEA Conservation Paper Number 28, including the energy conservation techniques therein.

(d) Approaches to weatherization not contained in Project Retro-Tech may be approved by the Regional Administrator for use in a weatherization project if—

(1) The use thereof is requested by a grantee or sub-grantee; and

(2) Such approaches are equal to or exceed the approaches provided in Project Retro-Tech.

(e) In considering a request made pursuant to paragraphs (b) or (d) of this section, FEA or the Regional Administrator shall—

(1) Evaluate the extent to which the request is designed to achieve a balance of healthful dwelling environment and maximum practicable energy conservation; and

(2) When appropriate, coordinate evaluation through FEA with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce.

§ 440.18 Eligible dwelling units.

No dwelling unit shall be eligible for weatherization assistance under this part unless it is the dwelling unit of a family unit—

(a) Whose income is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(b) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law paid during the 12-month period preceding the Federal fiscal year in which funds were obligated for financial assistance to such dwelling unit.

§ 440.20 Oversight responsibility.

(a) The Administrator and the appropriate Regional Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to insure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) FEA shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA, and that are receiving financial assistance under this part.

(c) The Administrator and the appropriate Regional Administrator, the Comptroller General of the United States, and, for a weatherization project carried out by a CAA, the Director or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act.

(d) Each grantee shall conduct, on an annual basis, an audit of the pertinent records of any subgrantee receiving financial assistance under this part.

§ 440.21 Recordkeeping.

Each grantee or sub-grantee receiving Federal financial assistance under this part shall keep such records as FEA shall require, including records which fully disclose the amount and disposition by each grantee and sub-grantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which such assistance was given or used, the source and amount of funds for such project or program not supplied by FEA, and such other records as FEA deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74–7 and any further requirements of this regulation or which FEA may otherwise establish under the terms and conditions of a grant.

§ 440.22 Quarterly reports.

Each grantee receiving financial assistance under this part shall submit a quarterly program performance report and a quarterly financial report to the appropriate Regional Administrator. The program performance report shall contain such information as the Administrator may prescribe in order effectively to monitor the progress of a grantee.

§ 440.30 Administrative review.

(a) If a timely application submitted by a State fails to meet the requirements of this part and the Regional Administrator intends to deny the application, the Regional Administrator shall return the application to the State together with a written statement of reasons therefor.

(b) The State will have a reasonable period, as determined by the Regional Administrator, to amend its application and to resubmit it by a specified date for reconsideration.

(c) The Regional Administrator shall give notice to the applicant in the event that the Regional Administrator determines that—

(1) Any application resubmitted by a State in accordance with paragraph (b) of this section fails to comply with this regulation;

(2) Any application returned to a State pursuant to paragraph (a) of this section is not timely resubmitted as provided in paragraph (b); or

(3) The Regional Administrator intends to deny the application of a local applicant;

(d) The Regional Administrator shall give notice to a grantee in the event the Regional Administrator finds there is a failure by the grantee to comply substantially with the provisions of this part.

(e) The Regional Administrator shall issue such notice in the form of written notice mailed by registered mail, return receipt requested, to the State, local applicant or grantee and other interested parties, including—

(1) A statement of reasons for a determination referred to in paragraph (c) of this section which the Regional Administrator intends to make including an explanation whether any amendments or other actions would result in compliance with the regulation;

(2) The date, place, and time of a public hearing to be held by the Administrator, one subject of which shall be the proposed determination, which hearing shall in no event be later than 15 working days after the receipt of such notice; and (3) The manner in which views may be presented.

(f) A party which has received notice under paragraph (e) of this section—

(1) May make a written submission of its views with supporting data and arguments to the Regional Administrator on or prior to the date of the public hearing; and

(2) Shall be afforded an opportunity to make an oral presentation at the public hearing.

(g) The Regional Administrator shall consider all relevant views and data including arguments and other submissions made at the public hearing. The Regional Administrator shall make, not later than 5 working days after the public hearing, a final determination in writing stating the reasons for the determination.

(h) A State or local applicant may appeal in writing from an adverse final determination made by the Regional Administrator under paragraph (g) of this section to the Administrator not later than 10 working days after receipt of the Regional Administrator's determination. The Administrator shall have 21 working days to consider the appeal and take any action with respect thereto which he deems appropriate. Any action taken by the Administrator shall be the final determination of FEA. If no action has been taken by the Administrator after the expiration of the 21 working day period, the final determination of the Regional Administrator shall be the final determination of FEA.

(i) Anything herein to the contrary notwithstanding, the public hearing referred to in paragraph (e)(2) of this section may be combined, at the discretion of the Regional Administrator, with any other public hearing in the State conducted pursuant to this part.

(j) Upon issuance of the notice provided in paragraph (d), the Regional Administrator may suspend payments to any grantee pending a final determination. If the Regional Administrator makes a final determination of failure to comply, the grantee will be ineligible to participate in the program unless and until the Regional Administrator is satisfied that there is no longer a failure to comply.

APPENDIX A—STANDARDS FOR WEATHERIZATION MATERIALS

Material or product	Standards
Insulation—Mineral fiber	
Blanket/batt	Conformance to F.S.[1] HH-I-521E and ASTM 0665-70.
Board	Conformance to F.S. HH-I-526C and ASTM 0612-70 or C726-72.
Duct material	Conformance to F.S. HH-I-545B.
Loose fill	Conformance to F.S. HH-I-1030B and ASTM C764-73.
Insulation—Mineral cellular:	
Aggregate board	Conformance to F.S. HH-I-529B.
Cellular glass	Conformance to F.S. HH-I-551B and ASTM C552-73.
Perlite	Conformance to F.S. HH-I-574A and ASTM C549-73.
Vermiculite	Conformance to F.S. HH-I-585B and ASTM C516-67.
Insulation—Organic fiber:	
Cellulose—classes 25 and 75	Conformance to F.S. HH-I-515C and ASTM C739-73 (loose fill).
Cellulose—class 200	Conformance to F.S. HH-I-515C and ASTM C739-73 (loose fill) and fire safety requirements.
Vegetable	Conformance to F.S. HH-I-528B and fire safety requirements.
Board and block	Conformance to F.S. LLL-I-535A and ASTM C208-72 and fire safety requirements.
Insulation—Organic cellular:	
Polystyrene board	Conformance to F.S. HH-I-524B and ASTM C578-69 and fire safety requirements.
Urethane board	Conformance to F.S. HH-I-530A and ASTM C591-69 and fire safety requirements.
Flexible unicellular	Conformance to F.S. HH-I-537B and ASTM C534-70 and fire safety requirements.
Insulation—Air spaces: Reflective	Conformance to F.S. HH-I-1252A.
Storm windows:	
Aluminum frame	Equivalent to ANSI A134.3-1972.
Wood frame	Conformance to Sec. 3 of NWMA Industry Standard I.S.2-73.
Rigid vinyl frame	Conformance to NBS Product Standard PS26-70 and performance guarantee.
Frameless plastic glazing	Required minimum thickness, 6 mil (0.006 in).
Storm doors:	
Aluminum	Equivalent to ANSI A134.4-1972.
Wood:	
Pine	Conformance to Sec. 3 of NWMA I.S.5-73.
Fir, hemlock, spruce	Conformance to Sec. 3 of FHDA/5-75.
Hardwood veneered	Conformance to Sec. E of NWMA I.S.I.-73.
Rigid vinyl	Conformance to NBS Product Standard PS26-70 and performance guarantee.
Caulks and sealants	Commercial availability.
Weatherstripping	Do.
Vapor barriers	Conformance to ASTM C755-73.
Clock thermostats	Commercial availability.

NOTES

[1] F.S. means federal specifications as cited, copies of which may be obtained from Specifications Sales, Building 197, Washington Naval Yard, General Services Administration, Washington, D.C. 20407.

[2] For fire safety requirements, see Sec. 2.1.3.1 of NBSIR 75-795 which may be obtained from FEA.

[FR Doc.77-15515 Filed 5-31-77;8:45 am]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Conforming Amendments to Allocation and Price Regulations to Implement Purchase Authority for Strategic Petroleum Reserve

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration ("FEA") hereby adopts amendments to the price and allocation regulations with respect to acquisition of crude oil for the Strategic Petroleum Reserve ("SPR"). These amendments are designed to facilitate sales for the SPR by segregating, insofar as practicable, the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales. Prices charged in sales of crude oil for the SPR may be calculated on the basis of a separate price computation for each such sale (as though a separate inventory exists). Regulatory provisions defining a "first sale into U.S. commerce" for purposes of acquisitions for the SPR are also adopted.

EFFECTIVE DATE: June 1, 1977

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue, NW., Room 2107, Washington, D.C. 20461, 202-566-9161. Ed Vilade (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461, 202-566-9833. Stuart M. Rosenblum (SPR Program Office), 1726 M Street, NW., Room 330, Washington, D.C. 20461, 202-634-5506. Doris Dewton (Entitlements Program Office), 2000 M Street, NW., Room 6128H, Washington, D.C. 20461, 202-254-8660. Laura Kuitunen and Craig Bamberger (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION: I. Background. II. Amendments adopted: A. Modifications to the allocation regulations concerning application of the costs and sales revenues of entitlements; B. Modifications to the price regulations; C. First sales into U.S. commerce. III. Issues reserved.

I. BACKGROUND

Title I, Part B of the Energy Policy and Conservation Act ("EPCA"), enacted on December 22, 1975, set forth requirements for the Federal Energy Administration ("FEA") to acquire up to one billion barrels of crude oil and refined petroleum products for storage in a Strategic Petroleum Reserve ("SPR"). On December 14, 1976 FEA submitted to Congress an SPR Plan ("Plan") detailing FEA's proposals for designing, constructing, and filling the storage and related facilities of the SPR. The Plan was resubmitted on February 16, 1977 to correct a technical oversight. This Plan, which took effect on April 18, 1977, provides for the storage of 150 million barrels of crude oil by December 22, 1978, 325 million by December 22, 1980, and 500 million by December 22, 1982. To meet these goals, FEA has already commenced crude oil acquisition activities.

In the SPR Plan, FEA stated its intention to use the authorities granted in the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), to allow the Government to obtain the benefits of domestic crude oil price controls for imported crude oil for the SPR to the same extent that refiners receive such benefits under the entitlements program for processing imported crude oil. The Plan also provided that a final choice among several options being considered by FEA, including amendments to the entitlements program, would be made following completion of the review process, including consideration of the requirements of the National Environmental Policy Act of 1969.

As part of the review process, FEA issued a notice of proposed rulemaking on February 5, 1977 to elicit public comments on proposed amendments to FEA's domestic crude oil allocation program (the "entitlements program") re-

garding acquisition of crude oil for the SPR. (42 FR 8362, February 10, 1977) Final amendments to the entitlements program regulations regarding acquisition of imported crude oil for the SPR were issued April 25, 1977. (42 FR 21761, April 29, 1977) Other issues, such as amendments pertaining to acquisition of domestic crude oil, have been reserved for further consideration and are expected to be resolved shortly.

On April 25, 1977 FEA also issued a notice of proposed rulemaking and public hearing regarding modifications to pricing provisions of its regulations to implement the purchase authority for the SPR. (42 FR 21789, April 29, 1977) Eleven written comments were received and analyzed by FEA in deciding upon final amendments in this rulemaking proceeding. The last comment received was dated May 12, 1977. A public hearing was scheduled for May 12, 1977 but not held because of lack of requests to speak.

The purpose of this notice is to set forth conforming amendments to the price provisions of FEA's regulations concerning sales of crude oil for the SPR.

II. Amendments Adopted

Sales of crude oil in the United States are either exempt from FEA price regulations (as "the first sale into U.S. commerce," pursuant to § 212.53(b); as the first sale of crude oil produced and sold from a stripper well property pursuant to § 212.54; or as the first sale of U.S. owned crude oil pursuant to the provisions of the Naval Petroleum Reserves Production Act of 1976 and § 212.55) or are subject to price regulations (Subpart D of Part 212 applies to each first sale of domestic crude oil other than exempt sales and Subpart F of Part 212 applies to each sale of crude oil, other than the first sale, by refiners, resellers, reseller-retailers, and retailers.

Although the competitive procedures to be used in the procurement of crude oil for the SPR may result in sales at less than the maximum prices permitted by the price regulations, the price regulations will nevertheless be applicable to such sales to the same extent as they are applicable to any other sales, but no amounts unrecovered in the SPR sales may be applied to calculate prices for sales to other purchasers. The purpose of the amendments described below is to facilitate the sale of crude oil to the Government for the SPR by segregating, insofar as practicable, the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales.

A. Modifications to the allocation regulations concerning application of the costs and sales revenues of entitlements

The current § 211.67(m) provides generally that the cost of entitlements purchased or the sales revenues from entitlements sold are to be applied by a firm to adjust its cost of crude oil or product in inventory. Inasmuch as entitlements issued in conjunction with sales of crude oil for the SPR serve as partial payment to the seller of that crude oil and are designed to reduce the cost of crude oil to the Government, there does not appear to be any basis for a requirement that the amount of entitlements transactions attributable to sales of crude oil for the SPR be applied by the seller as provided for in § 211.67(m).

Accordingly, § 211.67(m) is amended to provide that with respect to entitlements issued (and sold or used to diminish a firm's requirement to purchase entitlements) in connection with a firm's sales for the SPR, or with respect to entitlements required to be purchased in connection with a firm's sales for the SPR, neither the sales revenues from entitlements sold (or the reduction in cost of entitlements purchased), nor the cost of entitlements required to be purchased, are to constitute an adjustment to the cost of crude oil or product in inventory of any firm selling crude oil for the SPR.

It should be noted that although the amendments to the entitlements program issued on April 25, 1977 treat imported crude oil delivered to the Government for the SPR as "crude oil runs to stills," such treatment is for purposes of computing entitlements distributions only and does not apply to the principles underlying § 211.67(m).

B. Modifications to the price regulations

A new § 212.95 is added to Subpart F of Part 212 to specify the manner in which the price regulations apply to sales of crude oil for the SPR.

As stated above, the purpose of the amendments is to facilitate the sale of crude oil to the Government for the SPR by segregating, insofar as practicable, the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales.

To this end, § 212.95 provides that the maximum lawful price for sales of crude oil to the Government for the SPR may be calculated on the basis of a separate price computation for each such sale (as though a separate inventory exists), that the value of entitlements attributable to each such sale will be taken into account only in computing the net return to the seller for such sale to the Government, and that any unrecovered increased costs attributable to crude oil sold to the Government for the SPR will not be available to be applied in determining the maximum allowable price with respect to any other sale. Additional costs of transporting crude oil to the Government delivery point may be included in the maximum lawful price. All sales of imported crude oil to the Government for the SPR are first sales into U.S. commerce and exempt from FEA price controls.

1. *Price rule.* Section 212.95 provides that the net return to sellers in sales of crude oil for the SPR shall not exceed the maximum lawful price, if any, applicable to the crude oil delivered plus actual expenses incurred in delivering the oil to the Government not already included in the maximum allowable price.

When crude oil is delivered to the Government, sellers will be required to certify (1) the volume and, if applicable, the maximum lawful price under § 212.93 (but would be permitted to treat each lot of oil separately acquired as a separate "product in inventory" whether or not it has historically done so), (2) the volume and any applicable ceiling prices under §§ 212.73 or 212.74 for first sales of domestically produced crude oil, or (3) the volume and that no ceiling price is applicable to a first sale of imported crude oil into U.S. commerce.

Thus, the maximum lawful prices for sales of crude oil to the Government for the SPR are, if they are first sales of domestic crude oil pursuant to Subpart D, subject to the existing provisions of that Subpart. No maximum lawful price applies to first sales of imported crude oil into U.S. commerce. The regulations for resales of crude oil pursuant to Subpart F, with respect to sales for the SPR, are amended to permit a separate price computation for each lot of crude oil as though a separate inventory existed.

The new § 212.95 specifies that the net return to the seller for the SPR of crude oil subject to a first sale ceiling price under Subpart D or to maximum lawful prices computed under Subpart F, would be deemed the selling price for purposes of determining whether the price regulations had been complied with. The net return includes any reduction in costs incurred or any revenues realized in entitlement transactions attributable to such sale, but does not include actual costs of delivering the crude oil (not already included in the maximum lawful price). Section 212.95 further provides that the payment obligation of the Government will be reduced in any sales for the SPR in which the net return to the seller exceeds any applicable price regulations (plus allowable delivery costs). No adjustment would be required for uncontrolled oil.

As stated in the April 25, 1977 notice, FEA intends to consider a number of issues generally relating to the applicability of Subpart F to resales of crude oil in a separate rulemaking proceeding, and does not intend in the current proceeding to preempt the resolution of any of those issues.

2. *No other use of unrecovered increased costs associated with SPR sales.* Section 212.95 provides that, with respect to resales for the SPR of crude oil subject to maximum lawful prices computed pursuant to Subpart F or subject to first sale ceiling prices pursuant to Subpart D, if the net return to the seller (which excludes actual delivery expenses and any handling fee) is less than the maximum lawful price, the full maximum lawful price is to be deemed recovered. In order to segregate the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales, no carry-forward or other application of any unrecovered amounts to sales prices to other customers is permitted.

3. *Interchangeability of lower tier, upper tier, and uncontrolled oil.* FEA has

not concluded its consideration of the proposed provision regarding interchangeability of lower tier, upper tier, and uncontrolled oil but reserves the right to promulgate a final rule permitting such interchangeability under all or some circumstances.

4. *Handling fees.* The comments on the issue of handling fees were widely divergent and included recommendations ranging from 0 cents to 32 cents per barrel flat fees to any fee which results in a competitive price for domestic crude oil. It was generally agreed that no handling fees are required for exempt imported crude oil.

FEA has not concluded its consideration of the proposed provision but reserves the right to promulgate a final rule permitting such a handling fee under all or some circumstances.

C. FIRST SALES INTO U.S. COMMERCE

Foreign firms would be permitted to offer crude oil to the Government. For purposes of resolving interpretive issues arising under § 212.53, it was proposed that the sale by a foreign firm to the Government would be a first sale into U.S. commerce and exempt from Part 212 pursuant to § 212.53(b), and that no sales by domestic firms would be deemed first sales into U.S. commerce.

FEA requested comments on whether it is possible to identify sales by domestic firms which should qualify as first sales into U.S. commerce and by what criteria such sales could be readily identified. FEA stated that such sales should represent incremental crude oil importation that would not have occurred but for the opportunity to sell such crude oil to the Government for the SPR.

After considering the proposal, FEA has decided not to adopt it, but rather to provide that all imported crude oil certified as such according to § 212.95 and delivered to the Government for the SPR is exempt from the price regulations pursuant to § 212.53 as a "first sale into U.S. commerce."

FEA has concluded that the safeguards inherent in the competitive bid procurement procedure are sufficient to assure that the crude oil is offered to the Government at or below prevailing market prices for uncontrolled crude oil. Furthermore, if the proposed rules were adopted, without revision, questions would be left open as to the application of the price regulations to imported crude oil sold for the SPR by a number of kinds of firms (such as U.S.-incorporated and owned firms having their principal place of business outside the U.S.). In addition, crude oil sold by U.S. firms that acquired the crude oil from foreign affiliates would be subject to the transfer pricing regulations in § 212.84. Both of such consequences would result in significant time-consuming and costly burdens to FEA (either to issue interpretations to firms requesting determination of their status as foreign firms or to audit the determinations of cost in transfers between foreign and domestic affiliates) and competitive inequities among firms, without any presently discernible benefit to the Government.

FEA does, however, reserve the right to reconsider the prospective application of this provision with respect to any prospective solicitations, based upon experience in offers received in prior solicitations.

III. ISSUES RESERVED

FEA specifically reserves the right to promulgate further amendments to the regulations (1) regarding the computation of actual costs of delivering crude oil to the Government, (2) adopting a handling fee for sales of domestic crude oil to the Government for the SPR, (3) permitting "interchangeability" of crude oil from various sources for all sales of crude oil to the Government for the SPR and setting forth requirements and procedures for determining circumstances when "interchangeability" is to be permitted, and (4) regarding prospective application of § 212.53 to imported crude oil to redefine "first sales into U.S. commerce."

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below.

Issued in Washington, D.C., May 27, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 211.67 is amended in paragraph (m) to add a new subparagraph (5) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(m) *Adjustments to crude oil and product costs.* * * *

(5) *Strategic petroleum reserve entitlements transactions.* Notwithstanding the other provisions of this § 211.67(m), with respect to entitlements issued by the Government to a firm associated with acquisitions from that firm for the Strategic Petroleum Reserve ("SPR") which are sold by that firm (or which diminish the entitlements purchase obligations of that firm) and entitlements which are required to be purchased by a firm because of sales by that firm for the SPR, FEA shall not:

(i) Permit or require any adjustment to that firm's cost of crude oil in § 212.83(c)(2) if it is a refiner;

(ii) Permit or require any adjustment to that firm's cost of product in inventory if it is a reseller or retailer; or

(iii) Permit or require any adjustment to that firm's prices in other first sales of crude oil if it is a producer.

2. A new § 212.95 is added to read as follows:

§ 212.95 Strategic Petroleum Reserve Crude Oil Pricing.

(a) *Scope.* This section applies to each sale of crude oil to the Government for the Strategic Petroleum Reserve ("SPR").

(b) *Rule.* (1) Crude oil shall be offered and sold to the Government for the SPR at a net return to the seller:

(i) Of not more than the applicable ceiling price under §§ 212.73 and 212.74 for a first sale of domestically produced crude oil, or

(ii) Of not more than the maximum lawful price under § 212.93 for a sale after the first sale of domestically produced crude oil: *Provided,* That the seller may treat each lot of crude oil separately acquired as a separate "product in inventory" whether or not it has historically done so, or (iii) Not restricted by this rule, for a first sale of domestic crude oil produced and sold from a stripper well property in accordance with § 212.54 and for a first sale of crude oil into U.S. commerce in accordance with §§ 212.53(b) and 212.95(f).

(2) As used in this section, the "net return to the seller" means the payment to the seller by the Government for crude oil acquired for the SPR, plus or minus any costs or revenues (including reduced purchase obligations) for the purchase or sale of entitlements that are attributable to such sale of crude oil to the Government for the SPR, but the "net return to the seller" does not include any actual expenses incurred in delivering the crude oil to the Government (that are not already included in the maximum lawful price).

(c) *Certification.* When proposals are submitted and when crude oil is delivered to the Government, offerors and sellers shall certify what volumes of crude oil are lower tier, upper tier, or imported or domestic uncontrolled crude oil and shall certify the ceiling or other maximum lawful price, if any, applicable to the volumes so classified.

(d) *Net return to sellers.* Payments to sellers shall be reduced if the net return to the seller would otherwise exceed the amount provided for in § 212.95(b).

(e) *No other use of unrecovered amounts.* If the net return to the seller is less than the amount permitted in § 212.95(b), the full amount is deemed recovered, and no carry-forward or other application of any unrecovered amounts to sales prices to other customers is permitted.

(f) *First sales into U.S. commerce.* Any sale of imported crude oil to the Government for the SPR will be deemed a first sale into U.S. commerce under § 212.53(b).

[FR Doc.77-15661 Filed 5-31-77;9:18 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 916]

HANDLING OF NECTARINES GROWN IN CALIFORNIA

Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through May 31, 1978, current minimum grade and size requirements applicable to fresh shipments of California nectarines. The proposed amendment is consistent with the quality and size composition of the estimated crop of California nectarines. The proposal is designed to maintain orderly marketing conditions in the interest of producers and consumers.

DATE: Comments must be received on or before June 27, 1977.

ADDRESS: Send comments to: Hearing Clerk, Room 1077, South Building, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-3545).

SUPPLEMENTARY INFORMATION: The proposed amendment was submitted by the Nectarine Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916) which regulates the handling of nectarines grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This notice invites written comment relative to a proposed amendment that would continue Nectarine Regulation 9 (§ 916.351; 42 FR 24229) through May 31, 1978. Said regulation will expire on July 16, 1977, unless extended. The regulation prescribes that shipments of California nectarines grade U.S. No. 1 except that (1) a slightly smaller area of the surface of each fruit may be affected by fairly light colored, fairly smooth scars, and (2) an additional tolerance is provide for individual fruit not well formed but not badly misshapen. The regulation also prescribes minimum sizes for 44 named varieties. The proposal is designed to continue to provide markets with an ample supply of desirable size and quality nectarines consistent with the available supply in the interest of producers and consumers.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment published herein, shall file the same, in duplicate, with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, not later than June 27, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of Nectarine Regulation 9 (§ 916.351; 42 FR 24229) are revised to read as follows:

§ 916.351 Nectarine Regulation 9.

Order. (a) During the period July 16, 1977, through May 31, 1978, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the agregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inches in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 118 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 112 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(4) Any package or container of Crimson Gold, June Belle, June Grand, May Grand, Red June, Spring Grand, Armking, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box:

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(5) Any package or container of Early Sungrand, Independence, Moon Grand, Star Grand I, Star Grand II, Sun Flame, Summer Grand, Sun Grand, Kent Grand, Early Star, Firebright, or Red Diamond variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(6) Any package or container of Autumn Grand, Clinton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richards Grand, Royal Grand, September Grand, Fairlane, Red Free, Bob Grand, or Tom Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (6) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(¶) When used herein, "U.S. No. 1" and "standard pack" shall have the same meaning as set forth in the United States Standards for Grades of Nectarines (7

CFR 51.3145–51.3160); the term "No. 22D standard lug box" shall have the same meaning as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture", and all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: May 26, 1977.

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

[FR Doc.77-15513 Filed 5-31-77;8:45 am]

[7 CFR Part 923]

HANDLING OF SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Proposed Grade, Size, Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes minimum grade, size, and container requirements applicable to sweet cherries other than Rainier, Royal Anne and other light sweet varieties, grown in six counties in the State of Washington. The requirements are needed to provide orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received by June 17, 1977. The proposed effective dates would be July 1, 1977, through June 30, 1978.

ADDRESS: Comments should be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: The proposal was submitted by the Washington Cherry Marketing Committee under § 923.51 of the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in the State of Washington. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed regulation reflects the Washington Cherry Marketing Committee's appraisal of the need for regulation and of the crop and current and prospective marketing conditions. It would become effective July 1, 1977. Shipments of sweet cherries from the production area will be in progress when the proposed requirements are to become effective.

Under the proposal, shipments of cherries, except those of the Rainier, Royal Anne and similar varieities commonly referred to as "light sweet cherries", would be required to grade U.S. No. 1 or better, except for a small increase in the tolerance for defects. The cherries would also be required to be $^{48}/_{64}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size would be $^{54}/_{64}$ inch. The proposed container requirements would specify the minimum amount of cherries, by weight, which need be in the various types of containers. Individual shipments of cherries up to 100 pounds sold for home use and not for resale would be excepted from the grade, size, and container requirements, if certain conditions are met to prevent their movement into commercial markets.

Under the proposed grade and size requirements, ample supplies of cherries of the better grades and more desirable sizes would be available in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-sized cherries when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The proposed container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence. The proposal reads as follows:

§ 923.316 Cherry Regulation 16.

Order. (a) *Grade and sizes.* During the period July 1, 1977, through June 30, 1978, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainer, Royal Anne and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) U.S. No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the United States Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, my count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* During the period July 1, 1977, through June 30, 1978, no handler shall handle any lot of cherries, except cherries of the Rainer, Royal Anne and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containters of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) hereof, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) and (b) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale:

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) *Definitions.* Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order; "U.S. No. 1" and "diameter" shall have the same meaning as when used in the United States Standards for Grades of Sweet Cherries (7 CFR 51.2646–51.2660); and "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

Dated: May 26, 1977.

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

[FR Doc.77-15512 Filed 5-31-77;8:45 am]

[7 CFR Part 989]

[Docket No. AO-198-A9]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order covering California raisins. The proposed changes were recommended by the Raisin Administrative Committee. The major purpose of the proposed changes in the order is to improve procedural operations.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION:

PRIOR DOCUMENT IN THIS PROCEEDING

Notice of Hearing—Issued October 21, 1976; published October 27, 1976 (41 FR 47059).

Notice of Recommended Decision—Issued March 28, 1977; Published April 1, 1977 (42 FR 17463).

Raisin growers will vote in a referendum to determine whether or not they favor issuance of the proposed changes.

A principal change would make each "varietal type" of raisin covered under the order broad enough to include all raisins with similar characteristics and market uses regardless of the grape variety or method of drying used in producing the raisins. Another change would provide for grading requirements and grower district representation provisions to be moved from the order to the rules and regulations to facilitate reference. Minor changes in provisions pertaining to offers of reserve tonnage raisins to handlers would also be made for easier administration and authority would be added to designate certain raisins for production, processing, and marketing research and development projects, and for exempting these raisins from any or all regulation under the order.

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Fresno, California, on November 5, 1976, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on March 28, 1977, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing the notice of the opportunity to file written exceptions thereto. One exception was filed by the Raisin Administrative Committee.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. In Material Issue (5), the last sentence of paragraph 7 is revised, and the words "for each designated project," are added immediately after the words "natural condition tons annually" in the third sentence of paragraph 11.

2. In Material Issue (6), the phrase "To afford maximum flexibility of operations under this provision," is removed from the last sentence of paragraph 6, and a new paragraph is added before the last paragraph.

Material issues. The material issues of record are as follows:

(1) Revising the definitions of "act", "varietal type"; adding definitions for "other failing raisins", and "raisin residual material"; and deleting the definition of "bleached raisins".

(2) Deleting provisions specifying grower districts for the purposes of grower representation on the committee; providing for the establishment of these provisions in rules and regulations; and making conforming changes in certain related provisions.

(3) Deleting provisions specifying incoming and outgoing grade standards; providing for the establishment of these standards in rules and regulations; simplifying provisions for changing these standards in below or above parity situations; and deleting related provisions which are no longer necessary.

(4) Adding provisions permitting establishment of procedures to give handlers the option of eliminating the initial inspection check for a certain defect on incoming raisins.

(5) Adding provisions for designating raisins for certain research and development and for exempting these raisins from any or all regulations under the order.

(6) Clarifying provisions on the substitution of reserve tonnage raisins; deleting authority for the establishment of minimum export prices for reserve tonnage raisins; and making minor changes in the provisions on offering reserve tonnage raisins to handlers.

(7) Clarifying provisions on handler services performed with respect to reserve tonnage raisins.

(8) Deleting an obsolete reference to the Raisin Advisory Board.

(9) Making such changes in the order as may be needed to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of hearing:

(1) The definition of "act" in § 989.2 should be revised to mean Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674). This updates the citation contained in the definition, thereby covering the complete statutory authority pursuant to which the marketing agreement and order (hereinafter, in this text of the Findings and conclusions, collectively referred to as the "order") is operative. The citation (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047) is replaced by (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674). In the notices of hearing, the proposed definition contained the date May 12, 1933, the effective date of Public Act No. 10, 73d Congress. At the hearing, the proponents recommended that this date be deleted because it was not needed.

When the order was established in 1949, it regulated the handling of raisins produced from Thompson Seedless, Muscat, Sultana, and Zante Currant raisin variety grapes grown in California. At that time, these comprised all of the varieties from which any appreciable volume of raisins were produced. The raisin industry recognized that raisins with differing characteristics due to the particular variety of grapes or the method of drying grapes into raisins, or both, could entail different regulatory treatment. Thus, the categorization of raisins into varietal types was established in conjunction with the application of quality and volume regulations.

In the ensuing years, the raisin industry became concerned that other grape varieties (table and wine) could be made into raisins and compete with raisins made from the traditional raisin variety grapes. These grape varieties included, but were not limited to, Alicante Bouschet, Cardinal, Carignane, Italia, Malaga, Monukka, and Zinfandel. So that raisins produced from these grape varieties would be regulated, the order was amended in 1960 to cover all raisins made from grapes produced in California, and these table and wine grapes were added to the list of varietal types. At the same time, authority was added permitting the committee, with the approval of the Secretary, to change the list of varietal types to meet changing conditions in the future.

After operating under this extensive list of varietal types for approximately 10 years, the industry discovered that the categorization of the varietal types was so particularized that raisins with similar characteristics and market uses had been put into different varietal types. Needless to say, this categorization made differentiation for volume and quality regulations quite difficult. Also, the raisin industry found that certain varietal types had never been produced in commercial quantities. Furthermore, for some raisins there are no grade standards and these raisins have been inspected against the standards prescribed for the raisins they most closely resemble.

In 1973, the raisin industry determined that improved order operations could be achieved if raisins with similar characteristics would be treated as the same varietal type regardless of the variety of the grape or production processes used to dry the grapes into raisins. An example of this is the way raisins produced from Cardinal, Malaga, and Italia are treated. Raisins produced from these three varieties of grapes possess characteristics similar to Muscats and Valencias. Through rulemaking, they are being treated as Muscats and Valencias for regulatory purposes. To cite another example of varietal type combining, in 1975, it was determined through rulemaking that raisins produced by the various dipping methods possess characteristics so similar to each other that they should all be classed as one varietal type, Dipped Seedless.

To incorporate the changes already made on varietal types through rulemaking into the order, but in a somewhat broader degree, § 989.10 should be revised to describe seven varietal types. Each varietal type proposed is intended to be broad enough to include all raisins with similar characteristics and market uses regardless of the grape variety or method of drying used in producing the raisins. These varietal types should include: (1) Natural (sun-dried) Seedless, (2) Dipped Seedless, (3) Golden Seedless, (4) Muscats (including other raisins with seeds), (5) Sultana, (6) Zante Currant, and (7) Monukka. These raisins are generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. The section heading, varietal type, was used in the notice of hearing. This heading should be changed to "varietal types" to more accurately reflect the contents of the provisions in § 989.10.

Category (1), Natural (sun-dried) Seedless, should include all sun-dried seedless raisins that possess characteristics similar to natural Thompson Seedless raisins and which have not been dipped in or sprayed with water, with or without soda, oil, or other chemicals prior to or during the drying process. This varietal type would include raisins made from such grape varieties as Thompson Seedless, Emerald Seedless, or Perlette which are dried on the vine or dried after removal therefrom.

Category (2), Dipped Seedless, should include seedless raisins produced by sun-drying or other dehydration of grapes which have been dipped in or sprayed with water, with or without soda, oil, or other chemicals and which may or may not have been sulfured prior to drying. It would not include Golden Seedless raisins, but could include dried-on-the vine raisins. This varietal type would include raisins made from such grape varieties as Thompson Seedless, Emerald Seedless, and Perlette.

Category (3), Golden Seedless, should include raisins whose color varies from dark to golden yellow. The process for making these raisins is similar to the process for making Dipped Seedless raisins, but following the dipping process, Golden Seedless raisins are moved to a sulfur house and exposed to fumes of burning sulfur. After this, they are dried.

Category (4), Muscats (including other raisins with seeds) should include all raisins with seeds. Raisins produced from Muscat grapes (Muscat of Alexandria and Muscatel Gordo Blanco) would be the most common. However, raisins from such other grapes as Malaga, Valencia, Alicante Bouschet, Cardinal, Carignane, Italia, and Zinfandel would also be included. Muscat raisins are marketed in three forms: Loose, seeded, or layered. Loose are those where the stems are removed, but the seed is intact. Seeded Muscats have both stems and seeds removed. Layered Muscats are unstemmed and left in bunches.

Category (5), Sultana, should include all raisins with an undeveloped (vestigial) seed. The most prominent raisins in this varietal type are produced from Sultana grapes. They resemble natural Thompson Seedless, but are not as plump.

Category (6), Zante Currant, should include all raisins produced from Black Corinth or White Corinth grapes. They are darker than natural Thompson Seedless and very small.

Category (7), Monukka, should include raisins produced from Monukka and Black Imperial grapes. These raisins are usually larger, darker, and plumper than the other varietal types.

A distinction between natural and dipped-made raisins should only be made on seedless raisins, not raisins with seeds. At this time, the industry does not believe it is necessary to make this distinction and additional differentiation.

Types of raisins in the future may possess characteristics sufficient different from those known today to require separate identification and classification for the purposes of quality or volume regulation under the order. Should this occur, the new varietal type of raisin should be added to the list of varietal types by rulemaking and not necessitate formal amendment proceedings.

The inspection agency of the committee would be responsible for classing raisin lots by varietal types. Should any question arise as to the inspector's classification of any varietal type delivered, the tenderer should appeal to the committee. If an appeal is made, the committee should call on other experts in the industry to classify the raisins into one of the seven recommended types. If the raisin is new, possessing characteristics significantly different from those of the seven listed, then it should be added to the list by rulemaking.

The definitions of "other failing raisins" and "raisin residual material" in § 989.59(f) should be moved to that portion of the order devoted to "definitions" for convenient reference and to improve order organization. These definitions should be included in § 989.24 together with the definitions of the terms "standard raisins" and "off-grade raisins". "Other failing raisins" should be defined to mean any raisins received or acquired by a handler, either as standard raisins or off-grade raisins, which are processed to a point where they qualify as packed raisins but fail to meet the applicable minimum grade standards for packed raisins. This definition is the same as that currently contained in § 989.59(f). "Raisin residual material" should be defined to mean defective raisins, stemmer waste, sweepings, and other residue accumulated by a handler from reconditioning raisins or from processing standard raisins and other failing raisins. Except for the deletion of the phrase "which may be received or acquired by a handler or", the definition is the same as currently contained in § 989.59(f). The phrase, which should be deleted, is used for regulatory purposes in § 989.59(f) and is not needed to define the term "raisin residual material".

In connection with moving the definitions of these two terms to § 989.24, conforming changes are needed in the definition of "off-grade raisins". The phrases "for the purposes of disposition" and "pursuant to § 989.59(f)" are no longer needed in the definition and should be deleted. With the deletion of these two phrases, "off-grade raisins" would mean raisins which do not meet the then effective minimum grade and condition standards for natural condition raisins: *Provided*, That raisins which are certified as off-grade raisins shall continue to be such until successfully reconditioned or become "other failing raisins". Section 989.13, Processor, and § 989.84, Disposition limitation, both contain parenthetical references to the definition of "other failing raisins" contained in § 989.59(f). These references are no longer needed and should be deleted. The current heading of § 989.24, Standard raisins, and off-grade raisins, was published in the notice of hearing. However, the heading should be changed to Standard raisins, off-grade raisins, other failing raisins, and raisin residual material to more accurately reflect the provisions which would appear under the heading.

The term "bleached raisins" in § 989.6 should be deleted because the term is obsolete and will no longer be used under the order. The term covers (a) any raisins which have been produced by soda dipping, with or without oil, whether sun-dried or artificially dehydrated, or (b) any raisins which have been produced by soda dipping, sulfuring, and sun-drying. Outside the raisin industry, the term "bleach" and its various forms are used generally in connection with the removal of color. However, in the raisin industry, the term refers to a slowing down of the darkening process (oxidation) which occurs during drying. The longer it takes grapes to dry the darker the raisins become.

The types of raisins generally included under the term "bleached raisins" have been called Soda Dipped raisins, Sulfur Bleached, raisins, and Valencia raisins. However, because the term means one thing to the raisin industry and another to persons outside the industry, the industry will no longer use this term under

the order. Moreover, Soda Dipped raisins and Sulfur Bleached raisins would be classified as Dipped Seedless raisins, and Valencia raisins classified as Muscats under the recommended revision of § 989.10, Varietal types.

In connection with the deletion of this term, a conforming change should be made in § 989.8, Natural condition raisins, by deleting the words "with or without bleaching". Also, conforming changes should be made in the provisions in § 989.97 (Exhibit B) Grade and condition standards for natural condition raisins, when these requirements are moved to the rules and regulations as discussed under Material Issue (3).

(2) The provisions of § 989.96 specify several producer districts and the number of producers to represent the respective districts on the Raisin Administrative Committee. In 1967, these provisions were changed to require producer representation on the committee to be reviewed every three years for equitable producer representation and any necessary changes made. Pursuant to this changes were made and placed in the rules and regulations. Hence, provisions on district representation are either in the order or in the rules and regulations. This format requires a review of the applicable order provisions and the rules and regulations to be sure of finding all of the current district representation. To eliminate this and thus facilitate reference to grower district representation, § 989.96 should be deleted and the provisions on district representation prescribed in the rules and regulations. Thus, all such regulations would be in the same place and the current difficulties with the present format would be eliminated. Furthermore, the review makes this change logical and desirable.

The provisions currently in § 989.96 should be moved to the rules and regulations at or after the time the recommended amendment of the order becomes effective. The requirements contained in § 989.96 should remain in effect until October 1, 1977, and then be established in the rules and regulations.

In view of this recommended change, appropriate changes should be made in the provisions of § 989.22 District, § 989.26 Establishment and membership, and § 989.26a Changes in producer representation, as follows: (a) In § 989.22, the phrase "specified in § 989.96" should be changed to "designated in the rules and regulations"; (b) in the second sentence of § 989.26, the term "§ 989.96" should be changed to "the rules and regulations"; and (c) in the first sentence of § 989.26a, the term "§ 989.96" should be changed to "the rules and regulations".

(3) Under the order, all natural condition raisins tendered to the handler must meet minimum grade and condition standards before the handler is permitted to acquire or receive them. After the raisins are processed to the point where they can be classified as packed raisins, minimum standards for packed raisins are applied to them prior to shipment or final disposition. The minimum grade and condition standards for natural condition raisins (incoming grade standards) are closely related to those for packed raisins (outgoing grade standards), since raisins meeting the incoming standards have to be of a quality and condition that they would, when properly processed, meet the effective minimum grade standards for packed raisins.

Section 989.58(a) does not permit a handler to acquire or receive natural condition raisins which fail to meet the grade and condition standards set forth in § 989.97 (Exhibit B) or as later changed and then in effect. No handler may ship or otherwise make final disposition of packed raisins unless they at least meet the minimum grade standards for packed raisins specified in § 989.59–(a).

Changes in the applicable grade and condition standards are authorized pursuant to §§ 989.58(b) and 989.59(b). Numerous changes have been made in both, the natural condition and packed standards, by rulemaking since the standards have been effective. Hence, standards are prescribed in one part of the order and the changes are in rules and regulations. This format requires a review of the applicable order provisions and provisions in the rules and regulations to be sure of finding all of the current incoming and outgoing grade regulations.

To eliminate this and facilitate reference to the applicable regulations, the minimum grade and condition standards for natural condition raisins set forth in § 989.97 (Exhibit B), and the minimum grade standards for packed raisins in § 989.59(a), should be deleted and provision made for their establishment and relocation in the rules and regulations along with changes currently prescribed therein.

In order to permit the establishment of the grade and condition standards in the rules and regulations, that part of the first sentence of § 989.58(a) before the proviso, should be revised to provide that no handler shall acquire or receive natural condition raisins which fail to meet such minimum grade and condition standards as the committee may establish, with the approval of the Secretary, in applicable rules and regulations.

In the notice of hearing, it was proposed that the word "the," follow the infinitive "to meet" in the first sentence of § 989.58(a). Also, the word "raisins" in the first proviso was inadvertently omitted after the phrase "may receive off-grade". At the hearing, the proponents proposed that the word "such" be inserted in place of "the" because it is more exacting in conveying the intent of the provision, and that the word "raisins" be inserted after the phrase "may receive off-grade" in the first proviso.

Also, in the notice of hearing, the last sentence of § 989.58(a) was proposed to be amended by deleting the phrase "the acquisition or receipt of" after the phrase "this paragraph shall apply to". However, this phrase should be included in the last sentence of § 989.58(a) because its deletion alters the meaning of the sentence.

The proposal in the notice of hearing on revising § 989.59(a) merely brought the minimum grade standards for packed raisins into conformity with the recommended revision of varietal types discussed in Material Issue (1). However, the record evidence indicates that the minimum standards for packed raisins prescribed in paragraph (a) should be deleted and provision made for their establishment by rulemaking in rules and regulations. This change should be made for the same reason that the change in § 989.58(a) should be made; namely, to facilitate reference to the applicable regulations by eliminating the need to look in the order and the regulations. Therefore, § 989.59(a) should provide that unless otherwise provided in this part, no handler shall: (1) Ship or otherwise make final disposition of natural condition raisins unless they at least meet the effective and applicable minimum grade and condition standards for natural condition raisins, or (2) ship or otherwise make final disposition of packed raisins unless they at least meet such minimum grade standards established by the committee, with the approval of the Secretary, in applicable rules and regulations or as later changed or prescribed pursuant to the provisions of paragraph (b) of § 989.59. The two provisos currently in paragraph (a) pertaining to the shipment or final disposition of varietal types of raisins for which no standards are in effect, and authorization to grind raisins which do not meet the minimum standards for packed raisins because of mechanical damage or sugaring, into a raisin paste, should be retained in the revision of § 989.59(a).

The grade and condition standards currently contained in § 989.97 (Exhibit B) and the standards for packed raisins currently specified in § 989.59(a) should be moved to the rules and regulations at or after the time the recommended amendment of the order becomes effective. The requirements contained in § 989.97 (Exhibit B) and § 989.59(a) should remain in effect until October 1, 1977, and then be established in the rules and regulations. The temporary changes in the minimum grade standards for packed raisins (terminating November 30, 1977) set forth in § 989.202 of Subpart—Supplementary Regulation (41 FR 52645) should be recognized when establishing the minimum standards for packed raisins in the rules and regulations.

As indicated previously, § 989.58(b) provides, in part, that the committee may recommend to the Secretary changes in the minimum grade and condition standards for natural condition raisins. Similarly, § 989.59(b) provides, in part, that the committee may recommend to the Secretary changes in the minimum grade standards for packed raisins of any varietal type prescribed in paragraph (a) of that section. Section 989.61(a) provides that the provisions of Part 989 re-

lating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the Act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in Section 2(1) of the Act. Section 2(3) authorizes the Secretary to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements for certain agricultural commodities, other than milk and its products, in interstate commerce as will effectuate the orderly marketing of those commodities as will be in the public interest Many questions have been asked by the raisin industry over the years seeking clarification on the types of changes permitted pursuant to §§ 989.58(b) and 989.59(b), and the applicability of these changes in below, or above parity situations. Consistent with the legislative history of section 2(3) of the Act, minimum standards of quality are intended to keep off the market low quality, off-grade, culls, unclassified, or immature products, even though prices are above the parity level. Such action is intended to be in the interest of consumers, as well as in the interest of producers. Any changes in the minimum standards, whether temporary or permanent, to be applicable in above parity situations, must be justified in the public interest. Conditions may occur in any season necessitating changes in the minimum standards. These conditions can arise from many circumstances, including but not limited to, (a) crop conditions, (b) changes or advances in production, processing, and packaging technology, (c) conditions requiring more precise correlation between the incoming and outgoing standards, and (d) changes in economic factors affecting the orderly marketing of raisins in the public interest With respect to (a), there have been two years (1958 and 1976) in which a large portion of the raisin crop was badly damaged by rain. All-out efforts were made to salvage as much of the crops as possible. In both seasons, there were temporary relaxations in the minimum standards. The purpose of the relaxations was to permit the industry to salvage as much of those crops as possible, but still be able to market a product acceptable to consumers and other users. These changes were in the public interest. However, there have been instances in which raisin production was reduced because of weather, but changes in the minimum standards were unnecessary. For example, in 1972, the production of California raisins was drastically curtailed by freezes. Those raisins that were produced in the fall of 1972 were of acceptable quality, and the minimum standards were not changed. In 1973, production returned to normal, but because of depleted stocks and the need to fill pipelines, the demand for 1973 crop California raisins was extremely strong. The minimum standards were not changed that year. In both, the 1972–73 and 1973–74 crop years, the season average price to producers exceeded parity. Regarding (b), better processing machinery may be developed resulting in more efficient processing of raisins. For example, such machinery could achieve better removal of stems or capstems from the pack, thereby enabling a reduction in the tolerences for these defects and hence, a reduction in the amount of foreign material in the pack. With respect to (c), it may be found that a tolerance for a particular defect in the incoming grade and condition standards is too liberal in comparison with the tolerance for the same defect in the outgoing minimum grade standards for packed raisins. The defect may be of such a nature that it cannot be removed readily during processing, and if the incoming tolerance is not decreased the quality of the outgoing pack may be lower than the effective minimum standards for packed raisins. Regarding (d), circumstances such as farm labor problems including the high cost and difficulty in finding adequate help, may force the raisin industry to find an alternative method of harvesting raisins by mechanical means. This could affect the quality of the raisins harvested in such ways as increased mechanical injury and broken skin. If these defects do not affect eating quality, less restrictive tolerances for these defects may be appropriate.

Therefore, changes in the minimum standards should be authorized whether or not the estimated average season price to growers is above or below parity level. These changes may be of short term or long term duration. In order that any changes are effective in above parity situations, such should be based on a specific determination by the Secretary that these changes will effectuate the orderly marketing of raisins as will be in the public interest.

Accordingly, § 989.58(b) should be revised to provide that the committee may recommend to the Secretary changes in the minimum grade and condition standards for natural condition raisins of any varietal type and may recommend to the Secretary that the minimum grade and condition standards for any varietal type be added or deleted. As discussed herein, such recommended changes may be more restrictive or may relax the minimum standards then in effect, and may be made whether or not the season average price to producers is above parity. Paragraph (b) should also provide that the committee shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of the data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

The notice of hearing did not contain a proposal to revise § 989.59(b). However, the record evidence indicates that the provisions of § 989.59(b) should be revised in conformity with the recommended changes in § 989.59(a) and to keep it properly related to § 989.58(b). Therefore, § 989.59(b) should provide that the committee may recommend changes in the minimum grade standards for packed raisins of any varietal type and may recommend to the Secretary that minimum grade standards for any varietal type be added or deleted. As in the case of changes pursuant to § 989.58(b), any changes pursuant to this paragraph may be more restrictive or may relax the minimum standards then in effect, and may be made whether or not the season average price to producers is above parity. The committee shall submit with its recommendation all data and information upon which it acted in making its recommendation and such other information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Unless a change pursuant to this paragraph is supported by a justification by the committee that it will effectuate the orderly marketing of raisins as will be in the public interest it should not be effective in above parity situations.

Provisions currently in § 989.61(b) include authorization, criteria, and limits for modifying the grade standards for natural condition and packed raisins when the parity level is exceeded. The recommended revision of §§ 989.58(b) and 989.59(b) makes this paragraph unnecessary and it should be deleted.

The first sentence of § 989.61 in the notice of hearing implies that the provisions on minimum grade and condition standards and inspection requirements and any other provisions pertaining to the administration and enforcement thereof are the only provisions under the order that continue in effect in above parity situations. However, other provisions under the order, such as those for expenses and assessments, reporting, and research and development purposes also remain in effect in above parity situations. Therefore, the first sentence of § 989.61 in the notice of hearing should be amended by substituting the words "of the order" in place of "thereof".

(4) The proviso in § 989.58(d)(1) should be revised to provide that the initial inspection for infestation shall not be required if the raisins are fumigated in accordance with such rules and procedures as the committee shall establish with the approval of the Secretary. This proviso currently permits handlers to fumigate lots of natural condition raisins received by them prior to the completion of the inspection and certification process. It also eliminates the need to certify a lot as off-grade raisins, upon its receipt by a handler, if fumigation only is needed for the lot to be certified as standard raisins and the fumigation is performed successfully soon after the lot is received. However, because it may take up to a week before a handler has received a sufficient volume of raisins to fill a fumigation chamber or build a stack of raisins and cover it so fumigation can be performed, the completion

of the inspection and certification process is unnecessarily delayed.

The recommended revision of the provisions in § 989.58(d)(1) would give handlers who have a policy of fumigating all incoming raisins the option of eliminating the inspection check for infestation at the time of receipt. Moreover, this revision would eliminate the unnecessary delay in the completion of inspection and certification, because these activities would not be interrupted for the fumigation process.

To the extent that handlers take advantage of this option and fumigate soon after completion of incoming inspection and certification, the quantity of natural condition raisins that can be initially certified as standard raisins would be increased, and the workload of the handlers, the committee, and the inspection agency would be reduced.

Authority should be provided for rules and regulations to prescribe such things as issuance of the inspection certificate prior to completion of fumigation, requirements that the raisin lots remain under the supervision of the inspection service during fumigation, and the determination by the inspection service that fumigation was successful.

(5) Authority should be added to the order for the ommittee to designate raisins for production, processing, and marketing research and development projects and for exempting the acquisition and disposition of these raisins from any or all regulations established under the order. The purpose of authorizing the committee to grant such exemptions is to encourage projects which will encourage cost savings and better raisins and raisin products. Such projects would be initiated without finanial support of the committee, but would be for the long-run benefit of the entire raisin industry.

The type of research contemplated under these provisions includes experimentation and development of new kinds of raisins (raisins made from other than the traditional raisin grapes) and new techniques in making raisins. For example, a number of growers have indicated interest in planting the new Fiesta grape for raisin production but are apprehensive, because they are not sure of the marketing possibilities. With respect to handlers, the possibility of having to set aside, under volume regulations, raisins for diversion is unattractive with respect to experimental raisins.

When the total handler acquisitions of raisins under an exemption granted by the committee, exceeds 500 natural condition tons or a larger quantity approved by the Secretary upon a recommendation of the committee the exemption should terminate. Also, each exemption granted for a particular research project should be for not more than five years. If the research project is not completed after the fifth year, the committee should review the progress made and decide whether or not the exemption should be continued.

To experiment with a new kind of raisin and conduct meaningful test market studies, a relatively large quantity of exempt tonnage is needed. The 500 natural condition ton limitation as set out above should be adequate for these purposes and is designed to encourage more than one producer or handler to participate in similar research. The record evidence indicates that the current industry view is a quantity greater than 500 tons would be of commercial significance, have an impact on the market, and should be subject to all regulations established under the order. However, the evidence indicates that should the 500 ton limitation turn out to be too restrictive in light of operational experience, the order should authorize an increase by the Secretary, upon a recommendation of the committee, and that formal amendment proceedings would be unnecessary. Five years is deemed ample time for completion of the types of research projects contemplated initially.

There was considerable discussion at the hearing on how the committee planned to administer these provisions. During the discussion, possible methods of administration were illustrated which would afford producers and handlers participating in such research activities maximum flexibility, and lessen the chances of noncompliance.

According to the record evidence, any request for such an exemption would be made by the producer or handler seeking the exemption at a committee meeting. The committee would review the request and decide whether or not the project involved a new kind of raisin or a new method of making raisins. If the project qualified, the committee would determine which regulations would not apply and the period of time the exemption would be granted. If the committee granted the exemption, all producers and handlers would be notified of the project, the regulations from which the raisins were exempt, and the length of time for which the exemption was approved. Notices would be sent to all handlers and releases would be made through news media.

It is contemplated that an application system would be used by the committee so it would not grant exemptions for the same research project for more than 500 total tons in any one crop year. In other words, each producer or handler requesting an exemption for the particular raisins and research project would indicate the quantity of such raisins they expected to produce or market. When the 500-ton limitation set out above is exceeded, no further exemptions for the designated raisins would be granted by the committee and all exemptions granted previously by it for those raisins would terminate. The preceding sentence is a revision of the sentence contained in the findings and conclusions. The revision, based on the comment received from the Raisin Administrative Committee, clarifies the intent in the evidence that all exemptions granted for designated raisins terminate when the 500-ton limitation is exceeded. The committee indicated that the sentence was not consistent with the intent of the proposal because it left the impression that in years when the production of the exempt raisins exceeds 500 tons, the first 500 tons would be exempted, and only that tonnage in excess of the 500 tons would be regulated. The revision of this sentence does not necessitate a change in the proposed language of the provisions contained in § 989.60(c).

The committee should maintain a complete record of all exempt acquisitions and shipments. All acquisitions and receipts by handlers are reported to the committee by handlers on a weekly basis, broken down by varietal type indicating the quantities held for reconditioning. Shipments are reported monthly, broken down by destinations, varietal type, and pack. Also, the record evidence indicates that any exempt tonnage will be kept under surveillance by committee management until disposed of by the handlers.

The method of administration of these provisions should be based on the committee's study and operating experience under these provisions. The provisions should not identify a specific means of administration, but merely provide a broad framework upon which the committee can base its decision to grant exemptions. Thus, if the initial method of administering the provisions turns out to be defective in some way, the committee could seek other means of administration.

The proposal in the notice of hearing required the Secretary to approve the exemptions granted by the committee. However, at the hearing it was determined that approval of the Secretary was not needed because no committee funds would be used for the research, and the committee could administer the provisions adequately. Also, the proposal in the notice of hearing limited the research covered under the provisions to new grape varieties and kinds of raisins, and new drying methods. The record evidence indicates that the language of the provisions should be broadened to include production, processing, and marketing research and development to afford the industry the greatest flexibility possible in operating under these provisions.

In view of the foregoing, a new paragraph (c) should be added to § 989.60 providing that the committee may designate such raisins as it deems appropriate for production, processing, and marketing research and development. The period of such designation shall be for not more than five years unless extended by the committee. The volume which may be acquired by all handlers shall not exceed 500 natural condition tons annually for each designated project, unless increased by the Secretary upon a recommendation of the committee. Such designated raisins may be acquired and disposed of free from those regulations specified by the committee. In any crop year, when the total industry acquisitions of designated raisins exceed 500 natural condition tons or a larger quantity approved by the Secretary upon a recommendation of the committee, the exemption shall not apply.

(6) The first sentence of § 989.66(b)(3) currently specifies procedures for handlers to substitute for any quantity of reserve tonnage raisins a like quantity of free tonnage raisins of like quality and

varietal type of the same or more recent year's production. A literal interpretation of the requireemnt that the free tonnage raisins substituted for the reserved tonnage raisins be "like quality" would require the free tonnage to be Grade A if the reserve tonnage was Grade A, the free tonnage to be Grade B if the reserve tonnage was Grade B, and so forth. However, this is different from how the committee is administering this provision. Since all raisins acquired by handlers must be standard raisins (i.e., raisins meeting the then effective minimum grade and condition standards for natural condition raisins), and handlers are only required to hold standard raisins to satisfy their respective reserve obligations, the committee has permitted handlers to substitute standard raisins for reserve tonnage raisins. Therefore, for the purpose of bringing the current requirement in line with committee application, the first sentence of § 989.66(b)(3) should provide that each handler may, under the direction and supervision of the committee, substitute for any reserve tonnage raisins a like quantity of standard raisins of the same varietal type and of the same or more recent year's production.

The provisions in § 989.67(d)(1) authorizing the establishment of minimum export prices (packer resale prices) for reserve tonnage raisins should be deleted. The committee has not established minimum export prices for nearly 10 years. Currently, there is no need for minimum export prices and no likelihood that any would be established in the foreseeable future.

In an order amendment effective August 4, 1976 (41 FR 32412), provisions pertaining to offers of reserve tonnage to handlers for free tonnage replacement were modified to permit the committee to make such replacement offers at any time prior to the committee's first offer to sell reserve tonnage raisins from a new crop year.

However, in that amendment action the provisions which require the committee to announce the price for replacement tonnage prior to or at the beginning of the crop year were not changed. The time when the committee may make a replacement offer and the price announcement should be the same. To accomplish this, the second sentence of § 989.67(f) should specify that the committee may establish a price for such replacement tonnage which is higher, the same as, or lower than that for reserve tonnage in the first offer of the crop year.

Section 989.67(j) currently authorizes the committee to sell reserve tonnage raisins to handlers to provide them with raisins to sell as free tonnage in the event (among others) of national emergency, crop failure, changes in economic or marketing conditions, or inadequate carryover. Such offers are made to handlers in the same manner as in § 989.67(d)(1) and shares are determined on the basis of handler acquisitions pursuant to § 989.67(d)(2). To provide more flexibility in the disposition of reserve tonnage raisins, the shares of any such offer should be determined on the basis of either handler acquisitions or shipments. The general intent of this proposal is to provide those handlers who have demonstrated that they can use more raisins with additional free tonnage.

Handlers normally do not acquire more raisins than they need to meet trade requirements. However, incorrect marketing decisions can result in significant differences between acquisitions and shipments. Historically, in the raisin industry, increases in free tonnage shipments have not been distributed among all handlers equally because market expansion can be the result of the intensive marketing efforts of some handlers, but not others. In these instances, basing the shares of any such offer on handler shipments would make additional tonnage available to those who have been expanding markets for free tonnage raisins. Basing the shares on acquisitions in this situation would be contrary to the purpose of augmenting the supply of free tonnage with reserve tonnage to meet increased market demand, since handlers not needing tonnage would be given the opportunity to purchase it. The decision as to the basis of determining shares of any such offer should rest solely with the committee.

Each proposal to make such offers would be considered by the committee in light of information available at the time. Hence, if more than one offer is needed during a crop year, it could happen that the determination of shares in one offer may be based on handler acquisitions and shares of the other may be based on handler shipments.

Section 989.54(d) authorizes the committee to make offers of reserve tonnage raisins for use as free tonnage for reasons other than specified in § 989.67(j), and this should be recognized in § 989.67(j). Two such offers are required to be made to handlers pursuant to § 989.54(d). The first offer is an adjustment offer of 10 percent of the previous year's shipments which is allocated to handlers on the basis of their prior year's acquisitions to enable them to acquire a quantity of raisins equal to their prior year's shipments. The second offer is a growth offer of an equal percentage which is made simultaneously to handlers based on their prior year's shipments to provide them with additional raisins for market expansion if they desire it.

The proposal published in the notice of hearing and the record evidence state that the second sentence of § 989.67(j) should provide that any quantities of reserve raisins offered to handlers for free use, except as provided in § 989.54(d), may be offered to them on the basis of shipments or acquisitions and if on the basis of acquisitions shall be offered in the same manner as in subparagraph (1) of paragraph (d) of § 989.67, with shares determined pursuant to subparagraph (2) of paragraph (e) of that section. However, the manner and procedures were not specified for offers based on handler shipments. So that the manner in making offers based on shipments will conform with the manner of making offers on the basis of acquisitions, the procedure (formula) for determining handlers' shares should be the same as that for acquisitions except that shipments should be used as the basis instead of acquisitions. Moreover, the procedure for determining handlers' shares is contained in paragraph (d)(2) of § 989.67, not paragraph (e)(2). Thus, the reference should be corrected to subparagraph (2) of paragraph (d).

The committee also indicated in its comment that it intended that regular reserve offers (i.e., those for export or government purchases), should not influence, or be influenced by, free use offers, regardless of whether or not handler shares of such offers are based on acquisitions or shipments. This comment merely reaffirms the record evidence and no change in the proposed language of § 989.67(j) is needed.

In view of the foregoing, the second sentence of § 989.67(j) should provide that any quantities of reserve raisins offered to handlers for free use, except as provided in § 989.54(d), may be offered to them on the basis of handler shipments or acquisitions in the same manner as in subparagraph (1) of paragraph (d) of this section. If offered on the basis of acquisitions, shares shall be determined pursuant to subparagraph (2) of paragraph (d) of this section; if offered on the basis of shipments, the same formula shall be used, except that shipments shall be used as the basis instead of acquisitions in computing handlers' shares.

(7) Under the order, raisin handlers are compensated for services performed with respect to reserve tonnage raisins held for the account of the committee. Such services now include receiving, handling, storing and fumigation. Fumigation has been paid as part of the total package of handler services for a number of years. Therefore, for clarification purposes, the word "fumigating" should be added after the word "receiving" in the first sentences of §§ 989.80(a) and 989.82, and after the word "storing" in the next-to-the-last sentence of § 989.79.

(8) In an order amendment effective August 4, 1976 (41 FR 32412), the Raisin Advisory Board and Raisin Administrative Committee were abolished and replaced with a new administrative committee and an executive operations committee, respectively. As a conforming change, all references to the Board were deleted or changed to "committee". However, one conforming change was inadvertently overlooked in § 989.80(c), regarding funds needed to carry out the functions of the Board. Since funds for the Board are not needed, the fourth sentence of § 989.80(c) should read: "In order to provide funds to carry out the functions of the committee the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against such handler during the crop year".

(9) Some of the amendatory actions included in this recommended decision require conforming changes elsewhere in the order, as amended. Such changes have been discussed with the issues to

which they are pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the beginning of the hearing, the Administrative Law Judge fixed November 26, 1976, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. No briefs were filed.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of raisins produced from grapes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of raisins produced from grapes grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exception to the recommended decision was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California", and "Order Amending the Order, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of raisins produced from grapes grown in California, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the area of production in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1975, through July 31, 1976.

The agents of the Secretary to conduct such referendum is hereby designated to be Charles Fuqua, Richard Van Diest, and William J. Higgins.

Signed at Washington, D.C. on May 24, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of raisins produced from grapes grown in California, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Administrator on March 28, 1977, and published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17463), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Section 989.2 is revised to read:

§ 989.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 989.6 [Deleted]

2. Section 989.6 is deleted.

§ 939.8 [Amended]

3. Section 989.8 is amended by deleting the phrase "with or without bleaching".

4. Section 989.10 is revised to read:

§ 989.10 Varietal types.

"Varietal types" means raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. Varietal types are the following: Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant and Monukka: *Provided*, That the committee may, subject to approval of the Secretary, change this list of varietal types.

§ 989.13 [Amended]

5. Section 989.13 is amended by deleting the phrase "(as defined in paragraph (f) of § 989.59)".

6. Section 989.22 is revised to read:

§ 989.22 District.

"District" means any one of the geographical areas referred to in §§ 989.26 or 989.43, and designated in the rules and regulations.

7. Section 989.24 is amended by revising the section heading and paragraph (b), and adding new paragraphs (c) and (d), to read:

§ 989.24 Standard raisins, off-grade raisins, other failing raisins, and raisin residual material.

(a) * * *

(b) "Off-grade raisins" means raisins which do not meet the then effective minimum grade and condition standards for natural condition raisins: *Provided*, That raisins which are certified as off-grade raisins shall continue to be such until successfully reconditioned or become "other failing raisins".

(c) "Other failing raisins" means any raisins received or acquired by a handler, either as standard raisins or off-grade raisins, which are processed to a point where they qualify as packed raisins but fail to meet the applicable minimum grade standards for packed raisins.

(d) "Raisin residual material" means defective raisins, stemmer waste, sweepings, and other residue accumulated by a handler from reconditioning raisins or from processing standard raisins and other failing raisins.

8. The second sentence of § 989.26 is revised to read:

§ 989.26 Establishment and membership.

* * *. The producer members shall be selected in the number and for the districts as designated in the rules and regulations, or as such number or districts may be authorized pursuant to § 989.26a. * * *

9. The first sentence of § 989.26a is revised to read:

§ 989.26a Changes in producer representation.

The Secretary, on recommendation of the committee, may change the total number of producer members on the committee, may change the number of districts designated in the rules and regulations, may redefine such districts into which the production area is divided, or may change the number of producer members which shall be selected to represent particular districts. * * *

10. Paragraphs (a) and (b) and the proviso in paragraph (d)(1) of § 989.58 are revised to read:

§ 989.58 Natural condition raisins.

(a) *Regulation.* No handler shall acquire or receive natural condition raisins which fail to meet such minimum grade and condition standards as the committee may establish, with the approval of the Secretary, in applicable rules and regulations: *Provided*, That a handler may receive raisins for inspection, may receive off-grade raisins for reconditioning and may receive or acquire off-grade raisins for disposition in eligible nonnormal outlets: *And provided further*, That a handler may acquire natural condition raisins which exceed the tolerance established for maturity under a weight dockage system established pursuant to rules and regulations recommended by the committee and approved by the Secretary. Nothing contained in this paragraph shall apply to the acquisition or receipt of natural condition raisins of a particular varietal type for which minimum grade and condition standards are not applicable or then in effect pursuant to this part.

(b) *Changes in minimum grade and condition standards for natural condition raisins.* The committee may recommend to the Secretary changes in the minimum grade and condition standards for natural condition raisins of any varietal type and may recommend to the Secretary that minimum grade and condition standards for any varietal type be added or deleted. The committee shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of the data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

* * * * *

(d)(1) * * *: *Provided*, That the initial inspection for infestation shall not be required if the raisins are fumigated in accordance with such rules and procedures as the committee shall establish with the approval of the Secretary. * * *

* * * * *

11. Paragraphs (a) and (b) of § 989.59 are revised to read:

§ 989.59 Regulation of the handling of raisins subsequent to their acquisition by handlers.

(a) *Regulations.* Unless otherwise provided in this part, no handler shall: (1) Ship or otherwise make final disposition of natural condition raisins unless they at least meet the effective and applicable minimum grade and condition standards for natural condition raisins; or (2) ship or otherwise make final disposition of packed raisins unless they at least meet such minimum grade standards established by the committee, with the approval of the Secretary, in applicable rules and regulations or as later changed or prescribed pursuant to the provisions of paragraph (b) of this section: *Provided*, That nothing contained in this paragraph shall prohibit the shipment or final disposition of any raisins of a particular varietal type for which minimum standards are not applicable or then in effect pursuant to this part; *And provided further*, That a handler may grind raisins, which do not meet the minimum grade standards for packed raisins because of mechanical damage or sugaring into a raisin paste.

(b) The committee may recommend changes in the minimum grade standards for packed raisins of any varietal type and may recommend to the Secretary that minimum grade standards for any varietal type be added or deleted. The committee shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

* * * * *

§ 989.59 [Amended]

12. Section 989.59(f) is amended by deleting the phrase "(including defective raisins, stemmer waste, sweepings, and other residue)" from the first sentence and by deleting the comma following "standard raisins", and the second sentence.

13. A new paragraph (c) is added to § 989.60 to read:

§ 998.60 Exemption.

* * * * *

(c) The committee may designate such raisins as it deems appropriate for production, processing, and marketing research and development. The period of such designation shall be for not more than five years unless extended by the committee. The volume which may be acquired by all handlers shall not exceed 500 natural condition tons annually for each designated project, unless increased by the Secretary upon a recommendation of the committee. Such designated raisins may be acquired and disposed of free from those regulations specified by the committee. In any crop year, when

the total industry acquisitions of the designated raisins exceed 500 natural condition tons or a larger quantity approved by the Secretary upon a recommendation of the committee, the exemption shall not apply.

14. Section 989.61 is revised to read:

§ 989.61 Above parity situations.

The provisions of this part relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions pertaining to the administration and enforcement of the order, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2(1) of the act.

15. The first sentence of subparagraph (3) in § 989.66(b) is revised to read:

§ 989.66 Reserve tonnage generally.

* * * * *

(b) * * *

(3) Each handler may, under the direction and supervision of the committee, substitute for any reserve tonnage raisins a like quantity of standard raisins of the same varietal type and of the same or a more recent year's production. * * *

* * * * *

16. The last sentence of § 989.67(d)(1) is deleted, and the second sentences of paragraphs (f) and (j) of § 989.67 are revised to read:

§ 989.67 Disposal of reserve raisins.

* * * * *

(f) * * *. The committee may establish a price for such replacement tonnage which is higher, the same as, or lower than that for reserve tonnage in the first offer of the crop year. * * *

* * * * *

(j) * * *. Any quantities of reserve raisins offered to handlers for free use, except as provided in § 989.54(d), may be offered to them on the basis of handler shipments or acquisitions in the same manner as in subparagraph (1) of paragraph (d), of this section. If offered on the basis of acquisitions, shares shall be determined pursuant to subparagraph (2) of paragraph (d) of this section. If offered on the basis of shipments, the same formula shall be used, except that shipments shall be used as the basis instead of acquisitions in computing handlers' shares. * * *

§ 989.79 [Amended]

§ 989.80 [Amended]

§ 989.82 [Amended]

17. The word "fumigating" is added after the word "receiving" in the first sentences of § 989.80(a) and 989.82, and after the word "storing" in the next-to-the-last sentence of § 989.79.

18. In the fourth sentence of § 989.80(c), the words "and the Board" immediately following the words "functions of the committee" are deleted.

§ 989.84 [Amended]

19. Section 989.84 is amended by deleting the phrase "(as defined in § 989.59(f))".

§ 989.96 [Deleted]

20. Section 989.96 is deleted, effective October 1, 1977.

§ 989.97 [Revoked]

21. Section 989.97(Exhibit B) is deleted, effective October 1, 1977.

[FR Doc.77-15514 Filed 5-31-77;8:45 am]

[7 CFR Part 1030]

[Docket No. AO-361-A17]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions, based on industry proposals considered at a public hearing held June 15–18, 1976. Principal changes relate to performance standards for pool plants and the rates used to adjust milk prices for different plant locations. The changes would aid the efficient handling of milk and would reflect the recent increases in hauling costs.

DATE: Comments are due on or before June 21, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-6273).

SUPPLEMENTARY INFORMATION:

PRIOR DOCUMENTS IN THIS PROCEEDING

Notice of Hearing—Issued May 25, 1976; published May 28, 1976 (41 FR 21787).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chicago Regional marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by June 21, 1977. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Madison, Wisconsin, on June 15–18, 1976 pursuant to notice thereof which was issued May 25, 1976.

The material issues on the record of the hearing relate to:

1. Pooling standards for distributing plants and supply plants;
2. Definition of producer and producer milk;
3. Plant accounting procedures;
4. Classification of milk;
5. Class I price level;
6. Location adjustments to handlers and producers; and
7. Modification of payments to producers.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for distributing plants and supply plants.*—(a) *Distributing plants.* The unit pooling provisions applicable to distributing plants should be modified by making the 10 percent in-area route disposition requirement applicable to the unit as a whole rather than on each plant in the unit. This change will facilitate the efficient handling of Class II products by operators of distributing plants.

A proprietary operator of two pool distributing plants proposed that packaged fluid cream products, cottage cheese, yogurt, and eggnog be defined as "associated fluid milk products" and that the sales of such packaged products count toward meeting the minimum "route disposition" requirement of pool distributing plants. A proposal by several cooperative associations would include sales of packaged fluid cream products as "route disposition" in qualifying a distributing plant for pool plant status.

Presently, a distributing plant qualifies for pooling on the basis of its total and in-area sales of packaged fluid milk products. A spokesman for the cooperatives testified that prior to August 1, 1974, packaged fluid cream products were also considered in determining whether a distributing plant had met the minimum sales requirement. The witness stated that when cream products were put in a separate class they were unintentionally deleted as qualifying sales for a distributing plant.

The witness is mistaken in this contention. The final "classification" decision issued on February 19, 1974, (39 FR 8202), relative to the Chicago Regional order states as follows:

"With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining if a plant meets the pooling requirements of the order. To accommodate this, certain changes are necessary to those pool plant definitions that make specific reference to the movement of cream" (39 FR 8208).

A spokesman for the operator of two pool distributing plants testified that fluid cream products, cottage cheese, yogurt, and eggnog are generally associated with fluid milk products in processing and distribution and are highly perishable, as are fluid milk products. He said that they are largely distributed through fluid milk plants.

The witness further testified that in recent years there has been a tendency to concentrate the production of these Class II products in fewer and fewer plants. He said that after years of producing these products in each of the handler's distributing plants it became apparent that the production of these products should be concentrated in one plant if they were to be handled profitably.

The witness stated that for the market as a whole the concentrated production of "associated fluid milk products" has raised the Class I utilization of the plants where they were formerly produced. At the same time, however, it has lowered the Class I utilization in the plants specializing in these products. This, he concluded, should be recognized in the order by allowing "associated fluid milk products" to count towards pooling qualification.

This proposal would allow a plant that had no distribution of fluid milk products or other relationship with the Class I market to qualify for pooling under the order. For example, a plant specializing in the production of cottage cheese could qualify for pooling under this proposal. Since the Class II price is usually below the uniform price, this—theoretically, at least—could drain the pool of money needed to attract milk for Class I use.

A further problem associated with the proposal is drawing a distinction for pooling purposes between certain Class II products. For example, a plant specializing in the production of cottage cheese would be allowed to pool under the order while a plant specializing in ice cream, another Class II product, would not. Since all Class II disposition returns a uniform value to the pool, such disposition should be treated uniformly in any pooling provision.

Accordingly, it would not be appropriate to adopt the proposal advanced by proponents. However, the problem can be mitigated by removing the in-area route disposition requirement for each distributing plant in a unit. The 10 percent in-area route disposition requirement would thus apply to the entire unit. This change would allow a handler to specialize in the production of Class II products in one of his plants if the combined route disposition of fluid milk products from all plants in the unit is at least 10 percent of the unit's receipts used for determining pool plant status.

This modification of the proposal will maintain the basic pooling base by requiring all operators of distributing plants to have at least a minimum proportion of fluid milk product disposition in the marketing area. In this way, all operators of distributing plants will be contributing some higher valued Class I utilization to the market and all will have the same opportunity to benefit from any Class II utilization they may have.

The present 10 percent in-area route disposition requirement should not be reduced to 5 percent or a daily average of 1000 pounds, as suggested by proponent. Proponent testified that the present 10 percent in-area route disposition requirement places severe restrictions on new sales outside the marketing area. Removal of the 10 percent in-area route disposition requirement for separate plants within a unit should eliminate the restriction referred to by proponent. Any further relaxation of the 10 percent requirement is not needed at this time.

With removal of the in-area route disposition requirement for each plant within a unit, the possibility exists for a distant plant to become pooled under the Chicago Regional order by virtue of being in a unit with a distributing plant that has ample route disposition in the marketing area. To preclude certain pricing aberrations which could result by pooling such distant plants, the order should restrict the location of plants within a unit to the State of Wisconsin and that portion of Illinois that is within the Chicago Regional marketing area. Although it is unlikely that any distant plant would find it economically advantageous to become regulated under the Chicago order, this restriction will provide a degree of insurance against any potentially disruptive situations that might otherwise occur. There are no presently regulated distributing plants that will be affected by this change.

Removal of the in-area route disposition requirement for each plant in a unit requires a conforming change in the order terminology applicable to a unit, since, in effect, some plants in a unit may have no route disposition. Therefore, the words "two or more distributing plants" in the introductory text of § 1030.7(a) should be replaced with "at least one distributing plant and one or more additional plants at which milk is processed and packaged or manufactured." This change will permit the inclusion of any plant in a unit at which Grade A milk is processed and packaged or manufactured; *Provided*, That the total and in-area route disposition from all plants in the unit is sufficient to meet the minimum requirements for the entire unit.

(b) *Supply plants.* Several changes should be made in the supply plant pooling standards on the basis of this record.

First, with respect to supply plants qualifying in a unit, the present requirement that each individual supply plant in a unit must ship a minimum proportion of its receipts of milk to pool distributing plants should be dropped.

Second, supply plants that are included in a unit should be located in the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

Third, supply plants should be given credit for shipments to distributing plants fully regulated under other Federal orders. However, credit for shipments to other Federal order plants should be limited to the amount of milk shipped to pool distributing plants regulated under the Chicago Regional order. Furthermore, only that milk which is not shipped on an agreed upon Class II or III classification should be eligible for pooling credit.

Fourth, producer milk that is delivered by the operator of a supply plant (either a cooperative association or a proprietary handler) directly from producers' farms to pool distributing plants should be considered as qualifying shipments from the supply plant. This should be accomplished by allowing producer milk to be diverted from one pool plant to another pool plant.

Fifth, the period for which supply plants may have automatic pool plant status should be changed from April through July to April through August.

Sixth, receipts of other source milk should be excluded from a supply plant's receipts in computing the percentage of its receipts that must be shipped to distributing plants during the month to qualify for pooling.

1. Presently, each supply plant in a unit must ship a portion of its producer milk to distributing plants. Specifically, it must ship 15 percent of its producer milk receipts during the months of September, October, and November, and 10 percent in each of the months of August, December, January, February, and March.

Several cooperative associations (proponent of proposal No. 2) proposed the removal of the requirement that each supply plant in a unit be required to ship a minimum quantity of milk during the months mentioned above. However, in the event a temporary increase in the supply plant shipping percentage was issued by the Director of the Dairy Division, they proposed retaining the authority to require an individual plant to ship up to 50 percent of the shipping percentage applicable to the entire unit.

A similar proposal was made by the National Farmers Organization (NFO), except that its proposal would not retain the option of requiring a minimum level of shipments from individual plants in a unit in the event a call was issued. An NFO spokesman testified that the proposal would allow a handler to supply milk from the closest, least costly supply area and in the most efficient manner possible. It would, he said, provide substantial savings in the handling of the milk involved.

The witness testified that the present order provision causes more milk to be

handled through supply plants than is actually necessary. Moreover, he said that lack of reciprocity in Grade A milk inspection by the Chicago Board of Health makes it difficult and sometimes impossible to pool an otherwise qualified supply of milk on the Order 30 market.

A spokesman representing proponents of proposal No. 2 testified that the total shipping percentage required of a unit of supply plants assures handlers and the market of an adequate supply of milk for Class I and II use. The individual plant shipping requirement, he said, results in inefficiency and lower returns to producers because it does not permit all of a unit's shipments to come from the most favorably situated plants.

Individual shipping requirements for plants within a unit were incorporated in the order in a Final Decision issued July 9, 1973. At that time, it was found that distributing plants located in the Chicago metropolitan segment of the market were experiencing difficulty in obtaining needed milk supplies from supply plants. To remedy this situation, individual supply plant shipping requirements were adopted.

Two years later, on the basis of a hearing held in June 1975, the supply plant shipping requirements were lowered. It was found at that time that producer milk supplies on the market had increased to the point where uneconomic shipments of milk from supply plants were being made simply for the purpose of meeting the pooling requirements. Accordingly, supply plant shipping requirements were lowered by 5 to 10 percentage points.

Since June 1975, more milk has been pooled under Order 30 and the Class I utilization has declined further. In June 1975, 818 million pounds were pooled and 235 million pounds, or 29 percent of total receipts, were used as Class I. In June 1976, producer deliveries had increased to 892 million pounds—9 percent more than June 1975. Producer milk used in Class I increased to 237 million pounds, resulting in a Class I utilization of 26 percent—3 percentage points below June 1975.

Perhaps more significant than the total amount of milk on the market is the amount of milk pooled at supply plants approved by the Chicago Board of Health, since pool distributing plants distributing milk within the City of Chicago have, until recently, been required to receive only Chicago-inspected milk. In March 1976, 450 million pounds of milk were received at Chicago-approved supply plants, compared to 413 million pounds in March 1975, 400 million pounds in March 1974, and 375 million pounds in March 1973. This 20 percent increase in Chicago-approved milk in the past 3 years has reduced the need to require each plant in a unit to perform. Moreover, as a result of a recent court decision,[1] the Chicago Board of Health now approves the sale of milk on a reciprocal inspection basis. Thus, there is an abundant supply of milk available to Chicago bottling plants.

In conclusion, the reasons previously supporting shipments from supply plants within a unit no longer exist. There are now plentiful supplies of milk available to the market, making it unnecessary to require shipments from individual plants in a unit. Removal of this requirement will allow operators of supply plant units to minimize hauling costs in supplying milk to the market.

There is no need to retain authority for the Director of the Dairy Division to require individual plants within a unit to ship up to 50 percent of the shipping percentage required of the unit. To invoke this requirement on a short notice basis after many months without requiring shipments would likely cause increased transportation costs in moving milk to market. Moreover, it would adversely affect those units which are having no difficulty in meeting their minimum deliveries if the provisions were invoked in response to requests by other operators of units which are experiencing difficulty in getting their plant operators to ship milk. Therefore, it is more appropriate for the unit participants themselves to determine which plants in a unit should ship and how much each should ship.

Presently, the cooperative or handler establishing a unit furnishes the market administrator with a list of the plants included in the unit. In the event that shipments from the unit are insufficient to qualify the entire unit for pooling, the plant first on the list is excluded from the unit first, followed by the plant second on the list, and so on.

This procedure should be modified slightly by offering the handler or cooperative establishing the unit the option of specifying which plant or plants shall be excluded from the unit when deliveries are insufficient to qualify the entire unit. This option will allow the cooperative or handler to exclude the plant(s) of those parties that may have failed to meet their obligations to supply a certain amount of milk, while protecting the interests of those operators of plants that are specified at the beginning of the list who may, in fact, be fulfilling their obligations. If a handler or cooperative declines to identify the plant(s) that will be excluded from the unit, then the market administrator will simply exclude the plants according to the sequence in which they are listed.

This modification should give handlers and cooperatives more leverage in insuring that agreements are honored by unit participants. It will replace the need to allow the Director to require shipments from individual plants in a unit, which as mentioned above, would be unfair to those units which are experiencing no difficulty in meeting their delivery obligation.

2. The order should be modified to restrict supply plants that qualify for pool status as part of a unit to be located in either the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

Presently, all supply plants—including those in a unit—have to make some shipments to pool distributing plants. This requirement has tended to restrict the area in which supply plants are located, since a plant located a great distance from the market would find it uneconomical to make the required level of shipments.

With the removal of the shipping requirement for individual plants in a unit, however, it would be possible for supply plants located at great distances from the market to pool under the Chicago order by being included in a unit. It is probable that a distant plant would find it undesirable to pool under Order 30 after the Chicago uniform price is adjusted to the plant's location. However, to guard against any unforeseen pricing aberration that could result, a geographic restriction encompassing the historical supply area for the market should be placed on all plants qualifying as part of a unit. Since all plants now pooled under Order 30 are located either within the State of Wisconsin or that part of northern Illinois that is in the Chicago Regional marketing area, this area is a reasonable one in which to restrict the location of plants qualifying as part of a unit.

3. Several proposals by cooperative associations would give full or partial pooling credit for shipments of milk from Order 30 supply plants to various non-Order 30 plants.

Presently, a supply plant is credited for its shipments to Order 30 pool distributing plants and plants of producer-handlers. Credit is also given for shipments to plants partially regulated under Order 30 if the transhipped milk is assigned to Class I milk disposed of in the Chicago Regional marketing area.

One of the proposals would also give pooling credit for shipments to plants fully regulated under other Federal orders and also to totally unregulated plants if the milk transferred received a Class I classification. Proponent contended that these proposals would encourage pool supply plant operators to increase their Class I utilization by serving additional Class I outlets and, thus, be of benefit to producers by increasing the uniform price.

Pooling credit should be granted for supply plant shipments to plants fully regulated under other Federal orders. Evidence on the record shows that during the period from September 1975 to February 1976 Order 30 supply plants shipped bulk milk to 9 other Federal order markets. Such shipments went as far south as the Oklahoma Metropolitan market and as far east as the Eastern Ohio-Western Pennsylvania market. The greatest volume of shipments occurred during January 1976, when more than 6 million pounds of milk were shipped to other markets.

Shipments of this nature are primarily intended for Class I use at the transferee plant. The Class I utilization is passed back to the supply plant and serves to

[1] Official notice is taken of: "*Dixie Dairy Co. vs. The City of Chicago*," 355 F. Supp. 1351. (N.D. Ill. 1975) affirmed 538 F. 2d 1303 (7th Cir. 1976) *cert. den.* 45 L. W. 3416 (1976)

increase the Class I utilization and uniform price of Order 30. Consequently, such sales serve to improve the returns of all producers on the market.

Up until now, shipments to other order plants have not been recognized as providing a service to the market and the system of Federal order markets. In fact, the current pooling standards tend to discourage such shipments by requiring the minimum shipments to be made to just one order. Consequently, a supply plant shipping to several markets would likely not qualify for pooling under any of them.

The trend in milk marketing has been towards larger markets, larger producer organizations, and large, centralized processing plants. Milk now moves much farther than it ever did before; not only is it procured from farther distances but also distributed over a much wider area. As a result of these developments, Federal order markets have been merged to provide a broader sharing of returns over much wider areas.

Allowing pooling credit for shipments to other orders is one means of providing a broader sharing of the Class I market among producers where merger may not be a feasible solution. It represents a logical step in accommodating movements of milk over much broader geographic areas and should benefit both the transferee and transferor markets.

Some of the proposals provided restrictions on the amount of milk which could be transferred to other order plants and receive credit towards the shipping requirement under Order 30. One proposal restricted such credit to the amount of milk shipped to Order 30 distributing plants. Another proposal provided no restrictions, so that a supply plant could conceivably qualify for pooling under Order 30 solely on the basis of shipments to other order distributing plants.

Pooling credit for shipments to other order plants should be limited to the equivalent of the shipments made to Order 30 distributing plants. This will insure that distributing plants in this market will be supplied with milk. Unlimited credit for shipments to other markets would undermine the effectiveness of the pooling standards in insuring that consumers in the Chicago Regional market will be supplied with fluid milk products.

Only that milk which is intended for Class I use at the other order plant should count towards pooling credit. The terms of Federal orders accommodate the transfer of milk to other order plants for the purpose of surplus disposal as well as for fluid use. Thus, milk which is transferred on the basis of requested Class II or III utilization should receive no pooling credit.

The order now provides pooling credit for milk transferred to a partially regulated distributing plant and assigned to Class I milk disposed of in the marketing area. Since virtually all of the territory now surrounding the Chicago Regional market is included in some other marketing area, it can be assumed that a distributing plant partially regulated under Order 30 probably has the bulk of its sales in some Federal order marketing area. As just indicated, pooling credit would be given for shipments to distributing plants regulated under other orders. In view of this and in view of the likelihood that a partially regulated plant's sales would be largely in regulated areas, it is reasonable that a supply plant receive pooling credit for all milk transferred to a partially regulated distributing plant which receives a Class I classification.

No pooling credit should be given for transfers from supply plants to totally unregulated plants. Under the terms of the Chicago Regional order the operator of an unregulated plant is assumed to be paying his own producers the Federal order uniform price, rather than the Class I price for milk utilized in fluid milk products. This treatment under the order is based on the assumption that the unregulated plant can not compete for producers unless he pays at least the order uniform price. But since this is the competitive price to producers the unregulated handler is not likely to be paying a higher price.

The Federal order Class I price structure is designed to include in the Class I price that amount necessary to carry the burden of maintaining an adequate reserve supply in the order market. Thus Federal order handlers pay a Class I price designed to carry a reserve supply for the regulated market. Unregulated handlers do not contribute to this burden on a year-around basis as regulated handlers do.

To encourage transfers to unregulated distributing plants for Class I use would facilitate an unregulated distributing plant operator in escaping the burden of carrying his own reserve milk supplies. When the plant operator did not need supplemental supplies, the pool would be forced to carry this milk for Class III use. Accordingly, while such transfers should not be prohibited under the order, they should not be encouraged by counting them as qualifying shipments for the transferor plant.

4. Cooperatives and proprietary handlers should be allowed to meet supply plant shipping requirements on the basis of direct deliveries from producers' farms.

The National Farmers Organization and Lakeshore Federated Dairy Cooperative each proposed allowing direct deliveries from producers' farms to pool distributing plants to count as qualifying shipments for a supply plant.

An NFO witness testified that current order provisions provide that only shipments from supply plants count towards meeting the supply plant shipping requirements. This, he said, causes a great deal more milk to be handled through supply plants than is actually needed to supply the fluid market. The witness concluded that its (NFO) proposal would make it possible for milk to be handled more efficiently. This would occur by having milk that is normally delivered to supply plants for transshipment to move directly from the farm to pool distributing plants but still count as a supply plant transfer. He also pointed out that its proposal would reduce shrinkage of milk (as a result of unnecessarily pumping it into a supply plant) and would result in less deterioration in the quality of the milk, which is also a result of pumping it.

Better roads and bigger trucks now make it feasible to direct-ship milk to all distributing plants in the Wisconsin segment of the market. For Chicago metropolitan area distributing plants, it may be more efficient to ship milk through supply plants. Whatever the individual circumstances may be, the order should encourage milk to be marketed in the most efficient way possible. Testimony indicates that current order provisions have encouraged the movement of milk through supply plants when it could have been direct-shipped to a distributing plant in Wisconsin. Inclusion of direct deliveries as qualifying shipments will remove the necessity of supplying milk through a supply plant—simply to keep the plant qualified for pooling—when the milk can be more economically supplied directly from producers' farms.

5. The period for which supply plants may have automatic pool plant status should be changed from April through July to April through August. Presently, a supply plant or unit of supply plants that met the pool performance standards for each of the months of August through March is automatically qualified for pool status during the following months of April through July.

The Trade Association of Proprietary Plants proposed dropping August as a qualifying month for supply plants. A spokesman for this group testified that surrounding orders generally use September as the first month in the qualifying period. He said that the Class I utilization during August is more related to the automatic pooling months than to the higher utilization months in the fall and winter. He also stated that September is a more logical month to use because schools in the Chicago area do not usually start until early September. Testimony by other witnesses indicated support for this proposal.

During 1976, the Class I utilization under the Chicago order was significantly higher during the months of January through March and September through December than during the other months of the year. For January, February, and March, the utilization percentages were 36, 32, and 33 percent, respectively. For September, October, November, and December, they were 35, 36, 36, and 32 percent, respectively. For April through August they were 30, 28, 26, 28, and 30 percent, respectively. These figures, which generally follow the pattern of the previous two years, indicate that the supply-demand pattern for August is more comparable with that for the current months of automatic pooling than with that for the months when supply plants are now required to ship milk.

By using September as the starting month of the qualifying period, the Chicago order will be better coordinated with neighboring orders, such as the Upper Midwest order, the Central Illinois order, the Indiana order, and others. This will facilitate planning by handlers and cooperatives concerning which plants and producers to associate with which markets during the qualifying period.

Eligibility for automatic pool plant status for a supply plant during the April–August period should not be denied a plant that was a pool plant under another order in one month during the prior September–March period. A cooperative association proposed that any plant that was a supply plant under Order 30 shall be a pool plant under Order 30 during the following month regardless of the volume of shipments made to other order distributing plants. Proponent stated that this proposal was made for the purpose of insuring that a supply plant would not lose its eligibility for pooling during the automatic pool plant status period. Proponent contended that the provision was needed in conjunction with adoption of pooling credit on shipments made to other order distributing plants.

It would not be workable to have a provision in this order that would preclude a plant from qualifying as a pool plant under another order. Thus, the proposal as published in the notice of hearing can not be adopted.

However, if a pool supply plant were to risk the loss of eligibility for pooling during the automatic pool plant status period by shipping enough milk to qualify for pool status under another order, it would tend to inhibit such plant operator's willingness to supply milk to other order markets. Thus, to complement the amendment providing for supply plant pooling credit on shipments to other order distributing plants, the proposal should be adopted as modified above.

6. A proposal to exclude receipts of other source milk from a supply plant's receipts for purposes or determining the amount of milk which must be shipped to distributing plants during the month should be adopted.

Presently, to determine if a supply plant or unit has met the minimum shipping percentage specified in the order, its total eligible shipments to pool distributing plants, producer-handler plants, and partially regulated plants are divided by the volume of Grade A milk received from dairy farmers and cooperative associations acting as handlers on bulk tank milk, including milk diverted to nonpool plants, but excluding packaged fluid milk products which are disposed of as route disposition or which are moved to nonpool plants.

Generally, Grade A milk received at a pool plant from dairy farmers is "producer milk" and is pooled under the order. However, there are certain exceptions to this, such as when a dairy farmer's milk is diverted from another order plant. In such case, the dairy farmer would be a producer under the other order.

Also, the Chicago order was amended in 1973 by including a provision that excludes from producer status a dairy farmer whose milk is received at a pool plant during the months of January through July if the dairy farmer's milk was pooled under an order with a seasonal incentive production plan during any of the "payback" months of the previous year. Consequently, such dairy farmer's milk is not pooled under the order.

In both cases, the milk of such dairy farmers is now part of a supply plant's receipts on which performance is based even though the milk is not producer milk under Order 30. Such other source milk is part of the reserve milk supply for other markets. Milk received by diversion from another order plant is allocated to Class II or Class III use. This treatment under the order is for the purpose of accommodating the disposal of reserve milk supplies of other order markets.

Similarly, milk received from a dairy farmer who was associated with another market during the prior "payback" period, which is the season of low production, is essentially part of the reserve supply of such other market. Thus in both situations, receipts of such milk at an Order 30 plant represent milk supplies basically associated with other markets. Accordingly, Order 30 plant operators should not be required to move such other source milk supplies to fluid use outlets when the Order 30 plants are merely facilitating the disposal of reserve milk supplies of other markets.

Since pooling credit will be given for movements of milk in bulk or packaged form to plants which are fully regulated under other Federal orders, there is no necessity to exclude shipments of packaged fluid milk products to other order plants from the supply plant's receipts, as the order now provides. However, fluid milk products disposed of as route disposition should continue to be excluded from a supply plant's receipts for the purpose of determining its shipping performance.

There is no basis for adopting a proposal that would exclude the volume of packaged fluid cream products that are disposed of from a supply plant from its receipts for the purpose of determining its shipping performance. As discussed above with respect to pool distributing plants, pooling standards must be tied to distribution of fluid milk products. Similarly, in the case of supply plants, only shipments to serve the fluid milk product needs of distributing plants should count towards meeting the shipping requirement. Since milk used in fluid cream products at a pool plant is pooled under the order, the supply plant should be required to perform on that quantity of milk also. Hence, there is no basis for subtracting the volume of fluid cream products utilized from the plant's receipts, as proposed.

(c) *Distributing plants and supply plants.* A proposal that would allow a plant to qualify as a pool plant in the current month if it met the pool performance standards in the immediately preceding three months should be adopted.

Proponents of proposal No. 2, a group of 14 cooperative associations, proposed the provision to accommodate situations where a "natural disaster", such as an ice storm, wind storm, or tornado, has caused the distributing plant or supply plant physical destruction such that the maintenance of pooling during the current month would be restricted.

The proposal should be adopted, but without the restriction regarding "natural disasters." It is not uncommon for a plant to fail to qualify for pooling for a reason unrelated to physical ability to pool. Such reasons could include misunderstandings, mistakes, mathematical error, a strike, breakdown of equipment, and possibly other reasons. Since the main impact of failing to qualify for pooling falls hardest on producers, they should be protected from sudden and unexpected loss of producer status under the order.

Allowing a plant that failed to meet the pooling standards for the month to be a pool plant if it met the performance requirements in each of the three preceding months is a reasonable and equitable basis for protecting producers' interests. It will afford handlers the opportunity to make corrective adjustments in their operations in the event of unanticipated circumstances or a miscalculation, and it will afford producers reasonable opportunity to find an alternative pool outlet for their milk without losing pool privileges in the interim.

It is not necessary to extend the one month automatic pooling privilege to supply plants that are included in a unit since such plants already have the security of being in a unit. Thus, failure to perform does not mean such a plant will lose its pool status so long as the unit as a whole performs.

A proposal by the Southland Corporation that would provide automatic pooling for six months in the event of a work stoppage, natural disaster, civil disturbance, fire, or other disaster beyond the control of the plant operator should not be adopted.

Proponent spokesman testified that its Madison, Wisconsin plant, which specializes in the production of Class II products, is eligible to pool by virtue of being in a unit with its bottling plant in Chicago. Therefore, if the Chicago plant were to go out of operation, the Madison plant would also lose its pool status. This, he said, would make it impossible for the Madison plant to purchase milk for Class II use and still remain competitive.

This proposal goes well beyond the limits of reasonable stability and orderly marketing. Producers should have protection against unexpected loss of pool participation of their milk because a distributing plant or supply plant, over which they have no control, failed to qualify as a pool plant. However, the six-month automatic pool status proposed

by Southland provides too much leeway and could be subject to abuse. Beyond providing a reasonable a one-month adjustment period to allow the handler to make alternative arrangements, nothing further should be done.

A provision that now provides automatic pool status for a supply plant that fails to qualify for pooling because of a work stoppage is no longer needed in view of the alternative provision adopted above. Although the provision now in the order provides automatic pool status for two months, the one month automatic pool status adopted herein is adequate to protect producers' interests and insure orderly marketing.

2. *Definition of producer and producer milk*—(b) *Producer.* A proposal to modify the treatment of a dairy farmer who was a producer under an order with a seasonal incentive payback plan during the preceding year should not be adopted.

The order currently provides that a dairy farmer who was a producer during any "payback" month under another Federal milk order having provisions for a seasonal incentive payment plan shall not be a producer during the following months of January through July. (Under a seasonal incentive payment plan, or "Louisville plan" as it is commonly known, funds are deducted from the pool during the flush production months and added back to the pool during the short production months in the fall. The purpose of the plan is to encourage more even production of milk throughout the year.) Milk received from such a dairy farmer during January-July does not qualify as "producer milk". Instead, it is treated as "other source milk" and allocated to the lowest possible use class.

Proponents of proposal No. 2 proposed that the treatment of such milk be modified. In addition to proposing a new section for this purpose entitled "dairy farmer for other market", proponents proposed easing the present restrictions to allow any handler to receive milk from any three such dairy farmers described above during January through July as producer milk rather than as other source milk. In other words, a handler—at each of his pool plants—would be able to receive as producer milk the milk of any three dairy farmers who had previously been producers under an order with a Louisville plan.

Proponents also proposed the addition of a new concept by excluding from producer status any producer whose production was "disassociated" with the Chicago Regional order and subsequently sold as Class I to an unregulated market. Any dairy farmer so losing producer status would not be again eligible for such status until the following August.

Proponents testified that, while the present provision is sound in principle, it has caused some hardship in the case of a tenant dairy farmer who moves to a different farm which he may rent or purchase, particularly when the dairy farmer no longer has the opportunity to ship to the market with which he was previously associated. By allowing three dairy farmers who would ordinarily not be eligible for producer status to qualify as producers under the order, such hardships would be alleviated, according to proponents.

Proponents also testified that producers who leave the market to take advantage of Class I sales in an unregulated market should not be allowed to come back to the market as producers until the following August. According to proponents, market-hopping in this manner dose not contribute to orderly marketing because it creates a price disparity between producers regularly supplying milk to the marketwide pool at the uniform price and neighboring dairy farmers supplying milk for Class I use to an unregulated market at a higher price.

Proponents failed to show that dairy farmers have suffered a "hardship" as a result of the present order provisions. As cited by opponents of the proposed provision, a multiple plant handler would be in a position to "bring back" three large producers at each plant and, thus, abuse the intent of the proposal. Moreover, since the present provision is tied to the farm rather than the producer who operates the farm, there should be no problem in marketing milk of a tenant who moves to a different farm.

While the record evidence shows that some milk previously pooled under the order has been moved to an unregulated market, no specific amount of milk or number of producers were cited. On the basis of the evidence, it is difficult to conceive that the amount of milk disassociated from this market would have any appreciable effect on the marketwide blend price or result in disorderly marketing. Furthermore, since the market administrator would not have any basis of knowing the use of "depooled" milk moved to an unregulated market, it would appear to be an impractical and unworkable proposal.

For the reasons stated above, the proposal to replace the provisions now contained in the order in § 1030.12(b)(5) with the proposed "dairy farmer for other market" provision should be denied.

(b) *Definition of producer milk.* The "producer milk" definition should be modified to (1) base diversion limits on the aggregate producer milk receipts of a handler rather than on an individual producer basis, (2) provide authority for the Director of the Dairy Division to temporarily increase or decrease the diversion limits by 10 percentage points, and (3) allow unlimited diversion during the month of August.

Presently, handlers may divert milk from pool plants to nonpool plants only. During September, October, and November, the amount of a producer's milk diverted may not exceed twice the quantity of such producer's milk received in the pool plant from which diverted; during the months of December through March, the limit is four times such quantities of producer milk received. No diversion limits apply during April through July for a producer who delivered to a pool plant anytime during the prior August–December period and who maintained producer status without interruption of more than 30 days during January–March.

National Farmer's Organization (NFO), the Trade Association of Proprietary Plants, Inc., and Lakeshore Federated Dairy Cooperative offered proposals to make the current diversion provisions less restrictive.

Essentially, the NFO proposal would permit diversion of producer milk from a pool plant to a pool distributing plant in addition to nonpool plants. Diversion of producer milk would be permitted during each month if one day's production of a producer was received at the plant from which diverted.

NFO contended that its proposals to revise the diversion rules would minimize unnecessary hauling and handling of milk for the purpose of pooling. Thus, proponent contends its proposal would result in more efficient marketing of milk.

The provisions regarding the diversion of producer milk are intended primarily to obtain efficiency in the disposition of milk not utilized in fluid form. Nonpool manufacturing plants are the customary outlets for the market's reserve supply of milk. Only a few pool plants, distributing or supply, have facilities to manufacture cheese, butter, nonfat dry milk, or condensed dairy products.

The processing and packaging of fluid milk products at distributing plants now takes place on only four and five days per week. On nonprocessing days at distributing plants milk that is not needed at such plants is usually moved to nonpool manufacturing plants. Production of producer milk is normally the highest during May and June, the lowest during September, October, and November. Even when production of producer milk is the lowest (September-November and the amount of packaged Class I products is relatively high, more than half of the total receipts of producer milk is moved to nonpool plants for manufacturing purposes.

Under the current marketing conditions cited herein, it is appropriate to revise the present diversion provisions to permit diversion of a producer's milk so long as one day's production during the month is received at the pool plant from which the milk is to be diverted. This minimal requirement is necessary to demonstrate that a producer's milk is available to the fluid market. Otherwise, milk which is picked up at a farm in a tank truck also containing manufacturing grade milk could qualify for pooling even though the farm on which it is produced is remote from a Grade A milk route and, thus, could not be relied on to supply the market.

A total diversion limit for proprietary plant operators and cooperatives should be established to insure that adequate supplies of Grade A milk are being assembled to meet the fluid use needs of the market. Such limitation should be based on a percentage of the quantity of producer milk for which the handler

is accountable rather than the quantity of milk received at a pool plant from each producer. This change will provide greater flexibility to handlers in moving excess milk supplies to nonpool plants. For example, it will enable a handler to divert the milk of those producers whose farms are most distant from his pool plant more often than those located closest to his plant. Thus, it may enable savings in hauling costs.

Limiting the diversion of producer milk by a handler to nonpool plants to not more than 65 percent during the months of September, October, and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler corresponds to the quantities of producer milk that may be diverted under the current order provisions. Presently, the order limits the quantity of milk that may be diverted to not more than twice the quantity of each producer's receipts during each of the months of September, October, and November, and four times the quantity of a producer's receipts during the months of December through March.

During the months of April through August, no limitations should apply to milk diverted from a pool plant to nonpool plants, except that at least one day's production of milk of a new producer must be received at the pool plant prior to any diversion. Under the present order provisions, a dairy farmer must have been a producer sometime during the prior August–December period and must have subsequently maintained producer status without interruption for more than 30 consecutive days in order to be eligible for unlimited diversions during the months of April through July. Under the current market conditions, it is no longer necessary to maintain this requirement.

The incentive for dairy farmers to come on the market for the first time during the April–August period is minimal. Virtually all of the Grade A milk supply in the Chicago Regional order procurement area has been pooled under Federal orders since the promulgation of the Upper Midwest order in June 1976. Accordingly, Grade A producers in the area are now sharing in the proceeds of the fluid market that affords them the most favorable returns. Thus, there is little likelihod of seasonal reserve supplies of other markets being shifted to the Chicago Regional market pool.

The order at the present time does not specify how to differentiate between producer milk and milk diverted in excess of diversion limits. Therefore, a provision is added which provides that a handler may designate the dairy farmers whose diverted milk will not be producer milk in case any milk is diverted in excess of the prescribed limits. Lacking a decision by the handler, the milk last diverted, on the basis of an entire day's production, is to be excluded in determining which dairy farmer's milk should not be producer milk.

Lakeshore Federated Dairy Cooperative proposed that the limitations now placed on the quantity of producer milk diverted to nonpool plants during the month be increased or decreased, at the discretion of the Director of the Dairy Division, in the same amount now specified in the order for supply plants. (The order now specifies the conditions under which shipping standards for supply plants may be temporarily adjusted up to 10 percentage points.) Lakeshore pointed out that under its proposal, if the shipping percentage requirements for supply plants were increased pursuant to the temporary revision provision of the order, the quantity of producer milk permitted to be diverted to nonpool plants could be decreased; conversely, if shipping requirements were decreased, the quantity that could be diverted could be increased. Lakeshore contends that, if there is a large increase in the market supply of produce milk requiring lower shipping requirements for supply plants, then the most economical and efficient means of handling such milk would be to divert it to nonpool plants. On the other hand, if a decrease in the supply of milk requires greater shipments from supply plants, it would be logical to reduce the amount of milk that may be diverted to nonpool plants. In sum, Lakeshore believes its proposal will enable any needed correlation between shipping percentages and diversion limitations.

We agree that better coordination is needed between shipping requirements and diversion limitations. Allowing the Director of the Dairy Division to adjust both of these simultaneously will likely result in more efficient handling of milk. Therefore, the proposal should be adopted.

The Trade Association of Proprietary Plants, Inc., proposed that unlimited diversion of producer milk to nonpool plants should be permitted during April through August. The order now permits such unlimited diversions, under certain circumstances, during April through July. Proponent noted that most neighboring orders include August as a month of unlimited diversions. They also noted their proposal would conform with the proposed change to make September, rather than August, the first qualifying month for supply plants.

This proposal should be adopted. It conforms with the changes previously adopted in this decision which would make September the first qualifying month for supply plants. The reasons stated in support of that change, i.e., the seasonal production patterns and variations in Class I utilization, and the fact that Class I demand increases when schools open in September, are equally valid for permitting unlimited diversions in August.

As previously mentioned under the discussion of pooling standards, diversions should be allowed between pool plants. This will allow supply plant operators to qualify their plants for pooling either on the basis of shipments from the plant or shipments directly from producers' farms. It will also allow distributing plant operators to divert excess milk supplies to other pool distributing plants or to pool supply plants.

The order should, in so far as possible, promote the most efficient handling of milk. To this end, the operator of a pool plant should be permitted to direct milk supplies to another pool plant and retain the pooling responsibility for such milk. Without such a provision, a handler wishing to retain his regular producers on his payroll for the entire month would have to physically receive the milk of such producers into his plant (so that it will be considered "producer milk" there), then pump it back into the truck, and deliver it to the other pool plant. Such milk would then be considered a transfer from one plant to another with the transferor handler accounting to the pool for the milk and paying those producers as well

This practice is obviously uneconomic, resulting in unnecessary and costly movements of milk. In addition, the unnecessary pumping of milk is damaging to its quality. Permitting diversions of milk between pool plants will promote efficient handling of milk and also will facilitate more simplified accounting procedures on producer milk weights, butterfat testing, and payrolling.

3. *Plant accounting procedurce.* The option for the operator of two or more pool plants to file a single report of receipts and utilization should be deleted with respect to the classification of shrinkage under the order.

A handler operating two or more plants under Order 30 may now, upon request, file a single report for all of his pool plants. This reporting option was originally adopted as an aid to multiplant operators in filing required monthly data with the market administrator on a timely basis.

An association of proprietary plants, proponent of the proposal as set forth in the hearing notice to remove the reporting option, did not support the proposal on the hearing record or in its brief. However, the operator of a pool distributing plant offered testimony in support of the proposal. This handler testified that the present provision is unfair because it allows multi-plant operators to "balance" losses due to shrinkage in one or more of its plants with overages or lower levels of shrinkage in its other plants, while the operator of a single pool plant must account for shrinkage or overage, as the case may be, with no opportunity to similarly "offset" shrinkage or overages.

A group of cooperatives and two proprietary handlers opposed the proposal. There was some discussion on the record as to whether the proposal was still valid. The cooperative associations and one proprietary handler were apparently of the opinion that the proponent of a proposal may withdraw it from consideration at the hearing. However, the Administrative Law Judge stated on the hearing record that "once a proposal is made, it is part of the proceedings and

anyone can come here with the intention of supporting it." We concur with the Judge.

The cooperative associations opposing the change in the order regarding reporting contended that multi-plant handlers had not avoided their pool obligation or enjoyed an unfair advantage over individual plant handlers. They further maintained that "milk from the same farms may be moved, on different days, to different plants operated by the handler depending upon the needs of the fluid market or the availability of processing capacity at the several plants. If such a handler maintains proper records approved by the market administrator, he should be permitted, as a matter of convenience and fairness, to treat his aggregate receipts and utilization at all plants as if he were the operator of a single plant."

A proprietary handler opposed to the proposal testified that elimination of the single report option would result in additional costs to the handler.

The present shrinkage provision of the order allows the combined shrinkage incurred by all pool plants of a multi-plant handler to be computed and classified in total. Thus, an overage incurred by one plant may be offset by shrinkage of another plant operated by the same handler. Also, since the total allowable Class III shrinkage for all plants of a handler is likely to exceed actual shrinkage at one or more plants of a handler it practically assures that excessive shrinkage incurred at certain plants operated by the multi-plant operator will retain a Class III assignment. This is particularly possible when a multi-plant handler operates his own supply plants at which very little shrinkage is normally incurred. The allowable shrinkage not incurred by a multi-plant handler's supply plants may be used to offset excess shrinkage incurred at any of the multi-plant handler's distributing plants. Such "offset privileges," of course, are not available to the operator of a single pool distributing plant who purchases milk from supply plants operated by other handlers.

Implementation of the proposal to require separate accounting for shrinkage classification at each plant of a handler would insure that overage or allowable shrinkage not incurred at one plant could not be used to offset excessive shrinkage at another plant of the same handler. Thus, all plants of all handlers would be equally subject to any required payments for overages and excess shrinkage.

Handlers are now required to report to the market administrator data for each plant they operate to the extent necessary to determine whether or not each plant qualifies as a pool plant each month. Thus, receipts and disposition of each plant operated by a multi-plant operator must be determined before such data can be combined into a single report. This would generally be the case even in the circumstances of milk from the same farm being moved to two or more plants of a handler during the month. Accordingly, little if any additional cost would be incurred by a multi-plant handler in transcribing the data on separate reports. Moreover, a multi-plant handler would no longer need to summarize individual plant data for us in a combined report.

The present option allowing a multi-plant handler to account for shrinkage on a system basis does not provide equity as among handlers. For this reason, the proposal to remove it from the order should be adopted. The order, however, should still provide the option of system allocation of receipts to classes of utilization. No testimony was presented on the record with respect to this feature of the single report option available to handlers.

4. *Classification of milk.* The method of classifying yogurt should be changed to a "used to produce" basis rather than the present "disposed of" basis, as proposed by a proprietary handler.

In support of this change, proponent stated that it is difficult to account for skim milk and butterfat in yogurt on a sales basis because of the large volume of flavoring ingredients included in the product. Proponent pointed out that since about 25 percent of the product in a flavored yogurt cup is ingredients other than skim milk and butterfat, it is necessary to convert the total sales volume of flavored yogurt back to the milk equivalent ingredients in the product for proper accounting. This has been a problem for proponents since sales personnel account for yogurt in terms of the number of containers of product, which includes the flavoring ingredients. This has resulted in the handler having to use production formulas for each flavor of yogurt to subtract the flavoring ingredients in the product. Proponent indicated that if it were permitted to account for yogurt on a used to produce basis this would facilitate its record-keeping and reporting under the order. Proponent also contended that "disposed of" accounting invariably results in significant auditing time and audit adjustments that could be reduced by accounting for yogurt on the basis of production records.

In recognition of the difficulties involved in accounting for receipts and disposition of yogurt by regulated handlers, it is reasonable that the order provide for the accounting of yogurt on a used to produce basis. Yogurt is typically made with a number of different flavors, each of which may require a slightly different accounting factor in determining how much of the product in each package consists of milk ingredients. To meet the varied demand of consumers, handlers may process a wide variety of yogurt products or buy such products from other processors for distribution on routes. In reporting the receipts and sales of these products, as well as inventories and route returns, handlers now must keep detailed records of each yogurt flavor handled and the related accounting factors needed for determining the milk ingredients. This becomes unnecessarily burdensome in view of the alternative accounting procedure available.

Under the used to produce accounting procedure adopted herein, handlers would account for yogurt in the same manner as now provided for cottage cheese, for example. A handler would report from his production records just the milk ingredients used in making the product. There would be no need to convert the total sales volume of packaged yogurt back to a milk ingredients basis for proper accounting. Also, receipts of yogurt at a pool plant would no longer be other source milk and would not entail the additional accounting now associated with such receipts for purposes of the inventory and allocation provisions.

Another accounting proposal by proponent would treat all packaged Class II products received by a handler and disposed of in the same package as "pass-through" products. Such treatment would exclude receipts of packaged fluid cream products and eggnog from the reporting, inventory and allocation provisions as well as the other source milk definition. Presently, such treatment is limited to receipts of packaged Class II products at a pool plant that are accounted for on a used to produce basis.

Proponent stated that the only packaged Class II item purchased by his company is aerated cream. He contented that the present accounting procedure of reporting receipts and disposition of such packaged Class II products requires a lot of recordkeeping which is not worth the time and effort involved.

The March 1974 final decision (39 FR 8209) adopting the present accounting procedure stated that "it is desirable for accounting purposes that such receipts (packaged fluid cream products) be defined as other source milk. This accounting procedure will preclude the record-keeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants." Thus, the basic thrust of the present accounting provisions on receipts of packaged cream and eggnog by a handler is to provide the handler with greater assurance that any such receipts be allocated directly to Class II disposition and thereby avoid being allocated to Class III in the event of insufficient records of the products being held in inventory or disposed of. Accordingly, if the proposal were adopted handlers would be faced with the need to maintain separate records of inventory and disposition of purchased products versus like products produced in the plant.

The record fails to demonstate that these findings are not still valid. Although proponent may not be manufacturing a Class II products which he purchases from another handler, other handlers in the market may be both purchasing and manufacturing the same Class II products.

Proponent also proposed that a handler be given a maximum Class III

shrinkage allowance. To determine the Class I utilization of a handler, the market administrator would verify total Class II and III utilization and subtract such utilization from the total receipts of the handler. The difference would be Class I.

Proponent stated that the intent of the proposal is to reduce accounting costs incurred by handlers and to reduce market administrator costs of auditing handler reports. In his brief, however, proponent added that, if his proposal would not reduce the costs or if offsetting additional costs would be incurred in the process of making an adequate audit, then the proposal should not be adopted.

Several handlers noted their opposition to this proposal in their briefs, arguing that it would not result in any savings but could result in unequal treatment among handlers.

To carry out his audit of receipts and utilization, the market administrator verifies disposition of producer milk in all three classes and compares it to the verified total receipts. Any difference between receipts and disposition would result in shrinkage or overage.

The order presently prescribes specific limits on Class III shrinkage. However, if a handler has less shrinkage than the prescribed limits, he only gets credit for the actual shrinkage. The proposal would grant the handler a shrinkage classification whether or not it is incurred. Thus, for some handlers the proposal could result in classifying milk receipts as Class III shrinkage when such milk is actually disposed of in packaged fluid milk product form for Class I use.

This could be particularly true in the case of a handler who operates a distributing plant but utilizes a large proportion of his producer milk receipts in Class II or Class III products that are accounted for on a used to produce basis. Such handlers would likely be credited with much more Class III shrinkage than they actually incurred in assembling milk for Class II or Class III use. In this market, where a majority of the producer milk is utilized in Class III, the proposal would likely result in a substantial volume of milk that is now disposed of in Class I use being classified as Class III shrinkage.

Such reclassification from Class I to Class III could conceivably amount to about three percent of present Class I use. The volume of producer milk accounted for on a used to produce basis in Class II and Class III is about twice the volume of milk used in Class I. Thus, if handlers were credited 2 percent shrinkage on this Class II and III volume but incurred only 0.5 percent shrinkage in such use, it would leave 1.5 percent of Class II and Class III volume, which is equivalent to 3 percent of Class I volume, classified in Class III shrinkage rather than its actual use in Class I.

Thus, the proposal could result in a significant departure from "classifying milk in accordance with the form in which or the purpose for which it is used," as is required by the Act. Accordingly, the proposal should be denied.

5. *Class I price level.* A proposal to reduce the Class I differential by 86 cents per hundredweight should be denied. The Class I differential should be continued at its current level of $1.26 per hundredweight.

A Kimberly, Wisconsin, handler representing himself and six other Order 30 handlers proposed that the Class I differential for Order 30 be set at 40 cents over the basic formula price for the preceding month. Proponent argued that such a reduction is necessary because the current Class I price has resulted in excessive production of Grade A milk, increases in "unnecessary surpluses," and decreasing Class I sales.

Proponent handler testified that the present Class I price level is contrary to the Agricultural Marketing Agreement Act, which, he contends, authorizes prices which will ensure consumers of an adequate supply of pure and wholesome milk only for fluid use. The proponent believes that about one-half of the milk now pooled under the order, which would result in a Class I utilization of about 50 percent, is all that is necessary for the market. Thus, he contends that about one-half of the milk now pooled constitutes "unnecessary surplus," or that amount of milk pooled that is in excess of Class I needs plus necessary reserves. He feels that a 40-cent Class I diffential will result in a uniform price that will reduce the incentive for the "unnecessary surplus" supplies to be pooled under the order.

A witness for the proponent argued that the Chicago Regional market only need enough milk during the shortest production month of the year to cover 120 percent of the Class I sales in the market during that month. The witness testified that the 20-percent reserve during the shortest production month will cover any day-to-day variations in fluid milk requirements and that it will also cover milk requirements for Class II products.

To arrive at a Class I differential of 40 cents, proponent computed what he considered to be the optimum Class I utilization for the market. Since production in the highest production month exceeded production in the lowest production month by 22 percent during 1975, proponent feels that 22 percent of the market's milk supplies during the heaviest production month is part of the necessary reserve to be carried by the market. Combining the 22 percent seasonal reserve with the 20 percent reserve necessary in the shortest production month, proponent calculated a necessary reserve of 42 percent, leaving a Class I utilization of 58 percent. With a 58 percent Class I utilization, proponent contended, a Class I differential of 40 cents would result in a blend price that is 23 cents above the basic formula price: *Provided*, The basic formula price for the preceding month is the same as the basic formula price for the current month. In his brief, proponent stated that 15–20 cents per hundredweight is sufficient to encourage the production of Grade A milk relative to Grade B milk.

Proponent apparently advocates a flat Class I price throughout the marketing area. As to the location adjustment that is now applicable to the Class I price, proponent states that "producers subsidize the cost of hauling milk into the City of Chicago through the location adjustment as applied to the uniform price." While acknowledging that the cost of hauling milk from an alternative supply area is an appropriate consideration in determining Class I prices at southern or other distant locations of the nation which are not surplus producing regions, proponent feels it is inappropriate for the Chicago Regional market.

Several parties offered testimony in opposition to the proposed reduction in the Class I differential. Handler witnesses testified that lowering the Class I differential would make it impossible for them to attract milk to the fluid market and would disrupt price alignment with surrounding markets. Moreover, they said it would result, during certain months, in the manufacturing grade milk price exceeding the order uniform price.

Cooperative spokesmen stated that the definition of "unnecessary surplus" described by proponents bore no reality to the Order 30 market. They presented data showing that on certain days of the week, especially during the short production season, there is wide variation in fluid milk requirements. Moreover, they testified that many distributing plants lack storage facilities for holding milk from one day to the next and that union contracts, overtime pay, and certain health standards make it impossible to store milk over the weekend.

The record does not support a reduction of the Order 30 Class I differential, as proposed. Adoption of the proposal would render the order ineffective in insuring the market's consumers of an adequate milk supply, would result in disorderly marketing conditions, and would disrupt price alignment with surrounding markets.

As mentioned above, proponent stated that the present price level has resulted in excessive production of Grade A milk, unnecessary surpluses, and decreasing Class I sales. It is true that there was more Grade A milk pooled under the Chicago Regional order in 1975 than there was in 1970, the first full year that the order in its present form was in effect; it is true that a smaller proportion of the milk pooled under the order in 1975 was used in Class I compared to 1970; and it is true that in 1975 there were less total Class I sales under Order 30 than in 1970.

A major factor contributing to the more ample milk supplies has been the conversion of Grade B milk supplies to Grade A. Producers of Grade B milk have been slowly converting to Grade A milk production for a number of years, not only in the Chicago milk supply area but also in areas where Grade B milk is still produced. Modern bulk tank equipment, better roads, stricter health

standards, and other factors make it relatively easy to switch from Grade B to Grade A. As a result, in many markets, including the neighboring Upper Midwest market, there is more Grade A milk now priced under the orders than five years ago. There is no indication that such conversion of supplies has been just in response to the level of prices under Federal orders.

Proponents argue that 48.4 percent of the market's supplies are unnecessary reserves. However, this is based upon the assumption that the market only needs a 20 percent reserve for day-to-day fluctuations.

An exhibit at the hearing showed that milk requirements of distributing plants varied widely from one day to the next. For instance, during October 1975 shipments by the Central Milk Sales Agency supply plant unit varied from 13 loads on Saturdays to 132 loads on Thursdays and averaged 78.5 loads per day. These figures indicate that on Thursdays 68 percent more milk is required than during an "average" day of the week. Accordingly, based on the processing pattern in this market, a day-to-day reserve substantially above 20 percent is required to satisfy the milk requirements of distributing plant operators.

As noted above, Class I sales under the Chicago order have declined in the last five years. The statistics indicate that total Class I sales in 1970 were 3.5 billion pounds compared to 3.2 billion pounds in 1975. The record in no way demonstrates that this decline is attributable to the present Class I price level under the order.

Nevertheless, in assessing the impact of the present Class I price level, one must recognize that the basic formula price, and not the Class I differential, is the major determinant of the price. In January 1970, the basic formula price was $4.67 per hundredweight. In January 1976, it was $8.90 per hundredweight, or almost twice the 1970 level. During this period, the Class I differential remained virtually constant. In September 1970, three new price zones were added in the area within 70 miles of the city of Chicago and the Class I differential was changed from $1.20 to $1.26. This did not change the effective differential at any location beyond 70 miles from Chicago. As a percent of the basic formula price, the Class I differential decreased from 30 percent in January 1970 to 14 percent in January 1976. Accordingly, the differential is becoming less and less significant in terms of the cost of Class I milk. For this reason, it is unlikely that the Class I differential is contributing significantly to any decline in Class I sales in this market.

Any decision to modify the pricing structure under the Chicago Regional order must take into consideration its impact on intermarket price alignment if orderly marketing is to be maintained.

Federal milk order marketing areas cover territory in 42 of the 48 contiguous states and plants regulated under the orders receive some 80 percent of all the fluid Grade A milk used in the United States. Moreover, farms of producers supplying Federal order plants are located in each of the 48 contiguous states. (Official notice is taken of Federal Milk Order Market Statistics, Annual Summary for 1975).

The Chicago Regional market supply area encompasses Northern Illinois and most of Wisconsin, which is the leading milk production area of the country. Neighboring Federal order markets also procure milk supplies from Wisconsin. Many other more distant markets rely on milk produced in Wisconsin as a source of reserve milk supplies.

In these circumstances, alignment of prices throughout the system of Federal milk orders is essential to orderly marketing. Should price differences between any two plant locations in order markets exceed the cost of transporting milk from one plant to the other, it would unduly encourage handlers to move milk supplies solely to take advantage of such price misalignment. Similarly, producers in the Chicago Regional milkshed would seek alternative outlets in those markets where the returns would be higher.

The proposed reduction in the Class I differential under Order 30 would have an immediate and severe impact upon neighboring order markets, such as the Upper Midwest, Michigan Upper Peninsula, Southern Michigan, Iowa, Indiana, Central Illinois, and perhaps other order markets. To take one example, a Chicago-based handler presently has a Class I differential cost of $1.26 compared to $1.47 for an Indianapolis-based handler, 187 miles away. If the Chicago handler's cost of Class I milk were reduced by 86 cents per hundredweight, the Indianapolis Class I price would exceed the Chicago price by $1.07 per hundredweight. At a reasonable estimate of 2 cents per hundredweight per 10 miles to haul milk, it would cost the Chicago handler 29 cents to haul milk to Indianapolis, leaving him with a price advantage of 78 cents per hundredweight over the Indianapolis handler. Similar misalignment would occur with the other orders mentioned.

Another very real problem alluded to by opponents is the pricing relationship that would result between the order's uniform price and the basic formula price for the month. The Class I price is based on the basic formula price for the second preceding month. Assuming a 40-cent Class I differential and a 50 percent Class I utilization, as suggested by proponent, anytime the basic formula price would rise more than 20 cents during a two-month period the Class III price would exceed the uniform price. This would have occurred during 20 of the last 48 months. Such pricing under the order would not attract a milk supply for the regulated market in competition with unregulated manufacturing plants.

Even if the Class I price were based on the Minnesota-Wisconsin price (i.e., basic formula price) for the current month, it would be impossible for handlers in the Chicago Metropolitan area to attract a milk supply at the order price. While 20 cents above the manufacturing grade price might be a sufficient inducement for Grade A producers in Zone 12 (190–205 miles from Chicago) and beyond to deliver milk to metropolitan area plants, this presumably would not be the case for producers in those zones closer to Chicago since uniform prices in alternative neighboring markets would be higher.

Historically, Chicago handlers have had to reach out to about Zone 18 to find sufficient quantities of Chicago-inspected milk. With the recent court decision concerning the Dixie Dairy case, this situation may change. The record does not indicate what impact the Dixie Dairy decision will have on marketing practices in the Chicago supply area.

If Wisconsin-inspected milk were utilized by Chicago-based handlers, it would appear unnecessary for such handlers to go beyond Zone 12 to find an adequate supply of milk. Moreover, if we assume that 20–25 cents over the manufacturing grade milk price will maintain an adequate supply of Grade A milk within the first 12 zones, then, based on the market's current Class I utilization, a Class I differential somewhat lower than $1.26 might be workable. However, in view of the several considerations discussed above, no reduction in the Class I differential should be made at this time.

6. *Location adjustments to handlers and producers.* Location adjustments to Class I and uniform prices under the Chicago Regional order should be revised to reflect increased transportation costs. Specifically, location adjustments between Zones 1 and 5 should be increased from 2 cents per zone to 3 cents per zone; location adjustments for Zones 6 through 15 should be increased from 2 cents per 15 miles to 2.3 cents per 15 miles; and all zones beyond Zone 15 should be included in Zone 16 with a maximum location adjustment of minus 36 cents. In addition, the order should provide that the adjusted Class I price and the adjusted uniform price be not less than the Class III price for the month.

A proposal to uniformly increase the location adjustment rate from 2 cents per 15-mile zone to 3 cents per zone should be adopted with the above specified modifications. Without modification, this proposal would seriously disrupt alignment of prices with neighboring orders.

A handler who operates a distributing plant located in Zone 1 proposed the adjustment rate of 3 cents per zone to reflect the present cost of transporting milk from supply plants to distributing plants such as his. A handler who operates distributing plants located in Zones 2 and 3 supported this proposal in its brief for this same reason. A witness for a large cooperative in the market stated that on the basis of recent experience in the market hauling costs on supply plant milk now range from 14 to 18 cents per hundredweight over the transportation allowance now provided in the order.

Producer associations opposed the proposal on the basis that it would dis-

rupt alignment of prices with neighboring markets.

The Chicago order supply area extends into the Upper Midwest order (Order 68) marketing area in the vicinity of Eua Claire, Wisconsin, at Zone 19. Presently, the adjusted Class I differential at Zone 19 is $0.90. The adjusted Class I differential under the Upper Midwest order is $0.96 and $1.02 within parts of the Chicago order Zone 19. If the location adjustment rate were increased to 3 cents per zone for all zones as proposed, the adjusted Class I differential at Zone 19 would be $0.72. Such a reduction in price at Zone 19 would result in a misalignment of prices between Orders 30 and 68, as pointed out by several parties in their opposition to the proposal. For example, the Universal Foods Corporation Order 30 supply plant located in Eau Claire, Wisconsin, would have a Class I price 30 cents below a competing handler, Dolly Madison Dairies, which also is located in Eau Claire and regulated under Order 68.

As adopted herein, the Class I price would not be reduced more than 36 cents per hundredweight. Accordingly, at Zone 16 and beyond the adjusted Class I differential would be leveled off at $0.90. This would maintain or improve the present alignment, depending on the zone involved, with the Upper Midwest order.

The present 2 cents per 15-mile zone location adjustment rate in the Chicago order translates to about 1.3 cents per 10 miles, which is below the 1.5 cents per 10-mile rate provided in most other Federal orders that obtain milk supplies from Wisconsin. The latter figure is widely employed in orders and its use in Order 30 would come closer to reflecting current transportation costs.

An increase in the Order 30 location adjustment rate to 1.5 cents per 10 miles (i.e., 2.3 cents per 15-mile zone) will provide some improvement in price alignment among orders. Moreover, it will complement the amendment to the pooling provisions that gives pooling performance credit on shipments to other Federal order distributing plants by better accommodating the movement of milk supplies from pool supply plants to other order plants.

Historically, Chicago order supply plants have been a major source of supplemental milk supplies for many of the markets throughout the United States. To reflect the variable cost of moving such milk to distant markets, Class I prices in Federal order markets gradually increase the more distant the markets are from the Chicago milkshed. The gradation of prices reflects to a large degree a transportation rate of 1.5 cents per hundredweight per 10 miles. The adoption of this rate within the Chicago milkshed would tend to provide a further coordination of Class I prices on a geographical basis.

In order to reflect an average rate of 1.5 cents per 10 miles between most supply plants and the major Chicago metropolitan area distributing plants, the location adjustment rate for Zones 2 through 5 should be set at 3 cents per 15-mile Zone. This will compensate for the fact that no location adjustment is made within the first 40 miles of the Chicago city hall, which constitutes Zone 1. Zones 1 through 5 encompass all the territory within 100 miles of the City of Chicago wherein about 80 percent of the Class I milk is processed.

The Chicago metropolitan area handler normally pays the full cost of transporting milk from supply plants. This is so whether he operates his own supply plant or another handler, such as a cooperative association, operates the supply plant. In the latter case, the buying handler normally pays the hauler. Thus, the basic cost of Class I milk to a Chicago handler includes the full cost of transporting milk between the supply plant and his bottling plant.

While the location adjustment structure adopted herein may not completely eliminate the need for some out-of-pocket hauling costs by a handler in procuring milk from supply plants, it will provide a significant degree of improvement over the existing transportation allowance reflected in the order. It is not practical to provide a greater rate of location adjustment at this time.

Location adjustments should be applicable through Zone 16 for a maximum adjustment of 36 cents per hundredweight. Not only will this result in maintaining alignment with prices under Order 68, as described above, it will also provide an increased transportation allowance on supply plant milk at all plants within 295 miles of Chicago, or inside of the present Zone 19. This area encompasses virtually all of the supply plants now serving the market.

Proposals to "floor" the Class I and uniform prices at the level of the Class III price for the month should be adopted.

Presently, there is no limit on the location adjustment applied to either the Class I price to handlers or the uniform price to producers. Even though the Class I price is equal to the basic formula price for the second preceding month plus a Class I differential of $1.26, there have been instances in the past few years when the adjusted Class I prices, and more frequently the uniform prices, in the outer zones of the market have actually been below the basic formula price, i.e., the Class III price for the month. This has occurred when the basic formula price, or Minnesota-Wisconsin price as it is commonly known, has increased sharply in a two-month period. The two-month lag in reflecting the Minnesota-Wisconsin price in the Class I pricing formula was incorporated in all Federal milk orders in February 1972.

Any Grade A milk pooled under the order should have a value equal to at least the value of manufacturing grade milk, since there are manufacturing plants throughout the supply area that could realize the manufacturing use value for such milk. Therefore, it is illogical to charge a handler less than the Class III price or for producers to realize a price that is below the Class III price.

Moreover, the uniform price for producer milk should not be adjusted below the Class III price because this would discourage producers from making milk available to distributing plants for fluid use. There are distributing plants regulated under the order throughout the supply area, including one located in Zone 19. If the uniform price were to fall below the alternative manufacturing use value at any such plant, the distributing plant operator would have to pay at least the manufacturing use value to his producers to obtain a supply of milk for fluid use. Thus, if the uniform price were permitted to fall below the Class III price, it would negate a basic function of the order—to assure distributing plants of an adequate supply of milk.

7. *Modification of payments to producers.* No change should be made in the order provisions with respect to partial payments to producers.

The order now requires handlers to make a payment to individual producers on the third day after the end of each month for the producer milk received during the first 15 days of the month. Payments to cooperatives are required by the first day after the end of the month. In making the partial payment, a handler may deduct from a producer's check any proper deductions authorized in writing by the producer.

The Trade Association of Proprietary Plants, Inc., a group composed of 24 proprietary plant operators, proposed that handlers be allowed to hold authorized deductions from producers' partial payment checks until the time of final payment, approximately 15 days later. This proposal was supported at the hearing by an additional proprietary handler and by two other handlers in their briefs.

Handlers supporting the proposal contended that producers have complained about uneven payments when authorized deductions were made only at the time of final payment; that making deductions for assignments authorized by producers is a service to producers; and that extra expense is incurred by both the handler and the creditors if payments are made twice each month.

A producer's written authorization for a handler to deduct monies for payment to an assignee does not relieve the handler of his obligation to make payment for milk by the date prescribed in the order. It is expected that the amounts deducted by handlers will be paid to assignees, as directed by the producer. This is necessary to insure that all handlers are paying the minimum class prices for their producer milk.

Most producers in the Chicago Regional market are members of cooperative associations which generally collect payments from handlers and then pay their member producers and their assignees. This practice relieves handlers of any obligation concerning deduction of assignments and corresponding payments to creditors. It is an option that is presumably available to any handler receiving milk from producers who are members of a cooperative association.

For those handlers receiving milk from nonmember producers, the record

demonstrates various payment procedures that will meet the intent of the order. First, a handler could deduct all of a producer's authorized deductions from his final payment and at that time pay over the deductions to the producer's creditors. Secondly, a handler could deduct half of the deduction from the partial payment and half from the final payment and pay the producer's creditors twice a month. Finally, a handler could establish an escrow, reserve, or custodial account in a bank for the sole purpose of depositing assignment deductions for later disbursement to creditors.

There may be additional alternatives that would also be acceptable to the marke administrator, who has the administrative discretion and authority to prescribe whatever necessary rules and regulations are needed to carry out the intent of the order. In these circumstances, it is not necessary to prescribe in the order provisions the specific manner in which handlers shall make the required timely payments of assignment deductions to creditors.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Ruling on Motions and Requests

An exhibit identified at the hearing as Exhibit 17 was not admitted into evidence but was inserted in the hearing transcript as an offer of proof. The Administrative Law Judge upheld an objection to its admission in evidence on the basis that the exhibit was not relevant to the hearing proposal under consideration. The exhibit consists of an unexecuted milk supply contract form. The handler who offered the exhibit at the hearing requested in his brief that it be admitted into evidence "to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws" as provided in section 608d(1). This person also requested that Exhibit 14 be admitted for the same purpose. Exhibit 14 is the Central Milk Producers Cooperative's Order 30 Market Service Program Pool Announcement for April 1976.

This proceeding is for the purpose of considering those proposals specified in the notice of hearing. Issues regarding the Secretary of Agriculture's powers under section 608d(1) of the Act or his responsibilities under the Capper-Volstead Act are clearly beyond the scope of the hearing notice. Accordingly, Exhibit 14, except for the limited purpose for which the Administrative Law Judge admitted it, and Exhibit 17 are not relevant to the issues raised in this proceeding. Therefore, the motion to reverse the rulings of the Administrative Law Judge with respect to Exhibits 14 and 17 is denied.

The handler also requested in his brief that official notice be taken of certain statements in prior hearing records on the Chicago Regional order and of the statements of Mr. Herbert L. Forester, Director, Dairy Division, AMS, USDA, before the Subcommittee on Dairy and Poultry, Committee on Agriculture, House of Representatives, United States Congress, on July 1, 1976. All such statements were incorporated in or attached to the written brief filed by the handler in this proceeding. Such matters are from sources of which official notice may be taken. Their incorporation in a brief as part of the record of this proceeding gives other interested persons adequate opportunity to show that such facts are inaccurate or are erroneously noticed. In this circumstance, the request for official notice as filed in this proceeding by the handler is granted.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments, thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions therof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1030.4 is revised to read as follows:

§ 1030.4 Plant.

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment: (a) that has facilities adequate for cleaning tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) At which milk is received from dairy farmers, or (c) At which milk is processed and packaged or manufactured.

2. Section 1030.7 is revised to read as follows:

§ 1030.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant or unit described in paragraph (a)(4) of this section from which during the month the disposition of fluid milk products specified in paragraph (a)(2) of this section is not less than 10 percent of the receipts specified in paragraph (a)(1) of this section and from which the disposition of fluid milk products specified in paragraph (a)(3) of this section as a percent of the receipts specified in paragraph (a)(1) of this section is not less than 45 percent in each of the months of September, October, November, and December, 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted to nonpool plants and to pool supply plants pursuant to § 1030.13, but excluding producer milk diverted to other pool distributing plants, receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44(a)(8)(i)(a) and (ii) and the corresponding step of § 1030.44(b).

(2) Packaged fluid milk products, except filled milk, disposed of as either route disposition in the marketing area or moved to other plants from which it is disposed of as route disposition in the marketing area. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Packaged fluid milk products, except filled milk, disposed of as either route disposition or moved to other

plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(4) A unit consisting of at least one distributing plant and one or more additional plants of a handler at which milk is processed and packaged or manufactured shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the State of Wisconsin or that portion of the marketing area within the State of Illinois, and if, prior to the first day of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the market administrator.

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transhipped and physically unloaded into plants described in paragraph (b)(2) as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 30 percent for September, 35 percent for each of the months of October and November, 25 percent for December, and 20 percent for all other months, subject to the following additional conditions:

(1) A plant that was a pool plant pursuant to this paragraph during each of the months of September through March (or during six such months and was an other order plant during one such month) shall be a pool plant for each of the following months of April through August unless written application is filed with the market administrator by the plant operator on or before the first day of any such month (April–August) requesting the plant be designated a nonpool plant for such month and any subsequent month through August: *Provided,* The plant does not otherwise qualify as a pool plant.

(2) Qualifying shipments pursuant to this paragraph may be made to the following plants:

(i) Pool plants described in paragraph (a) of this section;

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk which receives a Class I classification at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity of milk shipped to pool distributing plants during the month. Shipments to other order plants may not be made on the basis of agreed-upon Class II or Class III utilization.

(3) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants directly from farms of producers pursuant to § 1030.13(d).

(4) The quantity of fluid milk products moved (including milk diverted) from supply plants to each pool plant described in paragraphs (a) or (d) of this section that shall count towards meeting the shipping requirements of this paragraph shall be a net quantity assignable at each such pool plant pro rata to supply plants in accordance with total receipts from such plants. The net quantity shall be computed by subtracting from the quantity of fluid milk products received from supply plants the following:

(i) The quantity of fluid milk products in the form of bulk milk and skim milk moved from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk, other than:

(A) Transfers or diversions classified pursuant to § 1030.40(b)(3); and

(B) Transfers or diversions on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas, and on any Saturday if no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(d) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used for this purpose; and

(ii) If milk is diverted from the pool distributing plant on the date of the receipts from the supply plant, the the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of any emergency situation such as a breakdown of trucking equipment or hazardous road conditions if such emergency is reported to the market administrator.

(5) The shipping requirements of this paragraph applicable during the months of September through March and the diversion allowances specified in § 1030.13(d)(3) applicable during the same months may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month does qualify as a pool plant because of a reduction in shipping requirements pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool status with the market administrator.

(6) Two or more plants shall be considered a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(i) The plants are located within the State of Wisconsin or within that portion of the State of Illinois within the marketing area;

(ii) The plants included in the unit are owned or fully leased and operated by the handler establishing the unit and such plants were pool plants during the month prior to being included in a unit. In the case of plants operated by cooperative associations, two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives; and

(iii) The handler or cooperatives establishing the unit submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. The request shall list the plants in the sequence in which they shall be excluded from the unit if the minimum performance standards are not met. If the entire unit does not meet the minimum performance for the month, the handler or cooperatives establishing the unit may specify which plant or plants shall be excluded from the unit until the minimum performance standards are met. If a handler or cooperative declines to identify the plants to be excluded, then the market administrator shall exclude the plant first on the list followed by the plant second on the list, and continuing in this sequence until the remaining plants on the list have met the minimum performance standards. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler (or cooperative associations) establishing the unit submits a writen request to the market administrator that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a), (b), or (d) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producer members of such cooperative association is received at pool plants of other handlers described in paragraph (a) of this section during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) Any plant, except a supply plant included in a unit, that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraphs (b) or (c) of this

section, unless the operator of the plant files written request for nonpool status with the market administrator.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant;

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order; and

(3) That portion of a plant that is physically separated from the Grade A portion of such plant, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1030.9 [Amended]

3. In § 1030.9, paragraph (h) is revoked, the word "or" is added after the semicolon at the end of paragraph (f), and the semicolon and word "or" at the end of paragraph (g) are replaced with a period.

4. Section 1030.13 is revised to read as follows:

§ 1030.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from producers by being physically unloaded into processing facilities, a storage tank, or, in the case of a reload facility, another tank truck, as further provided below:

(1) Any shrinkage of milk received from producers' farms which was not unloaded in a pool plant shall also be producer milk under this paragraph; and;

(2) In the event that part of a load of milk is first received at another plant(s) and the remaining part is then unloaded in the pool plant, the quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received at a pool plant from a handler described in § 1030.9(c).

(c) Received by a handler described in § 1030.9(c) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant pursuant to paragraph (b) of this section. In applying §§ 1030.52 and 1030.75, such skim milk and butterfat shall be deemed to have been received at the location of the pool plant to which delivery is normally made.

(d) Diverted by the operator of a pool plant, or by a handler described in § 1030.9(b), to another pool plant or to a nonpool plant (that is not a producer-handler plant), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion unless during the period of September through March at least one day's production is physically received during the month at the pool plant from which diverted;

(2) Milk from a dairy farmer who was not a producer during the previous month shall not be eligible for diversion until at least one day's production is received at the pool plant from which diverted;

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative, the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary revision of the specified percentages pursuant to § 1030.7(b)(5);

(4) The quantity of each producer's milk to be considered as diverted milk when a portion of a tank load of milk, picked up at the farms of two or more producers, is unloaded at another plant, shall be determined by prorating the total quantity unloaded at such other plant over the total quantity of milk picked up at each producer's farm;

(5) To the extent that milk diverted by a cooperative association as a handler described in § 1030.9(b) during any month would result in a plant failing to qualify as a pool plant under § 1030.7, such diverted milk shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which dairy farmer's milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted, except that, in the case of a distributing plant, if during the month not more than 4 days' production of a producer is diverted from such plant or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant, such milk shall be priced at the location of the plant from which diverted.

5. In § 1030.30, the introductory text of paragraph (a) and paragraph (a)(3) are revised to read as follows:

§ 1030.30 Reports and receipts and utilization.

* * * * *

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) * * *

(2) * * *

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants, including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(4), except that during the months of April through August no such separate statement need be made if receipts from supply plants are only from plants that were pool plants during the prior months of September through March.

* * * * *

6. Section 1030.32 is revised to read as follows:

§ 1030.32 Other reports.

(a) Each handler described in § 1030.9 (a), (b), and (g) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler described in § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products and fluid cream products moved for his account from each pool plant and received at each pool plant of partially regulated distributing plant during the month; and

(2) Each handler pursuant to § 1030.9 (a) and (b) shall report for each load of milk diverted for his account:

(i) The quantity of each producer's milk so diverted;

(ii) The date(s) of pickup of each producer's milk; and

(iii) The name and location of the plants to which and from which the milk was diverted; and

(3) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk during the previous calendar month shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

7. In § 1030.41, the introductory text of paragraph (a) and paragraph (b)(2), (4), and (7) are revised to read as follows:

§ 1030.41 Shrinkage.

* * * * *

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c) and in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

* * * * *

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

* * * * *

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other pool plants and to nonpool plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

* * * * *

8. In § 1030.42, paragraph (a) is revised to read as follows:

§ 1030.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b).

* * * * *

8(a). In § 1030.40, paragraph (b)(1) and (4)(v) are revised to read as follows:

§ 1030.40 Classes of utilization.

* * * * *

(b) * * *

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product or eggnog, except as otherwise provided in paragraph (c) of this section.

* * * * *

(4) * * *

(v) Custards, puddings, pancake mixes, and yogurt; and

* * * * *

9. Section 1030.43 is revised to read as follows:

§ 1030.43 General classification rules.

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative.

10. In § 1030.44, the introductory text is revised to read as follows:

§ 1030.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9 (a), (b), and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization pursuant to paragraphs (a) through (c) of this section. For this purpose only, a handler described in § 1030.9(a) who operates more than one pool plant may elect to have his receipts allocated for each of his pool plants separately or for all of his pool plants combined, except that, if he has receipts that would be allocated pursuant to paragraph (a) (11) or (12) of this section or the corresponding steps of paragraph (b) of this section, his total receipts shall be allocated for all of his pool plants combined.

* * * * *

11. Section 1030.52 is revised to read as follows:

§ 1030.52 Plant location adjustments for handlers.

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part pursuant to the following schedule, except that in no event shall the adjustment result in a price less than the Class III price for the month:

Zone	Distance in miles from city hall in Chicago	Location adjustment rate (cents per hundredweight)
1	0-40	0
2	41-55	-3.0
3	56-70	-6.0
4	[1] 71-85	-9.0
5	[2] 86-100	-12.0
6	101-115	-14.3
7	116-130	-16.6
8	131-145	-18.9
9	146-160	-21.2
10	161-175	-23.5
11	176-190	-25.8
12	191-205	-28.1
13	206-220	-30.4
14	221-235	-32.7
15	236-250	-35.0
16	[3]	-36.0

[1] Including Milwaukee County, Wis., and Winnebago County, Ill.
[2] Excluding Milwaukee County, Wis., and Winnebago County, Ill.
[3] Beyond 250.

(b) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago—with fractions rounded up to the next whole mile. The market administrator shall notify each handler of the zone or mileage determination, which shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment credit computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or at all pool plants of such handler for which his total receipts are allocated for all his pool plants combined pursuant to § 1030.44, after eliminating duplication for transfers between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants

that are assigned to Class I pursuant to § 1030.44;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c)(6) (i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk and milk diverted from other pool plants, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If, during the month, receipts at such distributing plants of producer milk, milk diverted from other pool plants, and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c)(6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to paragraph (c)(7) of this section;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk and milk diverted from other pool plants at such distributing plant pursuant to paragraph (c)(6)(i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plant, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c)(6)(ii) of this section; or

(ii) Receipts specified in paragraph (c)(6)(ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c)(7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rate applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c) (8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on receipts at such plant of producer milk and milk diverted from other pool plants that is classified as Class I but is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section.

12. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1030.71 [Amended]

13. In § 1030.71(b)(2), the words "(but not to be less than the Class III price)" are deleted.

§ 1030.76 [Amended]

14. In § 1030.76(a) (4) and (5), the words "(but not to be less than the Class III price)" are deleted.

Signed at Washington, D.C., on May 26, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-15510 Filed 5-31-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

POST-EXEMPTION MONITORING OF MIDDLE DISTILLATE PRICES

Hearings

AGENCY: Federal Energy Administration.

ACTION: Further Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Federal Energy Administration ("FEA") hereby gives further notice of proposed rulemaking and public hearings regarding middle distillate prices. Written comments will be received with respect to these further hearings. FEA's index prices for middle distillates were exceeded in January and March in the North Central region. FEA, therefore, held earlier hearings in Chicago on this subject on April 4 and April 12, 1977 (42 FR 16807, March 30, 1977). FEA's index prices for middle distillates were also exceeded nationally during April.

The purpose of these further, national and regional hearings is to provide an additional opportunity for receipt of comments and testimony on the manner in which the FEA middle distillate price monitoring system operated during the past heating season and on what action, if any, ought to be taken by FEA with respect to possible further monitoring of or re-imposition of controls on middle distillates through the next heating season.

DATES: Comments by July 6, 1977, 4:30 p.m.; requests to speak by July 1, 1977, 4:30 p.m.;

HEARING DATES

Washington Hearing: July 18, 1977, 9:30 a.m.; Boston Hearing: July 11, 1977, 9:30 a.m.; New York Hearing: July 12, 1977, 9:30 a.m.; Philadelphia Hearing: July 13, 1977, 9:30 a.m.; Atlanta Hearing: July 14, 1977, 9:30 a.m.; Chicago Hearing: July 13, 1977, 9:30 a.m.; Dallas Hearing: July 15, 1977, 9:30 a.m.; Kansas City Hearing: July 14, 1977, 9:30 a.m.; Denver Hearing: July 11, 1977, 9:30 a.m.; San Francisco Hearing: July 12, 1977, 9:30 a.m.; Seattle Hearing: July 13, 1977, 9:30 a.m.;

ADDRESSES: All comments to: Executive Communications, Room 3317, Federal Energy Administration, Box LO, Washington, D.C. 20461;

REQUESTS TO SPEAK

Washington Hearing: Attn: Executive Communications, 12th and Pennsylvania Avenue NW., Room 3317, Box LO, Washington, D.C. 20461; Boston Hearing: Federal Energy Administration, Attn: D. Novick, 150 Causeway Street, Room 700, Boston Massachusetts 02114; New York Hearing: Federal Energy Administration, Attn: Eugene W. Hennessy, 26 Federal Plaza, Room 3200, New York, New York 10007; Philadelphia Hearing: Federal Energy Administration, Federal Office Building, Attn: H. Heitzer, 1421 Cherry Street, Philadelphia, Pennsylvania 19102; Atlanta Hearing: Federal Energy Administration, Attn: S. Orr, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309; Chicago Hearing: Federal Energy Administration, Attn: Charles Swank, 175 West Jackson Boulevard, Chicago, Illinois 60604; Dallas Hearing: Federal Energy Administration, Attn: S. Dickey, P.O. Box 3528, 2626 W. Mockingbird Lane, Dallas, Texas 75235; Kansas City Hearing: Federal Energy Administration, Attn: K. Inboden, 1150 Grand Ave., P.O. Box 2208, Kansas City, Missouri 64142; Denver Hearing: Federal Energy Administration, Attn: R. Drawe, 1075 So. Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226; San Francisco Hearing: Federal Energy Administration, Attn: R. Laffel, 111 Pine Street, San Francisco, California 94111; Seattle Hearing: Federal Energy Administration, Attn: K. Coronetz, Federal Office Building, 915 Second Avenue, Room 1992, Seattle, Washington, 98174;

HEARING LOCATIONS

Washington Hearing: Room 3000A, 12th & Pennsylvania Avenue NW., 9:30 a.m., Washington, D.C. 20461; Boston Hearing: John F. Kennedy Federal Building, Room 2003, Government Center, Boston, Massachusetts 02114; New York Hearing: Federal Building, Room 305C, 26 Federal Plaza, New York, New York 10007; Philadelphia Hearing: Fed-

eral Building, Conference Room 11B, 1421 Cherry Street, Philadelphia, Pennsylvania 19102; Atlanta Hearing: Atlanta Civic Center, Room 201, 395 Piedmont Avenue NE., Atlanta, Georgia 30308; Chicago Hearing: Everett McKinley Dirksen Building, Room 204A, 219 S. Dearborne Street, Chicago, Illinois 60604; Dallas Hearing: Federal Energy Administration Training Room 250, 2626 W. Mockingbird Lane, Dallas, Texas 75235; Kansas City Hearing: Federal Building, Room 302, 911 Walnut Street, Kansas City, Missouri 64106; Denver Hearing: Main Post Office Building, Room 269, 18th & Stout Street, Denver, Colorado 80226; San Francisco Hearing: U.S. Environmental Protection Agency, Second Floor Conference Room (A & B), 100 California Street, San Francisco, California 91411; Seattle Hearing: Federal Building, S. Auditorium, 4th Floor, 915 Second Avenue, Seattle, Washington 98174.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202) 254-5201.

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202) 566-9833.

Bill Gillespie (Program Office—Data), 12th & Pennsylvania Avenue NW., Room 4430, Washington, D.C. 20461 (202) 566-9307.

Ed Mampe (Program Office—Pricing), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202) 254-7200.

Laura Kuitunen (Office of General Counsel), 12th & Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461 (202) 566-9567.

SUPPLEMENTARY INFORMATION:

I. Introduction. A. Background. B. Price Monitoring System Adopted.
II. Index Prices Again Exceeded.
III. FEA Monitoring Commitment Expired.
IV. Comments and Data Requested.
V. Comment Procedures. A. Written Comments. B. Public Hearings.
VI. Other Matters.

I. Introduction

A. Background

The full discussion of the FEA's middle distillate price index and monitoring system, and of the increases in survey prices to levels above the index levels in the North Central region during January and March, is contained in FEA's notice issued on March 28, 1977 (42 FR 16807, March 30, 1977).

In that notice FEA stated that final data for January and preliminary weekly survey data for March indicated that the index prices for middle distillates were exceeded by survey prices in the North Central region. FEA, therefore, issued a notice of proposed rulemaking and held hearings in Chicago on this subject on April 4 and April 12, 1977.

In the March 28, 1977 notice, FEA stated that at the time of the July 1, 1976 exemption of middle distillates from FEA's price and allocation regulations, FEA adopted a procedure for monitoring prices of middle distillates; actual prices were to be compared to the prices projected to remain in effect if controls had continued ("index" or "trigger" prices), nationally and regionally, as described below.

On June 15, 1976 FEA issued and submitted to the Congress two separate amendments which provided for the exemption of middle distillates from allocation and price controls. The first amendment related to the exemption of No. 2 heating oil and No. 2-D diesel fuel and the second amendment provided for the exemption of No. 1 heating oil, No. 1-D diesel fuel, and kerosene. Since neither of these amendments was disapproved by either house of Congress pursuant to the review procedures set forth in section 551 of the Energy Policy and Conservation Act, the amendments became effective July 1, 1976.

In its discussions with members of Congress regarding these amendments, and in response to concerns expressed by these members, FEA committed to take certain actions following the effectiveness of the exemption to assure that no unwarranted price increases would occur once controls were removed.

More specifically, FEA at that time stated that it would adopt a procedure for monitoring prices of middle distillates with the following three main elements:

1. A quick-response price monitoring system on a weekly basis during the heating season and monthly at other times (based on FEA's current reporting system and telephone surveys) that will compare actual prices with projections of what prices would have been if regulatory controls were still in effect ("controlled" prices). (41 FR 30281, July 22, 1976)

FEA had earlier stated that the projection in the preceding paragraph would be generated by taking into account three principal factors:

[a] The current level and projected increase in the cost of crued oil under the provisions of the Energy Policy and Conservation Act and incorporating projections of the increased dependence on imports and imported crude prices.

[b] An index that best reflects the increased cost of doing business for refiners and marketers. The specific index to be used will be selected after an evaluation of comments as to the appropriateness of alternative indices to be considered at the public hearings.

[c] A seasonal pattern of price variations derived from an analysis of the years 1968 to 1972 inclusive. This will provide a long enough period of reasonable market conditions to establish an appropriate pattern of seasonal variations to be expected without controls. (Letters from Frank Zarb to Senator Henry M. Jackson and to Senator Edward M. Kennedy, June 25, 1976.)

The other main elements of the procedure were stated by FEA to be:

2. Establishment of two cents per gallon as the maximum amount by which average actual prices could exceed "controlled" prices on a national basis and still be deemed reasonable. In addition, since the foregoing index price or standard could be met by offsetting excessive price increases in one region by price reductions in another, FEA also agreed to establish appropriate regional index prices by which to judge the reasonableness of price increases in excess of "controlled" prices on a region-by-region basis.

3. Specific FEA obligations to take certain actions if actual prices are found to exceed the foregoing index price limits—*i.e.*, (a) to hold public hearings within ten days to determine the causes of the excessive price levels and to solicit comments on actions necessary to return actual prices to levels at or below the index price level, and (b) to take within ten days of completion of hearings such action as may be required to restore prices to those levels within one month. (41 FR 30281, July 22, 1976.)

B. Price Monitoring System Adopted

Pursuant to its commitments to members of Congress, as indicated above, on September 15, 1976 FEA adopted the following price monitoring system. (41 FR 41155, September 21, 1976)

1. *National Index Price.*—In general, two separate national index prices are computed (each month through September 1976 and each week from October 1976 through March 1977) based on actual average June 1976 prices for No. 2 heating oil and No. 2-D diesel fuel, adjusted to take into account (1) seasonal price variations of both products during 1960-1967, (2) actual increases/decreases in the price of imported and domestically produced crude oil, (3) actual increases/decreases in the prices of imported middle distillates (weighted by their monthly relative volumes in 1972, the last normal import year before the embargo), (4) increases in nonproduct costs or refiners, as defined and limited under FEA cost pass-through regulations, and estimated increases in operating costs of resellers and retailers, and (5) the two cents/gallon flexibility factor.

Only prices for No. 2 heating oil and No. 2-D diesel fuel are included in computing the indices. However, prices for No. 1-D diesel fuel, kerosene, and other middle distillates not included in the index are periodically monitored by FEA using sales price data reported to FEA by refiners and large resellers. If price increases for such products not in the index differ significantly from price increases for products in the index, FEA undertook to investigate and take appropriate action.

2. *National Monitoring.*—Actual average national prices for No. 2 heating oil and No. 2-D diesel fuel at the retail level (*i.e.*, prices to all end users, including residential, commercial, and industrial) were to be determined by FEA on a monthly basis through September 1976 and on a weekly basis from October 1976 through March 1977. These retail prices are compared with the national index prices for the corresponding period. FEA also monitors prices at the refiner and reseller levels to determine relative price changes for refiners, resellers, and retailers.

3. *Remedial Process.*—FEA stated that if it determined that actual average national prices had exceeded the national index prices, the remedial process outlined in Section I.B.3. above would commence, beginning with public hearings within ten days to determine the causes and appropriate remedies for the pricing excess.

Options available to FEA to restore prices to levels at or below the national index price were stated to include: (1) reimposition of complete price and allocation controls over the entire industry, (2) imposition of partial price/allocation controls over the entire industry, (3) imposition of full or partial controls over certain segments or distribution levels of the industry, and (4) modification of FEA's entitlements program to reduce the cost of imported middle distillates.

4. *Regional Index Prices and Monitoring.*—A system of regional index prices was adopted to protect against unduly disproportionate price increases in one or more regions even though actual average national prices did not exceed the national index prices.

Regional index prices are computed and monitored on essentially the same basis as the national index prices, except that the June 1976 price basis and some of the adjustment factors are related to the region concerned rather than the nation. FEA noted that regional index prices would appropriately differ from the national index prices due to variances among the regions in June 1976 average middle distillate prices, differences in percentages of sales by nonrefiners, and differences in the adjustment for imports.

Actual regional price data would be determined in a manner similar to that described for monitoring actual national price levels. FEA, however, also monitors "rack" prices by state.

If actual average regional retail prices were to exceed the index prices for the region concerned, FEA undertook to initiate remedial action in accordance with the same procedures outlined above in section I.B.3. for national prices.

Four regions were adopted: Northeast, North Central, South, and West.

FEA, however, inadvertently misstated the description of the manner in which crude oil cost increases are reflected in the FEA index prices which appeared in section II.E. of the March 28, 1977 notice. The correct description follows:

5. *Two-month lag in cost reflection replaced by one-month lag.* The index originally operated so that the factors for increased crude oil costs (as well as increased prices for imported middle distillates and refiners' increased nonproduct costs) were included with a two-month lag. The two-month lag was adopted so that these costs could be based on actual data reported to the FEA. Under continued controls, these costs could actually have been passed through with a one-month lag. FEA specifically recognized the additional one-month lag problem with respect to crude oil in its September 15, 1976 notice and decided to continue to consider alternative methods for projections with a one-month lag.

The computation of the index value in accordance with the procedures outlined in the September 15, 1976 notice did not permit the index price to reflect OPEC price increases until the close of the second month following the month in which they occurred. Thus, for example, under the September 15 procedure, an increase in OPEC prices during December 1976 would not have been reflected in the index price until the end of February 1977.

Thus, except to the extent that actual increases in middle distillate prices resulting from an increase in OPEC prices were absorbed by the two-cent per gallon flexibility factor, the index prices assume that refiners absorb the increased crude oil cost rise for two months. Under continued controls, on the other hand, refiners would have been required to absorb the increase for only one month before passing it through. Such a result was not consistent with the intent of the index value mechanism.

Therefore, effective February 1, 1977, the FEA adopted a revision to the index methodology outlined in the September 15, 1976 notice. (42 FR 9415, February 16, 1977). The revised procedure reduced the two-month lag in incorporating increased crude oil costs to one month.

II. Index Prices Again Exceeded

Survey prices again exceeded index values for the weeks ending April 9, 16, 23, and 30, for the nation by 0.1–0.2 cent, in the South by 0.5–0.6 cent, and in the North Central region by 1.1–1.2 cents. The survey price in the Northeast region equalled the index value. For the week ending April 2, the survey price in the South exceeded its index value by 0.1 cent. See tables below.

MIDDLE DISTILLATES POST-EXEMPTION MONITORING REPORT

April 30, 1977

Table I
Heating Oil Survey Price/Index Price
(Figures in cents per gallon)

Date	Northeast	South	North Central	West	U.S.
Jun 76	38.2/40.2	34.3/36.3	35.0/37.0	38.2/40.2	36.6/38.6
Jul 76	38.1/39.6	34.1/35.9	35.2/36.6	38.1/39.8	36.5/38.1
Aug 76	38.6/40.7	34.4/36.7	35.4/37.3	38.7/40.5	36.9/38.9
Sep 76	39.1/41.0	34.7/37.0	35.7/37.7	39.5/40.9	37.3/39.3
Oct 76	39.6/41.5	35.0/36.9	36.0/37.6	39.6/41.0	37.7/39.4
Nov 76	40.7/42.0	36.3/37.9	37.1/38.6	39.7/41.8	38.7/40.2
Dec 76	41.9/42.9	37.3/38.8	38.6/39.5	39.4/42.8	39.8/41.1
Jan 77	43.2/43.5	38.6/39.3	40.4/40.0	40.2/43.3	41.2/41.7
Feb 77	44.2/45.2	39.7/40.7	41.1/41.4	40.9/44.7	42.1/43.2
Mar 5	44.4/44.9	39.9/40.5	41.4/41.2	41.0/44.5	42.3/43.0
Mar 12	44.5/44.9	40.1/40.5	41.6/41.2	41.1/44.5	42.4/43.0
Mar 19	44.6/44.9	40.4/40.5	41.7/41.2	41.2/44.5	42.6/43.0
Mar 26	44.7/44.9	40.5/40.5	41.8/41.2	41.3/44.5	42.7/43.0
Apr 2	44.7/44.9	40.6/40.5	42.0/41.2	41.5/44.5	42.8/43.0
Apr 9	44.7/44.7	40.7/40.2	42.0/40.9	41.6/44.1	42.8/42.7
Apr 16	44.7/44.7	40.7/40.2	42.1/40.9	41.7/44.1	42.9/42.7
Apr 23	44.7/44.7	40.8/40.2	42.1/40.9	41.7/44.1	42.9/42.7
Apr 30	44.7/44.7	40.8/40.2	42.1/40.9	41.7/44.1	42.9/42.7

Table I shows the results of the FEA's system for post-exemption monitoring of middle distillate prices. The "index price" (right of the slash) is FEA's best estimate of what average prices would have been under controls plus a two cents per gallon flexibility factor to account for statistical error and factors not otherwise included in the index equation that could have affected prices under controls. The "survey price" (left of the slash) for heating oil is a four-week moving average price for all sales to ultimate consumers calculated from an FEA survey of refiners and heating oil marketers. Weekly estimates of survey prices are revised each month when the monthly survey statistics become available. The weekly index values are revised to the monthly index values as soon as the actual costs data used in the calculation of the monthly index value become available to the FEA. A detailed explanation of the monitoring system is provided in the September 21, 1976, Federal Register notice, in which it was indicated that FEA might subsequently shift to a one-month lag for including crude oil prices in the index. The method of calculating crude costs in the index was changed from a two-month lag to a one-month lag on February 5, 1977. For further details, see February 16, 1977, Federal Register.

Source: FEA

MIDDLE DISTILLATE POST-EXEMPTION MONITORING REPORT

April 30, 1977

Table II
RESIDENTIAL HEATING OIL PRICES
(Figures in cents per gallon)

Date	Northeast	South	North Central	West	U.S.
Jun 76	40.3	38.3	37.4	41.5	39.3
Jul 76	40.1	38.0	37.6	42.0	39.3
Aug 76	40.7	38.7	37.8	42.2	39.8
Sep 76	41.2	39.0	38.1	42.5	40.2
Oct 76	41.6	39.9	38.5	43.5	40.7
Nov 76	42.7	41.6	39.8	44.0	41.9
Dec 76	43.9	42.5	41.3	43.8	43.0
Jan 77	45.2	43.8	42.9	44.6	44.4
Feb 77	46.1	45.1	43.7	45.4	45.3
Mar 5	46.3	45.3	43.9	45.5	45.5
Mar 12	46.4	45.5	44.1	45.6	45.6
Mar 19	46.5	45.6	44.2	45.7	45.7
Mar 26	46.6	45.7	44.4	45.9	45.8
Apr 2	46.6	45.7	44.5	46.0	45.9
Apr 9	46.6	45.7	44.5	46.1	45.9
Apr 16	46.6	45.7	44.5	46.1	45.9
Apr 23	46.6	45.7	44.6	46.2	45.9
Apr 30	46.7	45.6	44.5	46.2	45.9

Note: The prices in Table II are four-week moving averages. Actual heating oil prices for any particular firm may be above or below these averages. Within each region and across the Nation as a whole, a considerable range occurred in residential prices among individual firms. The variation in the Northeast for the week ending April 30, for example, ranged from about 41 to 50 cents per gallon and in the West most prices fell in the range from 39 to 47 cents per gallon except for those in Alaska which ranged up to 61 cents per gallon.

Source: FEA

E-77-163

III. FEA Monitoring Commitment

FEA represented to the Congress (and stated in its prior notices) that if survey prices exceeded index prices either regionally or nationally it would "* * * hold public hearings within ten days to determine the causes of the excessive price levels * * * and * * * take within ten days of completion of hearings such action as may be required to restore prices to those levels within one month."

FEA's commitment was for the period September 1, 1976, through March 31, 1977 (but the weekly monitoring and trigger system was voluntarily extended through April 30, 1977, and the monthly monitoring and trigger system has been extended indefinitely). The Congressional commitment for monitoring and taking corrective action because of the levels of survey prices described above has, therefore, expired. Nevertheless, FEA intends as soon as practicable after the national hearings, to take any further appropriate action.

IV. Comments and Data Requested

The purpose of further, national hearings is to provide an additional opportunity for receipt of comments on and testimony what further action, if any, is appropriate with respect to middle distillates over the next heating season.

Comments are specifically requested on:

Whether any of the price increases were cost-justified (particularly by increased transportation and delivery costs) but not reflected in FEA's index prices (quantify any responses to relate any such increased costs to regional or national unit sales of heating oil, e.g., $50,000 in extra labor costs from unusual overtime in the North Central region resulted in a 0.2 cents per gallon cost increase for heating oil in that region),

Whether FEA should continue the index and monitoring system, and, if so, with what revisions, if any,

Whether FEA should expand the number of firms surveyed to obtain price data that is statistically valid on a state-by-state basis, at least in some regions,

Whether such aggregated statewide survey data should be made available to the states and whether state, rather than FEA, monitoring of heating oil prices would be appropriate,

Whether some form of heating oil set-aside program should be reinstituted during the next heating season and, if so, whether it should be administered by state offices or by FEA, and

Whether some form of price and/or allocation controls should be reinstituted.

FEA intends to publish within about two weeks a notice setting forth an analysis of the distillate monitoring system survey and index prices on a national basis, as an aid to persons wishing to participate in the proceeding.

V. Comment Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Middle Distillate Price Monitoring," Box LO. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public Hearings

1. *Request procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such

an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., local time July 6, 1977 and must submit 100 copies of his or her statement to the address given above for requests to speak, for the location concerned, before 4:30 p.m., local time on July 15, 1977.

2. *Conduct of the hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard. An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m., local time July 6, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the Federal Register of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VI. Other Matters

This proposal has been reviewed in accordance with Executive Order 11821, issued November 24, 1974, and has been determined not to be of a nature that requires an evaluation of its economic impact pursuant to Executive Order 11821.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on the proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended in accordance with the foregoing proposal.

Issued in Washington, D.C., May 26, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-15574 Filed 5-27-77;12:32 pm]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding Test Procedures for Humidifiers

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for humidifiers under the Energy Policy and Conservation Act. The Act requires that standard methods for testing humidifiers be prescribed as part of the energy conservation program for appliances. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before the test procedures are prescribed.

DATES: Comments by July 21, 1977, 4:30 p.m.; requests to speak by July 18, 1977, 4:30 p.m.; statements by July 21, 1977, 4:30 p.m.; hearing to be held on July 27, 1977, at 9:30 a.m.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box WV, Washington, D.C. 20461; statements to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Hearing held at: Federal Building, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-4635); Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2222A, Washington, D.C. 20461 (202-254-5201); Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833); William J. Dennison (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20461 (202-566-9750).

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for humidifiers under section 323, 42 U.S.C. 6293 of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). The Act requires that FEA prescribe standard methods for testing covered appliances. Development of test procedures is one discrete part of the energy conservation program for appliances. Even when promulgated, final test procedures will not of themselves require testing to be conducted. They will merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC), in exercising its appliance energy efficiency labeling authority regarding a particular appliance type, may well require the application of substantially less than all of the final test procedures applicable to that appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general program provisions, and a Subpart C, containing proposed energy efficiency improvement targets. By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Subparts A and B were established May 24, 1977 (42 FR 27896, June 1, 1977). Proposed Subpart C has not yet been finalized, and a further proposal of Subpart C will be necessary in order to meet the requirements of section 325(a)(1) of the Act as amended by section 161 of

the Energy Conservation and Production Act (Pub. L. 94-385).

The notice issued on May 24, 1977, included final test procedures for room air conditioners. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977), FEA proposed test procedures for dishwashers. This notice also included certain program definitions which have not yet been finalized. Proposed test procedures for water heaters, television receivers, refrigerators, and refrigerator-freezers, freezers, and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977). Proposed test procedures for unvented home heating equipment were issued on May 4, 1977 (42 FR 23860, May 11, 1977), and proposed test procedures for automatic and semiautomatic clothes washers were issued on May 11, 1977 (42 FR 25329, May 17, 1977), along with a determination that test procedures cannot be proposed for any other class of clothes washer. By this notice, FEA is proposing test procedures for humidifiers. By separate notice, FEA is also proposing today test procedures for dehumidifiers.

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of humidifiers.

For purposes of developing test procedures for the determination of estimated annual operating costs, humidifiers were divided into two classes: Room humidifiers and central system humidifiers. Room humidifiers provide humidification to the air proximate to such humidifier without requiring connection to a separate air distribution system. Central system humidifiers add humidification to the air stream of a central heating system.

NBS has transmitted to FEA test procedure review documents which reviewed existing test procedures for the two classes of humidifiers, room and central system humidifiers, and recommended test procedures for measuring energy consumption. Copies of these review documents will be made available for inspection by interested persons as provided for later in this notice.

NBS has reviewed two industry test standards used to measure humidification rate (water output capacity). These two standards are the Association of Home Appliance Manufacturers (AHAM) Standard HU-1-72 for room humidifiers, and the Air Conditioning and Refrigeration Institute (ARI) Standard 610-74 for central system humidifiers.

AHAM Standard HU-1-72 was used to measure the humidification rate of room humidifiers in the NBS laboratories. Test results were found to be accurate and repeatable, and NBS has recommended to FEA that AHAM Standard HU-1-72 form the basis of the proposed test procedures for room humidifiers.

ARI Standard 610-74 also was reviewed at NBS and found to be acceptable for determining the humidification rate of central system humidifiers. NBS has recommended to FEA that ARI Standard 610-74 form the basis of the proposed test procedure for central system humidifiers.

The test procedures for room humidifiers recommended by NBS and proposed today incorporate the test method and calculation procedure for determining the humidification rate from the AHAM Standard HU-1-72. The test procedures for central system humidifiers recommended by NBS and proposed today incorporate the test method and calculation procedure for determining the humidification rate from the ARI Standard 610-74.

Today's proposal adds to § 430.2 a definition of "dehumidifier" and amends the definition in § 430.2 of "basic model" by adding a subparagraph (11) applying specifically to humidifiers. In addition, § 430.2 contains definitions promulgated or proposed previously (42 FR 27896, June 1, 1977; 42 FR 15423, March 22, 1977), some of which are applicable to the test procedures for dehumidifiers. Comments on these definitions are timely as provided below.

B. Measures of Energy Consumption

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. The estimated annual operating cost for room and central system humidifiers in proposed §§ 430.22(k) (1) and (2) is based upon the average annual energy consumption of the humidifier and the representative average unit cost of energy. NBS has developed a method of calculating a typical annual cost of operation for room and central system humidifiers which takes into account the energy consumed by humidifier motors and fans, integral electric resistance heaters within certain humidifiers, and the additional energy used by the furnace to supply the heat of vaporization of the water. (Heat of vaporization is the amount of heat, in Btu's, required to evaporate one pound of water, and equals 1,060 Btu's per pound when water temperature is 60° F.) Also reflected in the calculation are seasonal performance factors for different types of heating systems. The seasonal performance factors being proposed today were recommended by NBS and were obtained from an Air Conditioning and Refrigeration Institute submission to NBS on a method of calculating energy efficiency of central system humidifiers.

Also proposed in § 430.22(k)(3) are test procedures regarding the estimated annual operating cost by geographic region of the United States, since geographic location importantly influences energy consumption and annual operating costs of humidifiers. Annual cost of operation by geographic location may be useful for consumers in making purchasing decisions with respect to humidifiers, in addition to the single national average value applicable to any specific unit, under proposed § 430.22(k) (1) or (2).

The proposed humidified test procedures for regional costs incorporate a map of the continental United States with regional factors for adjusting the representative average-use cycle (typical annual usage) of humidifiers by geographic location. The regional factors are based on an NBS report entitled, "Humidifier Operating Hours," copies of which will be made available for inspection by interested persons as provided for later in this notice.

An additional proposed measure of energy consumption (§§ 430.22(k) (4) and (5)) that is likely to assist consumers in making purchasing decisions is the energy factor for humidifiers. This energy factor for room humidifiers, (§ 430.22(k) (5)), is the amount of water evaporated by the humidifier per unit of input energy in pounds per kilowatthour. This room humidifier factor does not include energy supplied by the furnace.

The energy factor for central system humidifiers (§ 430.22(k)(4)) is dimensionless. This factor is designed to make allowance for whether the humidifier has a humidistat. NBS has reviewed a Carrier Corporation report entitled, "Residential Humidifier Seasonal Energy Usage," and has determined that for a central system humidifier with a humidistat installed in a house of average construction, a 50 percent energy savings is a typical savings when compared to a humidifier without a humidistat.

FEA recognizes that there may be additional useful measures of energy consumption for humidifiers other than the measures described above. Accordingly, today's proposals, in proposed § 430.22(k)(6), provides for other useful measures which the Administrator determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test methods proposed today as Appendices K1 and K2 to Subpart B. Humidifier manufacturers would, if required, only have to perform various computations while still applying the same test methods contained in Appendices K1 and K2. For example, if the Administrator determines that a per-hour cost of operation would aid consumers in making purchasing decisions, this cost could be derived by applying the uniform test method to obtain the estimated annual operating cost and then by dividing this annual cost by the representative average-use cycle (average annual hours of use) to arrive at a per-hour cost.

C. Laboratory Methodology

Proposed Appendix K1 to Subpart B provides for a controlled laboratory en-

vironment for measuring energy consumption of various central system humidifiers which are available to the consumer. The proposed test method in Appendix K1 measures annual energy consumption in the operation of a central system humidifier, taking into account the additional load on a furnace system to provide the heat of vaporization of the water evaporated, the electrical energy consumption to operate motors and supplementary heaters of the humidifier, and the energy lost as heat in waste drain water. Calculation procedures are provided for estimating the annual energy consumption when the humidifier is attached to an electric furnace or electric resistance heating, an oil furnace, a gas furnace, or a heat pump.

The proposed test procedure for central system humidifiers determines the humidification rate in gallons of water evaporated per 24 hours of continuous operation. The humidifier is operated under steady state continuous operating conditions, calculations of the humidification rate in gallons per day are made, and the corresponding supplementary electrical energy consumption in kilowatt-hours required to operate the unit is measured. "Supplementary electrical energy consumption" is the energy consumed by humidifier motors and fans, and by integral electric resistance heaters within some humidifiers.

Proposed Appendix K2 to Subpart B provides for a controlled laboratory environment for measuring energy consumption of various room humidifiers which are available to the consumer. The proposed test method in Appendix K2 measures annual energy consumption in the operation of a room humidifier, taking into account the additional load on a furnace system to provide the heat of vaporization of the water evaporated and the electrical energy consumption to operate motors and supplementary heaters of the room humidifier. When a room humidifier has self-contained heaters, the heat load on the furnace system will be reduced by an amount equal to the heat supplied by the humidifier heaters. Calculation procedures are provided for estimating the annual energy consumption when the humidifier is operating with an electric resistance heating system, an electric furnace, an oil furnace, a gas furnace, or a heat pump.

The proposed test procedure for room humidifiers determines the humidification rate in gallons of water evaporated per 24 hours of continuous operation at standard conditions of 75° F and 30 percent relative humidity. However, since energy consumption calculations are made for normal room ambient conditions of 70° F and 30 percent relative humidity, a correction factor of 0.93 has been recommended by NBS to correct the humidification rate determined at standard test conditions to what would be the humidification rate at normal room conditions (70° F and 30 percent relative humidity). The 0.93 correction factor was analytically determined by NBS and verified by tests in the NBS laboratory. The derivation of the correction factor is given in an addendum to Appendix A of the room humidifier test procedure review document. Copies of this review document will be made available for inspection by interested persons as provided for later in this notice.

D. Representative Average-Use Cycle

Section 323(b)(2) (42 U.S.C. 6293(b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for central system humidifiers is 1,200 hours of operation per year and 600 hours of operation for room humidifiers. This determination is based upon an NBS recommendation and an NBS report on humidifier operating hours which are available for inspection as provided for later in this notice.

The 1,200 hour usage figure for central system humidifiers was derived in an analysis performed by NBS which considered climate data extending over a 10 year period at each of 50 locations in the continental United States. It was assumed that a central system humidifier was to operate on demand to mnintain a 30 percent relative humidity in the house and that the furnace operating hours exceeded the demand hours of the humidifier. A limited field survey of 10 room humidifiers resulted in an average usage factor of approximately 0.5, which means that for a particular humidification requirement (in gallons per day), the typical field usage was approximately one half. The representative average-use cycles of 1,200 hours and 600 hours for central and room humidifiers, respectively, are being proposed today for use in calculating the estimated average annual operating costs. The usage factor for room humidifiers may be amended as more complete data become available.

FEA intends to develop representative average unit costs of energy needed to calculate the annual operating cost for the representative average-use cycle and to provide this information to manufacturers and FTC on or before the effective date of test procedures for humidifiers.

E. Number of Units to be Tested

Proposed § 430.23(k) would provide for sampling of each basic model to be tested when testing of humidifiers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23(k)(1), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(k), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(a) The level of confidence required (set at 95 percent in the proposed regulations);

(b) The maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(c) The relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, no fewer than three units of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. Request for Particular Comments

While FEA is soliciting comments on all aspects of the proposed test procedures for humidifiers, FEA is particularly interested in receiving comments on any other useful measures of energy consumption or data on typical consumer use of humidifiers in addition to those proposed today. FEA is also interested in receiving comments with regard to the appropriateness of incorporating the proposed sections of AHAM HU-1-72 and ARI 610-74. In addition, FEA is interested in receiving comments on any definitions already promulgated or proposed in § 430.2, as discussed above, as these provisions might affect the testing of humidifiers. Comments with respect to humidifiers regarding these definitions in previously proposed § 430.2 are timely until the close of the written record, as specified below.

G. Comment Procedure

1. *Written comment.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for humidifiers set forth

in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box MV, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Humidifiers—Proposed Test Procedure." Fifteen copies should be submitted. All comments received by July 21, 1977, before 4:30 p.m., e.d.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public hearings.*—a. *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on July 28, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.d.t., on July 18, 1977. Such a request may be hand delivered to such address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Humidifiers-Proposed Test Procedure."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through July 26, 1977.

FEA will notify, before 4:30 p.m., July 20, 1977, each person selected to appear at a hearing. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202-254-3345.

b. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.t., July 21, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS's recommendations concerning test procedures for humidifiers along with the NBS internal report on humidifier operating hours, the AHAM Standard HU-1-72 and the ARI Standard 610-74 will also be made available for inspection at the FEA Freedom of Information Office.

H. Environmental and Inflationary Review

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (11) as part of the definition of "basic model," and by adding definitions of "central system humidifier," "humidifier," and "room humidifier," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

* * * * *

(11) With respect to humidifiers, having essentially identical functional physical and electric characteristics.

* * * * *

"Central system humidifier" means a consumer product designed for the purpose of adding moisture into the air stream of a heating system.

* * * * *

"Humidifier" means a central system humidifier or a room humidifier.

* * * * *

"Room humidifier" means a consumer product designed for the purpose of adding moisture directly to the air proximate to such humidifier without requiring connection to a separate system for heating, distributing, or otherwise treating circulated air.

* * * * *

2. Section 430.22 is amended by adding paragraph (k), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(k) *Humidifiers.* (1) The estimated annual operating cost for central system humidifiers shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the sum of: (A) The product of the average annual electric furnace or elec-

tric resistance heating energy consumption in kilowatt-hours per year, determined according to 4.1 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year, and

(ii) Where heat is supplied by an electric heat pump, the sum of: (A) The product of the average annual electric heat pump energy consumption in kilowatt-hours per year, determined according to 4.3 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year, and

(iii) Where heat is supplied by a gas or oil fired forced air furnace, the sum of: (A) The product of the average annual gas or oil furnace energy consumption in Btu's per year, determined according to 4.4 or 4.5, respectively, of Appendix K1 of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for room humidifiers shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the sum of: (A) The product of the average annual electric furnace or electric resistance heating energy consumption in kilowatt-hours per year, determined according to 4.1 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart, and the respresentative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year, and

(ii) Where heat is supplied by an electric heat pump, the sum of: (A) The product of the average annual electric heat pump energy consumption in kilowatt-hours per year, determined according to 4.3 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year, and

(iii) Where heat is supplied by a gas or oil fired forced air furance, the sum of: (A) The product of the average annual gas or oil furnace energy consumption in Btu's per year, determined according to 4.4 or 4.5, respectively, of Appendix K2 of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for humidifiers by geographic region shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(i) of this paragraph for central system humidifiers, or subparagraph (2)(i) of this paragraph for room humidifiers and (B) the regional factors for adjusting the representative average-use cycle of humidifiers determined according to 5 of Appendix K1 of this subpart, the resulting product then being rounded off to the nearest dollar per year;

(ii) Where heat is supplied by an electric heat pump, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(ii) of this paragraph for central system humidifiers, or subparagraph (2)(ii) of this paragraph for room humidifiers and (B) the regional factors for adjusting the representative average-use cycle of humidifiers determined according to 5 of Appendix K1 of this subpart, the resulting product then being rounded off to the nearest dollar per year; and

(iii) Where heat is supplied by a gas or oil fired forced air furnace, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(iii) of this paragraph for central system humidifiers, or subparagraph (2)(iii) for room humidifiers and (B) the regional factor for adjusting the representative average-use cycle of humidifiers determined according to 5 of Appendix K1 of this subpart, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for central system humidifiers shall be the quotient of: (i) The hourly rate of energy output of a central system humidifier, in Btu's per hour, as determined according to 4.9 of Appendix K1 of this subpart, divided by (ii) the sum of (A) the humidistat factor, in Btu's per hour, as determined according to 4.10 of Appendix K1 of this subpart; (B) the hourly rate of electrical energy input to the humidifier, in Btu's per hour, as determined according to 4.7 of Appendix K1 of this subpart; (C) the hourly rate of equivalent electrical energy input for bypass humidifiers, in Btu's per hour, as determined according to 4.8 of Appendix K1 of this subpart; and (D) the rate of waste water energy (q_w) in Btu's per hour, as determined in 4.1 of Appendix K1 of this subpart, the resulting product then being rounded off to the nearest 0.1.

(5) The energy factor for room humidifiers shall be the quotient of the hourly humidification rate of the humidifier, in pounds per hour, determined according to 4.6 of Appendix K2 of this subpart divided by the input power, in kilowatts, as determined according to 3.2 of Appendix K2 of this subpart, the resulting quotient then being rounded off to the nearest 0.01 pounds per kilowatt-hour.

(6) Other useful measures of energy consumption for humidifiers shall be those measures of energy consumption for humidifiers which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendices K1 and K2 of this subpart.

3. Section 430.23 is amended by adding a paragraph (k), to read as follows:

§ 430.23 Units to be tested.

* * * * *

(k) *Humidifiers.* (1) When testing of humidifiers is required for a measure or measures of energy consumption described in § 430.22(k), a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within 5 percent of the true mean of such measures of the basic model, except that no fewer than three units of each basic model shall be tested.

(2) The sample selected for paragraph (k)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (k)(1) of this section are satisfied at each rating.

4. Subpart B of Part 430 is amended to add an Appendix K1 and an Appendix K2, to read as follows:

APPENDIX K1—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF CENTRAL SYSTEM HUMIDIFIERS

1. *Definitions.*

1.1 "ARI" means the Air-Conditioning and Refrigeration Institute.

1.2 "ARI 610–74" means the test standard published by the ARI, titled "Standard for Central System Humidifiers," 1974, and designated as ARI 610–74.

1.3 "By-pass humidifier" means a central system humidifier in which the air for humidification is taken from the heated air of the furnace plenum and drawn through a wetted element by the pressure differential of the furnace blower system.

1.4 "Humidification rate" means a measure of the ability of a humidifier to add moisture to its surrounding atmosphere expressed as the number of gallons of water evaporated per 24 hours of continuous operation.

1.5 "Seasonal performance factor" means the ratio of the seasonal energy output of a heating system delivered to the conditioned space, in Btu's, divided by the seasonal energy input to the heating system, in Btu's.

2. *Testing conditions.*

2.1 *Installation.* Install the humidifier according to manufacturer's instructions and in accordance with section A4 of ARI 610–74. In the event of a conflict between the manufacturer's instructions and ARI 610–74, the provision of ARI 610–74 shall control.

2.2 *Energy flow instrumentation.* Install energy flow instrumentation, or other instrumentation as appropriate, in accordance with section A3 of ARI 610–74. A wattmeter shall be installed in the electrical circuit when a humidifier is connected to an electrical supply circuit. The wattmeter shall not have an error greater than 1 percent, with the smallest scale division not greater than 1 watt.

2.3 *Temperature instrumentation.* Use mercury-in-glass thermometers that are accurate to within 0.1° F to measure both the wet bulb and dry bulb temperatures. The smallest graduation on the thermometers is to represent a maximum of 0.2° F.

3. *Testing and measurements.*

3.1 *Humidification rate.* Determine the humidification rate, H_m, of the humidifier under test, in gallons per day, according to the methods and calculations specified in sections A5 and A6 of ARI 610–74.

3.2 *Input power measurement.* Measure the input power (P) to the humidifier, in watts, when the humidifier is operating under full load conditions.

3.3 *By-pass air flow rate determination for by-pass humidifiers.* The air flow rate through the by-pass humidifier (V_b) shall be measured in cubic feet per minute using air flow nozzles in accordance with Figure A1 described in paragraph A3.3.1 and static pressure taps in accordance with paragraph A3.3.2 of ARI 610–74.

The humidifier shall be mounted to a plenum attached to the outlet of a fan capable of delivering the required air flow for the conditions of the test in accordance with 6 of this Appendix. The by-pass duct of the humidifier shall be connected to the inlet of the air measuring duct (AMD). The temperature of the air shall be room temperature, 70° F ±10° F, 30 percent relative humidity, and the static pressure in the duct between the fan and humidifier shall be adjusted to 0.2 in. water differential. The pressure drop across the nozzle shall be recorded and the air volume calculated using the equations of A6.1.1 and A6.1.2 of ARI 610–74.

3.4 *Temperature measurement.* The temperature of the water entering the humidifier shall be maintained at 60° F ±2° F. The waste water temperature from the humidifier shall be measured and recorded. No less than five sets of readings shall be taken.

4. *Calculation of derived results from test measurements.*

4.1 *Average annual electric furnace or electric resistance heating energy consumption.* Calculate the average annual electric furnace or electric resistance heating energy consumption, E_{F-E}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-E}=\left[\frac{Q_o+Q_w\ 3412\,E_S}{SPF_E}\right]\left[\frac{1}{3412}\right],$$

where

Q_o = average annual energy output of the humidifier in terms of heat of vaporization, in Btu's,

$$=\frac{N\times H_m(8.34\times 1060)}{24},$$

where

N = 1200 hours per year, the representative average-use cycle of humidifier operation

H_m = humidification rate determined in accordance with 3.1 of this Appendix, in gallons per day

8.34 = conversion factor to convert gallons of water to pounds of water

1060 = heat of vaporization of water in Btu's per pound (Based on a water temperature of 60° F).

24 = conversion factor to convert days to hours

SPF_E = 1.0, seasonal performance factor of electric furnace or electric resistance heating dimensionless

Q_W = average annual energy lost in waste water from the humidifier housing or sump, in Btu's per year,

$$=N\times q_w,$$

where

N as defined above, and

q_w = rate of waste water energy lost, in Btu's per hour

$$=W\times C\times \Delta t,$$

where

W = measured waste water drainoff rate, in pounds per hour, consisting of the water quantity determined in accordance with section A5.6.2.4 of ARI 610-74, over the time period of the test.

C = 1, specific heat of water, in Btu's per pound—degree Fahrenheit

t = waste water temperature rise, in degrees Fahrenheit

$= t_{out} - 60°$ F

3412 = conversion factor to convert Btu's to kilowatt-hours.

E_S as defined in 4.2 of this Appendix.

4.2 *Average annual supplementary electrical energy consumption.* Calculate the average annual supplementary electrical energy consumption, E_S, expressed in kilowatt-hours per year, and defined as:

$$E_S = \frac{E_p + E_b}{1000},$$

where

E_p = average annual electric energy consumption to operate the humidifier determined in accordance with section 3.2 of this Appendix, in watt-hours per year

$= N \times P,$

where

N as defined in 4.1

P as determined in 3.2

E_b = additional equivalent electric energy required by the furnace fan for by-pass type humidifiers, in watt-hours per year

$= 0.365\ V_b \times N,$

where

V_b = by-pass flow rate determined in accordance with section 3.3 of this Appendix, in cubic feet per minute.

0.365 = furance fan power to operate by-pass humidifier, in watts per cubic feet per minute

N as defined in 4.1.

4.3 *Average annual electric heat pump energy consumption.* Calculate the average annual electric heat pump energy consumption, E_{F-HP}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-HP} = \left[\frac{Q_s + Q_w - 3412\,E_S}{SPF_{HP}}\right]\left[\frac{1}{3412}\right],$$

where

SPF_{HP} = 1.5, seasonal performance factor of electric heat pump, dimensionless

3412 as defined in 4.1

Q_s as defined in 4.1

Q_w as defined in 4.1

E_S as defined in 4.2

4.4 *Average annual gas furnace energy consumption.* Calculate the average annual gas furnace energy consumption, E_{F-G}, expressed in Btu's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-G} = \frac{Q_s + Q_w - 3412\,E_S}{SPF_G},$$

where

SPF_G = .65, seasonal performance factor of gas furnace, dimensionless

Q_s as defined in 4.1

Q_w as defined in 4.1

E_S as defined in 4.2

4.5 *Average annual oil furnace energy consumption.* Calculate the average annual oil furance energy consumption, E_{F-o}, expressed in Bru's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperatuer of 70° F, and defined as:

$$E_{F-o} = \frac{Q_s + Q_w - 3412\,E_S}{SPF_O},$$

where

SPF_O = .75, seasonal performance factor of oil furnances, dimensionless

3412 as defined in 4.1

Q_s as defined in 4.1

Q_w as defined in 4.1

E_S as defined in 4.2

4.6 *Hourly humidification rate.* Calculate the hourly humidification rate, H_{mh}, expressed in pounds per hour, and defined as:

$$H_{mh} = \frac{8.34\,H_m}{24}$$

where
H_m as defined in 4.1
8.34 as defined in 4.1
24 as defined in 4.1.

4.7 *Hourly rate of electrical energy input.* Calculate the hourly rate of electrical energy input, q_p, expressed in Btu's per hour, and defined as:

$$q_p = 3.412\ P,$$

where
P as determined in 3.2
3.412 = conversion factor to convert watts to Btu's per hour.

4.8 *Hourly rate of equivalent electrical energy input for by-pass humidifiers.* Calculate the hourly rate of equivalent electrical energy input for by-pass humidifiers, q_b, expressed in Btu's per hour, and defined as:

$$q_b = 0.365\ V_b \times 3.412,$$

where
0.365 as defined in 4.2
V_b as defined in 4.2
3.412 as defined in 4.7.

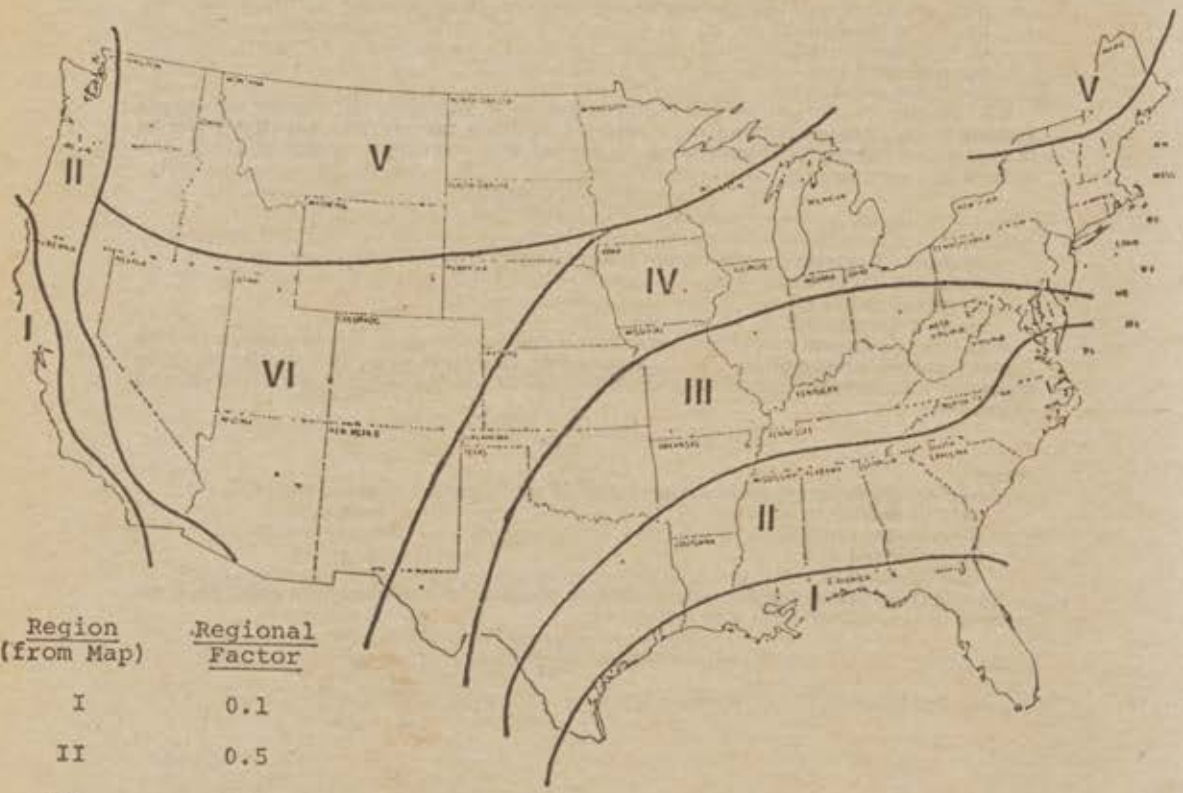
4.9 *Hourly rate of energy output of a central system humidifier.* Calculate the hourly rate of energy output of a central humidifier, H_s, expressed in Btu's per hour and defined as:

$$H_s = 1060\ H_{mA},$$

where
1060 as defined in 4.1
H_{mA} as defined in 4.6.

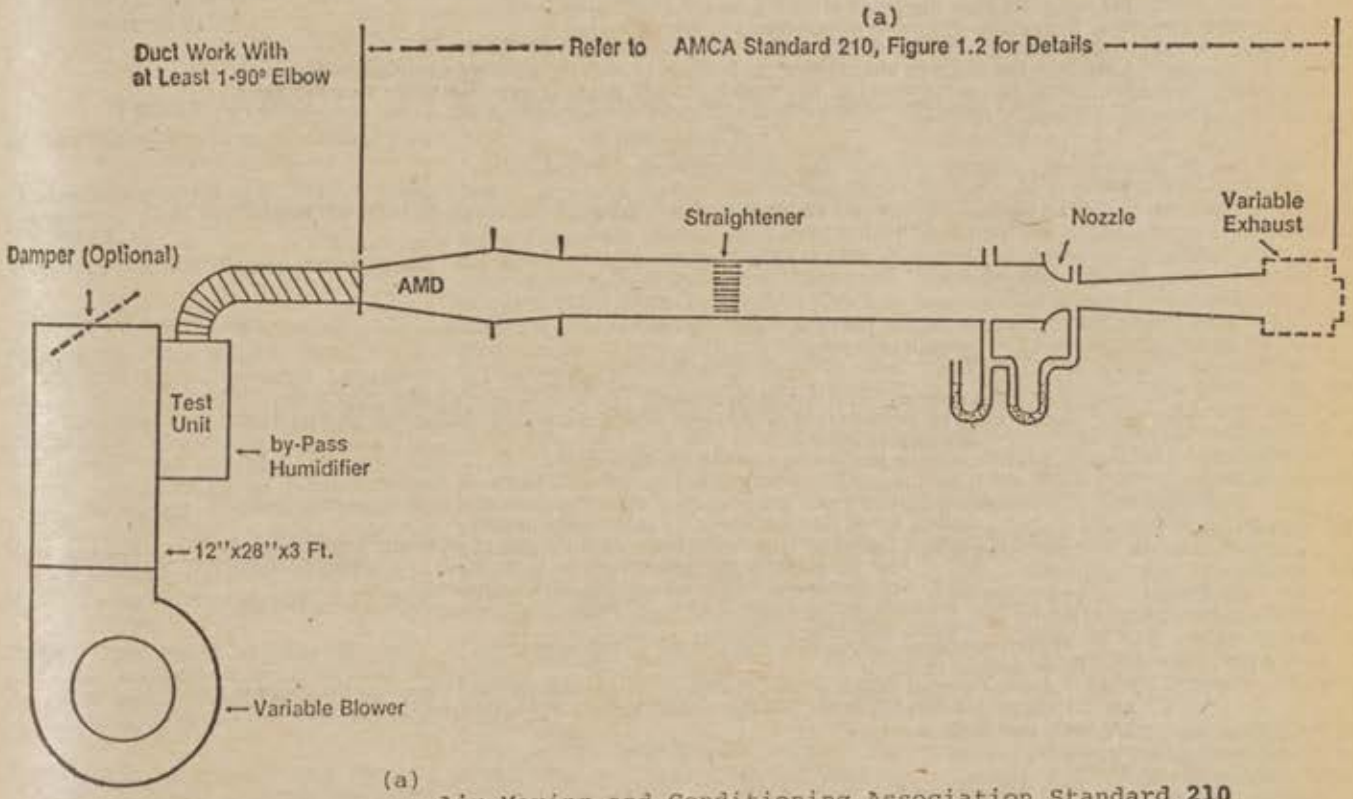
4.10 *Humidistat factor.* For a central system humidifier with a humidistat, the humidistat factor is equal to the hourly rate of energy output, as defined in 4.9, in Btu's per hour. For a central system humidifier without a humidistat, the humidistat factor is equal to twice the hourly rate of energy output, as defined in 4.9, in Btu's per hour.

5. Regional factors for adjusting the representative average-use cycle of humidifiers.



	Region (from Map)	Regional Factor
5.1	I	0.1
5.2	II	0.5
5.3	III	1.0
5.4	IV	1.5
5.5	V	2.0
5.6	VI	2.5

6. Installation of by-pass humidifiers.



(a) Air Moving and Conditioning Association Standard 210

APPENDIX K2—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ROOM HUMIDIFIERS

1. *Definitions.*

1.1 "AHAM" means the Association of Home Appliance Manufacturers.

1.2 "AHAM HU-1-72" means the test standard published by the AHAM, titled "Appliance Humidifiers," American National Standard Z235.1-1972, and designated as AHAM HU-72.

1.3 "Humidification rate" means a measure of the ability of a humidifier to add moisture to its surrounding atmopshere expressed as the number of gallons of water evaporated per 24 hours of continuous operation.

1.4 "Seasonal performance factor" means the ratio of the seasonal energy output of a heating system delivered to the conditioned space, in Btu's, divided by the seasonal energy input to the heating system, in Btu's.

2. *Test conditions.*

2.1 *Installation.* Install the humidifier according to manufacturer's instructions and in accordance with section 5.2 and 5.3 of AHAM HU-1-72. In the event of a conflict between the manufacturer's instructions and AHAM HU-1-72, the provision of AHAM HU-1-72 shall control.

2.2 *Energy flow instrumentation.* Install energy flow instrumentation in accordance with section 5.1 of AHAM HU-1-72. A watt-hour meter shall be installed in the electrical circuit when a humidifier is connected to an electrical supply circuit. The watt-hour meter shall not have an error greater than 1 percent with the smallest scale division not greater than 1 watt-hour.

2.3 *Temperature instrumentation.* Use mercury-in-glass thermometers accurate to within 0.1° F to measure wet bulb, dry bulb, and water reservoir temperatures. The smallest graduation on the thermometers shall not be greater than 0.2° F.

2.4 *Air pressure instrumentation.* Use an air pressure measurement instrument accurate to within 0.1 inch of mercury.

2.5 *Time instrumentation.* Use time instrumentation in accordance with section 5.1.4 of AHAM HU-1-72.

2.6 *Weight instrumentation.* Use weight instrumentation in accordance with section 5.1.5. of AHAM HU-1-72.

3. *Test procedures and measurements.*

3.1 *Humidification rate.* Determine the humidification rate, Q, of the humidifier under test, in gallons per day, according to the methods and calculations specified in sections 5.2 and 6 of AHAM HU-1-72.

3.2 *Input power measurement.* Connect the humidifier through a watt-hour meter in accordance with section 2.2 of this Appendix. Humidifiers with electric heaters shall be run with heaters on and humidity controls set at maximum levels. Measure the total electrical energy consumption, in watt-hours, at the end of the two hour test period. Calculate the input power to the humidifier, P, in kilowatts by dividing the energy consumption measured in the test by 2,000 watt-hours per kilowatt.

3.3 *Barometric pressure.* Humidification rate shall be measured when barometric pressure is within the range of 29.9 inches (± 1) of mercury.

4. *Calculation of derived results from test measurements.*

4.1 *Average annual electric furnace or electric resistance heating energy consumption.* Calculate the average annual electric furnace or electric resistance heating energy consumption, E_{F-E}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-E}=\left[\frac{Q_s-3412E_S}{SPF_E}\right]\left[\frac{1}{3412}\right],$$

where

Q_s=average annual energy output of the humidifier in terms of heat of vaporization, in Btu's per year,

$$=N\times K\times Q\times 0.93\,\frac{8.34\times 1060}{24},$$

where

N=1200 hours per year, the representative average-use cycle of humidifier operation.

SPF_E

8.34=conversion factor to convert gallons of water to pounds of water

1060=heat of vaporization of water in Btu's per pound (Based on a water temperature of 60° F)

24=conversion factor to convert days to hours

K=0.5, field usage correction factor for room humidifiers, dimensionless.

Q=humidification rate (water output capacity) determined in accordance with section 3.1 of this Appendix, in gallons per day.

0.93=correction factor to adjust the humidifier output at standard conditions of 75° F and 30 percent relative humidity to normal room conditions of 70° F and 30 percent relative humidity, dimensionless.

SPF_E=1.0, seasonal performance factor of electric furnace or electric resistance heating, dimensionless.

3412=conversion factor to convert Btu's to kilowatt-hours.

E_S as defined in 4.2

4.2 *Average annual supplementary electrical energy consumption.* Calculate the average annual supplementary electrical energy consumption, E_S, expressed in kilowatt-hours per year, and defined as:

$$E_S=N\times P,$$

where

N as defined in 4.1

P as determined in 3.2

4.3 *Average annual electric heat pump energy consumption.* Calculate the average annual electric heat pump energy consumption, E_{F-HP}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-HP}=\left[\frac{Q_s-3412E_S}{SPF_{HP}}\right]\left[\frac{1}{3412}\right],$$

where

SPF_{HP}=1.5, seasonal performance factor of electric heat pump, dimensionless.

3412 as defined in 4.1

Q_s as defined in 4.1

E_S as defined in 4.2

4.4 *Average annual gas furnace energy consumption.* Calculate the average annual gas furnace energy consumption, E_{F-G}, expressed in Btu's per year, and defined as:

$$E_{F-G}=\frac{Q_s-3412E_S}{SPF_G},$$

where

SPF_G=.65, seasonal performance factor of gas furnaces, dimensionless

Q_s as defined in 4.1

3412 as defined in 4.1

E_S as defined in 4.2

4.5 *Average annual oil furnace energy consumption.* Calculate the average annual oil furnace energy consumption, E_{F-s}, expressed in Btu's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-s}=\frac{Q_s-3412E_S}{SPF_s},$$

where

SPF_s=.75, seasonal performance factor of oil furnaces, dimensionless

3412 as defined in 4.1

Q_s as defined in 4.1

E_S as defined in 4.2

4.6 *Hourly humidification rate.* Calculate the hourly humidification rate, Q_H, expressed in pounds per hour, and defined as:

$$Q_H = \frac{8.34Q}{24},$$

where
Q as defined in 3.1
8.34 as defined in 4.1
24 as defined in 4.1.

[FR Doc.77-15457 Filed 5-26-77;2:33 pm]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding Test Procedures for Dehumidifiers

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for dehumidifiers under the Energy Policy and Conservation Act. The Act requires that standard methods for testing dehumidifiers be prescribed as part of the energy conservation program for appliances. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before the test procedures are prescribed.

DATES: Comments by July 21, 1977, 4:30 p.m.; requests to speak by July 18, 1977, 4:30 p.m.; statements by July 21, 1977; hearing to be held on July 27, 1977, at 1:30 p.m.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box MW, Washington, D.C. 20461; statements to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

HEARING HELD AT:

Federal Building, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-4635.

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2222A, Washington, D.C. 20461 (202) 254-5201.

Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202) 566-9833.

William J. Dennison (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20641 (202) 566-9750.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for dehumidifiers under section 323, 42 U.S.C. 6293, of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). The Act requires that FEA prescribe standard methods for testing covered appliances. Development of test procedures is one discrete part of the energy conservation program for appliances. Even when promulgated, final test procedures will not of themselves require testing to be conducted. They will merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC), in exercising its appliance energy efficiency labelling authority regarding a particular appliance type, may well require the application of substantially less than all of the final test procedures applicable to that appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general program provisions, and a Subpart C, containing proposed energy efficiency improvement targets. By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Subparts A and B were established by notice issued on May 24, 1977 (42 FR 27896, June 1, 1977). Proposed Subpart C has not yet been finalized, and a further proposal of Subpart C will be necessary in order to meet the requirements of section 325(a)(1) of the Act as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94-385).

The notice issued on May 24, 1977, included final test procedures for room air conditioners. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed test procedures for dishwashers. This notice also included certain program definitions which have not yet been finalized. Proposed test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers, and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977). Proposed test procedures for unvented home heating equipment were issued on May 4, 1977 (42 FR 23860, May 11, 1977), and proposed test procedures for automatic and semiautomatic clothes washers were issued on May 11, 1977 (42 FR 25329, May 17, 1977), along with a determination that test procedures cannot be proposed for any other class of clothes washer. By this notice, FEA is proposing test procedures for dehumidifiers. By separate notice, FEA is also proposing today test procedures for humidifiers.

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of dehumidifiers.

NBS has transmitted to FEA a test procedure review document which reviewed existing test procedures for measuring energy consumption for dehumidifiers and recommended a test procedure. Copies of this review document will be made available for inspection by interested persons as provided for later in this notice.

The test procedures recommended by NBS and proposed today incorporate the procedure used to determine the rated capacity of dehumidifiers as specified in the American National Standard (ANS) B149.1-1972, sections 3, 4, 5, 6 and 7, and in addition, using the data obtained by that test method, provide procedures for determining the estimated annual operating cost, the estimated annual operating cost by region, and the energy factor for dehumidifiers. ANS B149.1-1972 will be available for inspection by interested persons as provided for later in this notice.

Appendix L of this proposal, Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers, generally follows the ANS standard B149.1-1972. One difference between Appendix L and the ANS standard is that Appendix L does not contain paragraph 6.3 of the standard. Paragraph 6.3 of ANS B149.1-1972, which is not applicable in the proposed rule, provides that any representative production unit may have a capacity of not less than 92 percent of the rated capacity, as measured by the standard, for purposes of the industry published "rated capacity". Additionally, section 8 and section 5.1 (which refers to section 8) of ANS B149.1-1972 are not incorporated in the proposed test method. Section 8 of ANS B149.1-1972 sets forth procedures for determining the performance of the dehumidifier, i.e. the dehumidifier's capability to remove moisture from the ambient air un-

der varying conditions. The ANS standard is also modified, in 3.2 and 3.3 of proposed Appendix L, to provide that the energy consumed during the test is measured and recorded.

Today's proposal adds to § 430.2 a definition of "dehumidifier" and amends the definition in § 430.2 of "basic model" by adding a subparagraph (12) applying specifically to dehumidifiers. In addition, § 430.2 contains definitions promulgated or proposed previously (42 FR 27896, June 1, 1977; 42 FR 15423, March 22, 1977), some of which are applicable to the test procedures for dehumidifiers. Comments on these definitions are timely as provided below.

B. Measures of Energy Consumption

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. NBS has developed a method of calculating the estimated annual cost of operation for dehumidifiers (§430.22(1)(1)). The estimated annual operating cost for dehumidifiers is the product of the representative average-use cycle, the hourly energy consumption of the dehumidifier, and a representative average unit cost of energy.

Also proposed (§ 430.22(1)(2)) for the determination of other measures of energy consumption which are likely to assist consumers in making purchasing decisions are test procedures for determination of the estimated annual operating cost by geographic region of the United States.

Dehumidifiers operate in many different ambient environments, which are primarily dependent on the geographic location, although the dehumidifier's particular location in the home and the working condition of the dehumidifier will also affect the energy consumption of the dehumidifier. The estimated annual operating cost by geographic region is the product of the regional representative average-use cycle as determined in Appendix L, the hourly energy consumption of the dehumidifier, and a representative average unit cost of energy. The regional average use data is based on an NBS dehumidifier regional usage analysis study, copies of which will be available for inspection by interested persons as provided for later in this notice.

An additional proposed measure (§ 430.22(1)(3)) that is likely to assist consumers in making purchasing decisions is the energy factor. The energy factor, expressed as pints of water condensate collected per kilowatt-hour, is defined as the quotient of the quantity of water condensate collected by the dehumidifier, in pounds (corrected to the standard rating conditions or 80°F dry bulb, 69.6°F wet bulb, which represents a 60 percent relative humidity), divided by the product of the energy consumption, in kilowatt-hours, and a conversion factor of 1.04 pounds per pint. Among other possible applications, the energy factor may be used by FEA to determine the efficiency of dehumidifiers for the purposes of the efficiency improvement program described by section 325 of the Act.

FEA recognizes that there may be additional useful measures of energy consumption for dehumidifiers other than the measures described above. Accordingly, today's proposal, in proposed § 430.22(1)(4), provides for other useful measures which the Administrator determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test method proposed today as Appendix L to Subpart B. Dehumidifier manufacturers would, if required, only have to perform various computations while still applying the same test method contained in Appendix L. For example, if the Administrator determined that a per-hour cost would aid consumers in making purchasing decisions, this cost could be derived by applying the uniform test method and dividing by the annual usage to arrive at a per-hour figure.

C. Laboratory Methodology

Proposed Appendix L to Subpart B provides for a controlled laboratory environment for measuring energy consumption for the various dehumidifiers which are available to the consumer. The proposed test method in Appendix L measures energy consumption in kilowatt-hours per test for the dehumidifier under test. From this standard measure of energy consumption, various determinations of dehumidifier energy costs and energy consumption can be derived in a standard fashion.

The proposed test method also determines the rated capacity in pints of water collected per 24 hours of continuous operation of a dehumidifier in a room under the standard conditions of 80°F dry bulb, 69.6°F wet bulb, which represents a relative humidity of 60 percent.

The test is conducted with the dehumidifier in a constant, steady-state operation for a minimum of six hours in an ambient environment of the specified standard constant temperature and standard constant relative humidity. Calculations of the rated capacity in pints per 24 hours are made, and the corresponding electrical input in kilowatt-hours (kWh) required to operate the unit is recorded. This laboratory method insures repeatable and accurate tests.

Because the ambient environment is not allowed to vary in the laboratory test, the dehumidifier is working constantly to remove moisture from the air. In actual use, however, the dehumidifier works only to remove that amount of moisture from the air that is necessary to obtain the relative humidity level desired by the user. When this relative humidity level is achieved, the dehumidifier will automatically turn off. If the relative humidity increases to a level above that for which the dehumidifier is set, the dehumidifier will turn on again.

The effect of the dehumidifier turning "off and on," rather than being constantly "on" for a given time period, on the energy consumption and efficiency of a dehumidifier has not yet been determined by survey data or laboratory tests. NBS has made the determination that the effects of such "off/on" operations, if any, would probably be insignificant and has recommended the steady-state operation test method proposed in Appendix L of this subpart.

D. Representative Average-Use Cycle

Section 323(b)(2) (42 U.S.C. 6293(b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for dehumidifiers is 1,400 hours of operation per year. This determination is based upon NBS' recommendation to FEA and an NBS report on dehumidifier operating hours. The report describes the analytical procedure used to derive the proposed average annual usage of 1,400 hours of operation per year from historical climatic data for thirty-six locations in the continental United States, as well as home use survey data and regional market saturation data. Both of these documents are available for inspection by interested persons as provided for later in this notice.

FEA intends to develop representative average unit costs of energy needed to calculate the annual operating cost for the representative average-use cycle and to provide this information to manufacturers and FTC on or before the effective date of test procedures for dehumidifiers.

E. Number of Units To Be Tested

Proposed § 430.23(1) would provide for sampling of each basic model to be tested when testing of dehumidifiers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23(1)(*i*), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(1), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the

sample of a particular basic model will depend upon the following factors:

(a) The level of confidence required (set at 95 percent in the proposed regulations);

(b) The maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(c) The relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, no fewer than three units of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. Request for Particular Comments

While FEA is soliciting comments on all aspects of the proposed test procedure for dehumidifiers, FEA is particularly interested in receiving comments on any other useful measures of energy consumption or data on typical consumer use of dehumidifiers in addition to those proposed today. FEA is also interested in receiving comments with regard to the appropriateness of incorporating the proposed sections of ANS B149.1–1972. In addition, FEA is interested in receiving comments on any definitions already promulgated or proposed in § 430.2, as discussed above, as these definitions might affect the testing of dehumidifiers. Comments with respect to these definitions in § 430.2 are timely until the close of the written record, as specified below.

G. Comment Procedure

1. *Written comment.* Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed test procedures for dehumidifiers set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box MW, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Dehumidifiers—Proposed Test Procedure." Fifteen copies should be submitted. All comments received by July 21, 1977, before 4:30 p.m., e.d.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public hearings.*—a. *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on July 28, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.d.t., on July 18, 1977. Such a request may be hand delivered to such address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Dehumidifiers—Proposed Test Procedure."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through July 26, 1977.

FEA will notify, before 4:30 p.m., July 20, 1977, each person selected to appear at a hearing. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202–254–3345.

b. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.s.t., July 21, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS's recommendations concerning test procedures for dehumidifiers along with the NBS internal report on dehumidifier operating hours and the ANS Standard B149.1–1972 will also be made available for inspection at the FEA Freedom of Information Office.

H. Environmental and Inflationary Review

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A–107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385;

Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (12) as part of the definition of "basic model" and by adding the definition of "dehumidifier," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

* * * * *

(12) With respect to dehumidifiers, having essentially identical functional physical and electrical characteristics.

* * * * *

"Dehumidifier" means a self-contained, electrically-powered, mechanically-refrigerated consumer product designed to decrease the moisture content of air in an enclosed space to a specified level; it has a refrigerated surface (evaporator) onto which some moisture from the air condenses, a refrigerating system that includes an electric motor, a fan for circulating air, and a drainage arrangement for collecting and/or disposing of the condensation.

* * * * *

2. Section 430.22 is amended by adding paragraph (*l*), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(*l*) *Dehumidifiers.* (1) The estimated annual operating cost for dehumidifiers shall be the product of the following three factors: (i) The representative average-use cycle of 1,400 hours per year, (ii) the hourly energy consumption in kilowatt-hours per hour, determined according to 4.3 of Appendix L of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for dehumidifiers by region shall be the product of the following three factors: (i) The regional representative average-use cycle, determined according to 5 of Appendix L of this subpart (ii) the hourly energy consumption in kilowatt-hours per hour, determined according to 4.3 of Appendix L of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administration, the resulting product then being rounded off to the nearest dollar per year.

(3) The energy factor for dehumidifiers, expressed in pints of water condensate collected per kWh shall be the quotient of the water condensate collected, in pounds, as determined in 3.2 of Appendix L of this subpart, divided by the product of the energy consumption, in kilowatt-hours, as determined in 3.2 of this Appendix, and a conversion factor of 1.04 pounds per pint.

(4) Other useful measures of energy consumption for dehumidifiers shall be those measures of energy consumption for dehumidifiers which the Administration determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix L of this subpart.

3. Section 430.23 is amended by adding a paragraph (*l*), to read as follows:

§ 430.23 Units to be tested.

* * * * *

(*l*) *Dehumidifiers.* (1) When testing of dehumidifiers is required for a measure or measures of energy consumption described in § 430.22(1), a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within 5 percent of the true mean of such measures of the basic model, except that no fewer than three units of each basic model shall be tested.

(2) The sample selected for paragraph (*l*)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (*l*)(1) of this section are satisfied at each rating.

4. Subpart B of Part 430 is amended to add an Appendix L, to read as follows:

APPENDIX L—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF DEHUMIDIFIERS

1. *Definitions.*

1.1 "ANSI" means the American National Standard Institute.

1.2 "ANS B149.1-1972" means the test standard published by the ANSI, titled "American National Standard—B149.1, Dehumidifiers", and designated as ANS B149.1-1972.

1.3 "Capacity" means a measure of the abilty of a dehumidifier to remove moisture from its surrounding atmosphere.

1.4 "Rated capacity" means the amount of water, stated in pints collected per 24 hours of continuous operation when tested in accordance with this Appendix.

2. *Testing conditions.*

2.1 *Installation and Operational conditions.* Install the dehumidifier and maintain the operating conditions in accordance with the manufacturer's instructions, except that where the manufacturer's instructions are at variance with the test method specified in ANS B149.1-1972, as amended by 3.1 of this Appendix, in which case the amended ANS B149.1-1972 shall be used. Install a watt-hour meter with an error not greater than 0.5 percent. The smallest scale graduation on the watt-hour meter shall not exceed one watt-hour.

3. *Testing and measurements.*

3.1 *Test.* Perform a test by establishing the testing conditions set forth in 2.1 of this Appendix, testing the dehumidifier in accordance with ANS B149.1-1972, sections 3, 4, 5, 6 and 7, except that paragraphs 5.1 and 6.3 of ANS B149.1-1972 shall be deleted.

3.2 *Test measurements.* Measure the energy consumption (E), in kilowatt-hours (kWh), and the water condensate collected (C), in pounds, during the test performed in 3.1 and measure the test results specified in section 7 of ANS B149.1-1972.

3.3 *Recorded values.* Record the energy consumption as measured in 3.2 of this Appendix and the values determined in accordance with section 7 of ANS B149.1-1972.

4. *Calculation of derived results from test measurements.*

4.1 *Rated capacity.* Calculate the rated capacity, C_R, expressed in pints of water collected per 24 hours, in accordance with section 7.5 of ANS B149.1-1972.

4.2 *Energy factor.* Calculate the energy factor, EF, expressed in pints per kWh and defined as:

$$EF = \frac{C}{E \times K},$$

where

C = the condensate collected, in pounds, as defined in 3.2 of this Appendix.
E = the energy consumption, in kilowatt-hours, as defined in 3.2 of this Appendix, and
K = the factor 1.04, used to convert pounds of water condensation to pints.

4.3 *Hourly energy consumption.* Calculate the hourly energy consumption (E_H), expressed in kWh per hour and defined as:

$$E_H = \frac{C_R}{EF},$$

where

C_R = the rated capacity as calculated in 4.1 of this Appendix
EF = the energy factor as calculated in 4.2 of this Appendix

5. *Regional representative average-use cycle.*

Region	State	Average-use cycle (hours per year)
5.1 New England	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island.	704
5.2 Middle Atlantic	New York, New Jersey, Pennsylvania	1,491
5.3 South Atlantic	Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida.	2,103
5.4 East-North-Central	Ohio, Indiana, Illinois, Michigan, Wisconsin	1,166
5.5 East-South-Central	Kentucky Tennessee, Alabama, Mississippi	2,343
5.6 West-South-Central	Arkansas, Louisiana, Oklahoma, Texas	2,840
5.7 West-North-Central	Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas.	989
5.8 Mountain	Arizona, Wyoming, Montana, Idaho Utah, Colorado, New Mexico, Nevada.	82
5.9 Pacific	California, Oregon, Washington, Alaska, Hawaii	941

[FR Doc. 77-15458 Filed 5-26-77;2:34 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 340]

OFFERING CIRCULAR REQUIREMENTS FOR PUBLIC ISSUANCE

Notice of Proposed Rule Making

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed Rule-Republication for comment.

SUMMARY: The proposed regulation would establish minimum standards for disclosure of material facts in connection with the offer and sale by or on behalf of an insured State nonmember bank of securities issued by the bank where such offer and sale meet the criteria specified in the regulation. Current principles of Federal securities antifraud law dictate that persons issuing and selling securities must make sufficient disclosure of material facts to enable a prospective purchaser to make an informed investment decision relating to the securities.

DATES: Comments must be received on or before June 30, 1977.

ADDRESSES: Send comments to Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments available for public inspection at same address, Room 6108.

FOR FURTHER INFORMATION CONTACT:

Arthur L. Beamon, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429, (202-389-4637).

SUPPLEMENTARY INFORMATION: The new proposed Part 340 was originally issued for comment on February 25, 1974. In view of the lapse of time since the original publication and the substantive nature of certain of the changes contemplated, the Corporation has determined that the regulation should be republished for a new comment period of a minimum of 30 days. The proposed regulation would be issued pursuant to the authority contained in Sections 8 and 9 [Tenth] of the Federal Deposit Insurance Act (the "Act") (12 U.S.C. Sections 1818 and 1819 [Tenth]).

During the nearly three years since the initial publication of the regulation the Corporation has gained extensive experience through the use of the proposal as a number of banks have, on their own initiative, sought to comply with the regulation and have voluntarily submitted offering circulars for review by the Corporation's staff. The Corporation has encouraged such submissions. Based upon the experience gained with the previous proposal the Corporation is convinced the proposal is essentially sound and that the guidelines established therein are workable. The revision to Part 340 attached hereto follows closely the outline of the original draft and sets similar standards. Changes have been incorporated to reflect staff experience with the original proposal and comments received on the prior proposal. The factors in the original proposal most frequently commented upon were: (1) the appropriateness of the $500,000 dollar amount exemption, (2) the State exemption, (3) the definitions contained in the regulation, (4) required cover page information, (5) accounting standards, and, (6) in general, how the regulation should be administered. The Corporation has continued to receive comments on the proposal throughout the period since its publication, the most recent comments being received as of the fall of 1976 and January 1977. The Corporation is soliciting public comments on the revisions contained in the proposal and requesting that comments be addressed to the advisability of issuing the regulation in the form of a policy statement or guidelines to be followed by insured State nonmember banks in the public issuance of securities, as opposed to adoption of the regulation as an addition to Title 12 of the Code of Federal Regulations.

Significant changes to the regulation since its original publication include: a broadening of the State exemption to make it possible for more states to qualify under the exemption (§ 340.4), provision in the regulation for coverage of securities issued or to be issued by banks in organization (§§ 340.1 and 340.2), a change in the effective date of an offering circular from 45 to 30 days after filing unless earlier declared effective (§ 340.9), increased disclosure of underwriting arrangements (§ 340.31 Item 3), an expanded description of the business of the bank (§ 340.31 Item 7), a completely revised section dealing with the interests of management and others in certain transactions (§ 340.31 Item 15), significant changes in required financial statements (§ 340.31 Item 16), and changes in required exhibits to the notification required to be filed with the Corporation (§ 340.61). The new proposal also adds a new section dealing with amendments to inaccurate or inadequate offering circulars (§ 340.102).

The proposed Part 340 would establish minimum standards for disclosure of material facts in connection with the offer and sale by or on behalf of an insured State nonmember bank of securities issued by the bank where such offer and sale meet the criteria specified in the regulation. Essentially, those criteria are that the securties offering must be of a public nature; must, when aggregated with any other securities offerings of a similar nature during the two years preceding the offer, exceed the lesser of $500,000 or 50 percent of the bank's total equity capital accounts (exclusive of the proceeds of the offering); and are not subject to substantially similar State regulation.

Although securities issued by a bank are exempt from the registration and prospectus-delivery provisions of the Securities Act of 1933 (15 U.S.C. 77a, et seq.), they are subject to the general antifraud provisions of Section 17(a) of that Act (15 U.S.C. 77q(a)) and Rule 10b-5 of the Securities and Exchange Commission (17 C.F.R. 240.10b-5) promulgated under Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)). *See Lehigh Valley Trust Co.* v. *Central National Bank of Jacksonville*, 409 F.2d 989 (5th Cir. 1969).

Current principles of Federal securities antifraud law dictate that persons issuing and selling securities must make sufficient disclosure of material facts to enable a prospective purchaser to make an informed investment decision relating to the securities. Failure to comply with the foregoing securities antifraud provisions can result in legal liability leading to a judgment for damages or rescission of the securities transaction. The failure of a State nonmember bank to adhere to these requirements could involve the bank in a violation of law and, in certain circumstances, in an unsafe or unsound practice in conducting the business of the bank, thereby warranting enforcement action by the Corporation under Section 8(b) of the Act (12 U.S.C. 1818(b)).

In addition, the normal subordination of capital investors in an insured State nonmember bank to claims of its depositors and other creditors could be defeated by a court judgment holding the offering of the bank's securities legally deficient because the bank failed to provide investors with adequate material information. See *Oppenheimer* v. *Harriman National Bank and Trust Co.*, 301 U.S. 206 (1937). Such a result could also interfere with the Corporation's general responsibility under Section 18(i)(1) of the Act (12 U.S.C. 1828(i)(1)) to decide whether to approve any proposed reduction in capital by an insured State nonmember bank.

In addition, in view of the provisions of Section 5 of the Act (12 U.S.C. 1815) which require the Corporation's Board of Directors, in deciding whether to approve an application for Federal deposit insurance, to consider, among other factors, "the adequacy of [the bank's] capital structure" (Section 6 of the Act (12 U.S.C. 1816)), the Board has determined that its review of such an application by a recently organized State nonmember bank which had raised or proposes to raise capital publicly should include consideration of whether investors are provided sufficient disclosure of material facts. The proposed regulation is designed to ensure that proper disclosure of material facts is made in connection with the development of a newly organized bank.

SUMMARY OF PROPOSED REGULATION

The regulation would apply to any insured State nonmember bank which offers or sells securities issued by it in a transaction that is not exempted under § 340.4 of the regulation. That Section would exempt any offering of a bank's securities which is not of a public nature and any public offering where the dollar amount in terms of the actual offering price of the securities, when aggregated with the amount of any similar sales within the two years preceding commencement of the offering, does not exceed the lesser of $500,000 or 50 percent of the bank's total equity capital accounts (excluding the proceeds of the offering). The proposed regulation would also not apply to securities offerings in states where the Corporation has determined that substantially similar State regulation exists.

As noted, offerings of securities which are not of a public nature would not be covered by the regulation. An interpretative section for use in determining whether such a nonpublic offering exists (§ 340.101) sets forth certain criteria, commonly used in making such determinations, including: sales must be directly negotiated between the bank and the purchasers; purchasers or their representatives must be sophisticated investors who have access to information comparable to that which would be required by the proposed regulation; the offering must be made to not more than 35 persons in any 12-month period; and the securities must not be intended for redistribution.

In addition, issuers claiming an exemption based upon the nonpublic nature of an offering would be required to file a notice of proposed sale containing prescribed information fifteen days prior to any actual sale (§ 340.4(a)).

The disclosure requirements for the offering circular are set forth at § 340.31. The general items of information covered are similar to those required to be described in connection with public securities offerings subject to the jurisdiction of other governmental bodies, most notably the Securities and Exchange Commission. The Comptroller of the Currency has recently adopted similar requirements at 12 CFR Part 16.

All interested persons are invited to submit comments in writing on or before June 30, 1977 to Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. All written comments will be made available for public inspection during regular bisiness hours at the office of the Executive Secretary, Room 6010B at the above address.

The proposed new Part 340 reads as follows:

PART 340—MINIMUM OFFERING CIRCULAR REQUIREMENTS FOR PUBLIC DISTRIBUTION OF BANK SECURITIES

Sec.

340.1 Scope.
340.2 Definitions.
340.3 Requirement of offering circular.
340.4 Exempted transactions.
340.5 Prohibition of misrepresentation or omission of material fact.
340.6 Filing and inspection.
340.7 Notification and underaking.
340.8 Advertisements relating to Securities.
340.9 Effective date of offering circular.
340.31 Offering circular.
340.41 Notice of nonpublic sales.
340.61 Contents of notification to the Corporation.
340.71 Financial statements.
340.101 Public offering concept.
340.102 Amendments of inaccurate or inadequate offering circulars.

AUTHORITY: Secs. 8 and 9 [Tenth], Federal Deposit Insurance Act, 12 U.S.C. 1818 and 1819 [Tenth].

§ 340.1 Scope.

The provisions of this Part apply to a bank or a bank in organization which offers or sells any security issued by it in any transaction which is not exempted under § 340.4. A bank in organization should submit its offering circular as an attachment to its deposit insurance application. Such circulars may be submitted at an earlier date on a voluntary basis.

§ 340.2 Definitions.

Generally, terms and concepts applicable to this Part are to be understood in light of principles developed under the federal securities laws, particularly the Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, and the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.* For the purposes of this Part, however, the definitions contained in § 335.2 of this Chapter are applicable and, in addition, certain fundamental terms are specifically defined as follows:

(a) "Bank" means an insured State bank not a member of the Federal Reserve System as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, and includes for the purposes of this Part any person acting on behalf of the bank.

(b) "Bank in organization" means a person that has applied or intends to apply for Federal Deposit Insurance pursuant to Section 5 of the Federal Deposit Insurance Act, 12 U.S.C. 1815.

(c) "Corporation" means the Federal Deposit Insurance Corporation.

(d) "Equity capital accounts" means capital stock, surplus, undivided profits, and reserves for contingencies and other capital reserves.

(e) "Filed": All documents required to be filed under this Part shall be deemed filed when received by the Corporation at its Washington office, 550 17th Street N.W., Washington, D.C. 20429.

(f) "Offer to sell," "offer for sale," or "offer" include every attempt to sell or solicit an offer to buy a security, or interest in a security, for value, including the submission for a vote or consent of shareholders pursuant to law or governing instrument of every merger, consolidation, purchase and assumption transaction, or other reorganization of a bank, except an advertisement meeting the requirements of § 340.8 shall not be deemed an offer to sell a security.

(g) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(h) "Principal officer" means a Chairman of the Board of Directors, Vice Chairman of the Board, Chairman of the Executive Committee, President, Vice President (except as indicated in the next sentence), Cashier, Treasurer, Secretary, Comptroller, and any other person who participates in major policymaking functions of the bank. In some banks (particularly banks with officers bearing titles such as Executive Vice President, Senior Vice President, or First Vice President as well as a number of "Vice Presidents"), some or all "Vice Presidents" do not participate in major policymaking functions, and such persons are not principal officers for the purposes of this Part.

(i) "Sale" or "sell" means every contract of sale or exchange or other disposition of a security or interest in a security, for value, including every merger, consolidation, purchase and assumption transaction, or other reorganization of a bank.

(j) "Security means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness, investment contract or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include a deposit as defined in Section 3(*l*) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(*l*).

(k) "Verified has the same meaning as that contained in § 335.2(dd) of this Chapter.

§ 340.3 Requirement of offering circular.

Except in the case of an offering which meets the requirements of § 340.4.

(a) No offer to sell a security issued by a bank shall be made by the bank unless such offer is made through the use or medium of an offering circular filed [§ 340.2(e)] pursuant to and prepared in accordance with the requirements of this Part, except (1) A communication

sent or given after the effective date of the offering circular (other than such circular), if it is proved that prior to or at the same time with such communication a written offering circular meeting the requirements of § 340.31 at the time of such communication was sent or given to the person to whom the communication was mad, and (2) an oral offer other than by means of radio or television.

(b) No sale of a security issued by a bank shall be made by the bank unless at or prior to the time of the sale the offering circular has become effective pursuant to § 340.9.

(c) The delivery of a security or confirmation of sale must be accompanied or preceded by an offering circular that has become effective.

(d) At anytime the bank becomes aware that there has been a material change in any matter required to be described in an offering circular pursuant to this Part, the offering circular must be appropriately amended to reflect such change. An offering circular may be amended at any time by filing the proposed amendments and any supporting documents necessary to a full understanding of the import of the amendments. The revised circular shall then be utilized in lieu of any previous offering circulars. In any event an offering circular shall remain effective for no more than 9 months after its effective date.

§ 340.4 Exempted transactions.

(a) The provisions of this Part shall not apply to any offering which is not of a public nature.[1] Provided, however, no sale of a security in reliance exclusively on the exemption provided by this paragraph (a) shall be made unless the bank shall have filled a notice containing the information required by § 340.41 with the Corporation at least 15 calendar days prior to such sale. *Provided further*, That the notice requirement of the preceding sentence does not apply in respect to any transaction with another bank or financial institution acting for its own account in the ordinary course of banking business.

(b) The requirements of this Part shall not apply to any offering where the dollar amount in terms of the actual offering price of the securities publicly offered when aggregated with the amount of any similar sales within the two years preceding commencement of the subject offering, does not exceed the lesser of (1) $500,000 or (2) 50 percent of the bank's total equity capital accounts (excluding the proceeds of the offering).

(c) The requirements of this Part shall not apply to preliminary negotiations or agreements between a bank and any underwriter or among underwriters who are or will be in privity of contract with the bank.

(d) State Exemption: The Corporation may determine that a class or classes of securities of a bank are subject to requirements under laws or regulations of its chartering state or territory which are substantially similar to those imposed hereunder, and that such state or territory has made adequate provision for enforcement of such laws or regulations. Upon such a determination the Corporation may by order, regulation, or rule of decision exempt the offer and sale of such class or classes of bank securities in the state or territory from compliance with the requirements of this Part for a period of 12 months if it shall appear that such securities are in fact subject to requirements of the state or territory that are substantially similar to the requirements of this Part. This 12-month exemption shall oe subject to renewal where the Corporation determines that a state's laws or regulations remain substantially similar to the requirements of this Part and that during the prior year there has been adequate enforcement of such laws or regulations. The Corporation reserves the right to revoke any exemption if at any time it determines that the law or regulation of the state or territory does not in fact impose requirements which are substantially similar to those imposed by his Part or that there is not in fact adequate provision for enforcement. In the case of any offer or sale of bank securities pursuant to this exemption, the bank shall file one copy of the final offering circular with the Corporation for informational purposes.

NOTE—Any exemption granted under this Part 340 does not apply to the requirements of the Securities Exchange Act of 1934 or the Corporation's regulations promulgated thereunder.

(e) Upon application and for good cause shown, the Corporation may exempt any offering of securities or any class or classes of securities from the requirements of this Part 340.

§ 340.5 Prohibition of misrepresentation or omission of material fact.

It shall be a violation of this Part 340 for a bank in connection with any offer or sale subject to this Part 340 to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

§ 340.6 Filing and inspection.

The offering circular required by this Part shall be filed in accordance with the requirements of § 340.31. Except as provided herein, all information filed pursuant to this Part will be available for public inspection at the Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. In addition, copies of the effective offering circular will be available for inspection at the New York, Chicago, and San Francisco Federal Reserve Banks and at the FDIC Regional Office in the region in which the bank is located.

§ 340.7 Notification and undertaking.

At the time of filing the offering circular there shall also be filed a notification containing the information and accompanied by the documents specified in § 340.61. Every notification required to be filed pursuant to this Part shall contain an undertaking that immediately upon completion or termination of the offering, the bank shall so notify the Corporation by letter.

§ 340.8 Advertisements Relating to Securities.

No bank shall make any advertisement referring to a current or proposed offering of securities issued by it until after the filing of an offering circular covering the securities to be offered which contains substantially the information required by this Part. In addition any such advertisement must contain the following information and no more:

(a) The name of the bank issuing the security and the address of its principal place of business;

(b) The full title of the security or securities being offered, the aggregate dollar amount and number of securities being offered, the per-unit offering prices and the yield or probable yield in the case of a fixed interest debt security;

(c) The name(s) of the managing underwriter(s), if any;

(d) The names and address of any advertiser;

(e) Any legend required by state law or regulation;

(f) That a copy of the preliminary offering circular or offering circular is available and where it may be obtained;

(g) The statement required by Item 1 A. of § 340.31, if the offering circular is not yet effective;

(h) In the case of a merger, consolidation, purchase and assumption transaction, or other reorganization of the bank, the names of the parties to the transaction, the date, time and place of the meeting of security holders to vote on or consent to the transaction, and a brief description of the transaction to be acted upon and the basis upon which such transaction will be made; and

(i) If the security is being offered through rights issued to security holders, the class of securities the holders of which will be entitled to subscribe, the subscription ratio, the actual or proposed record date, the date upon which the rights were issued or are expected to be issued, the actual or anticipated date upon which they will expire, and the approximate subscription price.

§ 340.9 Effective date of offering circular.

(a) An offering circular filed under this Part shall become effective 30 calendar days after the filing of the original circular or 30 calendar days after any amendment thereto, whichever is later, unless there is an outstanding request for an amendment, or unless the Corporation has determined that the offering circular may become effective at an earlier date.

(b) Whenever it shall appear to the Corporation that an offering subject to this Part is not in full compliance with the provisions thereof, the Corpartion may suspend the effectiveness of the offering circular.

[1] See Interpretations § 340.101.

§ 340.31 Offering Circular.

GENERAL INSTRUCTIONS

(a) Each offering circular required under this Part shall, to the extent applicable, include at the minimum the information called for under each of the items below. Where of use to an investor in locating additional information with respect to a statement made, appropriate cross-reference should be made to such information identifying the page upon which it appears. In the preparation of the offering circular particular attention should be given to the definitions contained in §§ 335.2 and 340.2 of this Chapter.

(b) This form is not to be used as a blank form to be filled in but only as a guide in the preparation of an offering circular. Any additional information deemed necessary to clarify or explain, or make the information contained in the offering circular not misleading, should also be included.

(c) Six copies of each offering circular shall be filed with the Corporation at its Washington office, 550 17 Street NW., Washington, D.C. 20429.

(d) The body of a printed offering circular shall be in Roman type at least as large as 10-point modern type. To the extent necessary for convenient presentation, however, financial statements and other statistical or tabular data and the notes thereto may be in type at least as large as 81point modern type. All type shall be at least two points leaded.

(e) If the offering circular is not printed, all copies shall be clear, easily readable, and suitable for repeated photocopying.

(f) The printing of definitive copies should be deferred until the final comments of the Corporation's staff have been received and considered.

(g) If an offering circular is printed in a foreign language, each copy filed with the Corporation shall be accompanied by a translation into English.

INFORMATION REQUIRED IN OFFERING CIRCULAR

Item 1. *Required information.* The following information shall be contained on the outside front cover page of the offering circular:

A. Until an offering circular has become effective pursuant to § 340.9 of this Park, in red ink, the caption "Preliminary Offering Circular," the date of its issuance, and the following statement printed in type as large as that used generally in the body of the offering circular:

This offering circular and a related notification have been filed with the Federal Deposit Insurance Corporation but the offering circular has not yet become effective. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted until the offering circular has become effective.

B. The exact name and the address of the principal place of business of the issuing bank. Where the securities are being offered on behalf of a person other than the bank (See Item 4) state also the name and address of each such offeror.

C. State in tabular form: (a) the number of and dollar amount of securities being offered; (b) the per-security and aggregate offering price; (c) the per-security and aggregate proceeds to be received by the bank; (d) the expenses to be incurred by the bank in connection with the offering; and (e) the respective amounts of proceeds and expenses attributable to the bank and any other person(s) on whose behalf the offering is made.

D. The following statements printed in capital letters in boldface Roman type—

(1) These securities are not deposits and will not be insured by the Federal Deposit Insurance Corporation; and

(2) These securities have not been approved or disapproved by the Federal Deposit Insurance Corporation nor has the Corporation passed upon the accuracy or adequacy of this offering circular.

E. In addition to the foregoing, the following information shall be printed in boldface type within the first 3 pages of the offering circular—

(1) A statement that the securities offered may not be used as collateral to secure a loan from the issuing bank;

(2) A statement that none of the securities offered may be repurchased by the issuing bank or otherwise retired without prior approval of the Federal Deposit Insurance Corporation;

INSTRUCTIONS AS TO ITEM 1E(2)

1. The specified statement need only be made where the securities issued constitute capital of the bank subject to Section 18(i)(1) of the Federal Deposit Insurance Act, 12 U.S.C. § 1828(i)(1).

2. In the appropriate case the bank may indicate that such approval has already been obtained. However, if such approval only relates to one of several methods under which the securities may be retired, state which methods have been approved and which methods have not been approved.

NOTE.—Wherever any clause related to acceleration of the stated maturity or other similar provision relating to retirement prior to stated maturity is referred to in other parts of the offering circular required by this Part, it shall be accompanied by appropriate cross-reference to description of the general requirement for Corporation approval of actual repayment.

(3) In the case of debt securities also state the extent to which the securities are subordinate in right of payment to depositors and general creditors;

(4) Where applicable, a brief description of the material risks involved in the purchase of the securities and a cross-reference to additional discussion in the body of the offering circular.

Item 2. *Recently organized banks.* If the bank was opened for business within the last three years, state the date of such opening; the percentage of outstanding securities of the bank which will be held by directors, officers, and promoters, as a group, and the percentage of such securities which will be held by the public, if all of the securities to be offered are sold; and the aggregate and per share amount of cash and other consideration paid therefor by such group and by the public.

Item 3. *Underwriting arrangements.* (c) If the securities are being offered pursuant to preemptive rights, or are to be allocated in full or in part to existing shareholders as of a given record date based upon their holdings of securities of the bank as of such record date, describe the terms relating to the exercise of preemptive rights or the allocation based upon ownership of the bank's securities and state the extent to which directors and principal offices of the bank intend to purchase the full amount which would be so allocated to them.

(b) If the securities are to be offered through underwriters, state the names of the principal underwriters and the respective amounts underwritten. Identify each such underwriter having a material relationship to the bank and state the nature of the relationship. State briefly the nature of the underwriters' obligations to take the securities. Any finders' fees or similar payments should be appropriately disclosed.

(c) State the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

(d) Where the securities are not to be offered through an underwriter, give the proposed means of distribution and the expenses to be incurred in connection therewith.

(e) Describe the manner in which shares will be allocated if the offering is oversubscribed.

Item 4. *Sales for security holders.* If any of the securities offered are to be sold for the account of any person(s) other than the bank, state the name and address of each such security holder; his relationship to the bank; the total amount of each class of the bank's securities which he presently owns; the amount of each such class to be offered for his account; the amount of each such class to be owned after the offering; and the amount of expenses he will incur in connection with the offering. This information must be cross-referenced to the required disclosure on the cover page of the offering circular and vice versa.

Item 5. *Use of proceeds.* State briefly the principal purposes for which the net proceeds to the bank from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose.

INSTRUCTIONS

1. Include a statement as to the use to which the actual proceeds will be applied if they are not sufficient to accomplish the purposes set forth and the order of priority in which they will be applied.

2. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, briefly describe the assets, give the names of the persons from whom they are to be acquired and the relationship, if any, between such persons and the bank. State the cost of the assets to the bank and the principle followed in determining such cost.

Item 6. *Sales otherwise than for cash.* If any of the securities are to be offered otherwise than for cash, state briefly the general purposes of the offering; the basis upon which the securities are to be offered including the method of evaluating the securities or other property for which the securities of the issuing bank are to be exchanged; and the amount of compensation and other expenses of the offering and by whom they are to be borne.

INSTRUCTIONS

1. If the offering is to be made pursuant to a plan of merger, consolidation, purchase and assumption, or other reorganization, the offering circular shall include the information required by Items 14 and 15(b) of § 335.51 of this Chapter of the Corporation's regulations.

In such cases, and where applicable, this offering circular may be used to satisfy the requirements of § 335.5 of this Chapter provided the circular also complies with the requirements of that section and appropriately indicates that it is to be used both as an offering circular and a proxy statement.

2. In the case of a bank organized within the preceding three years, where appropriate, set forth a comparison, in percentages, of the securities to be offered to the public for

cash and those issued or to be issued to promoters, directors, principal officers, controlling persons and underwriters for cash, property and services, describing the basis on which the transactions have been entered into.

Item 7. *Business of the bank.* (a) Briefly describe the business done and intended to be done by the bank and its subsidiaries and the general development of such business during the past five years, or such shorter period as the bank may have been engaged in business. Include a tabular presentatiaon of selected financial statement statistics which are indicative of such development. Information should be given concerning principal balance sheet categories, average rates of interest earned and paid by loan and deposit or borrowwing category, distribution of deposits and borrowed money, type and maturity of the bank's securities portfolio, and comparative operating ratios relating the bank's performance to that of similarly sized banks headquartered in the same state. The Corporation's publication, "Bank Operating Statistics," may be utilized for this purpose.

(b) State briefly, to the extent material, the services offered or to be offered by the bank; the general competitive conditions for such services in the area in which the bank operates or intends to operate, describing such service area; and the relative standing of the bank in the area. Specialized services, if any, should be described, as well as any material services offered by most or many competing banks which are not offered by the bank.

(c) Describe principal aspects of the supervision and regulation of the bank. This description should include restrictions imposed by state or federal law, or regulation, relating to branching limitations, interest rates, and permissible activities for the bank.

(d) Briefly describe the bank premises and other facilities, including the right in which the property is held, and describe any major encumbrances thereon.

INSTRUCTION

In the case of a bank which has been opened for business within 3 years of the offering summarize any factors which make the offering of the securities speculative.

Item 8. *Pending legal proceedings.* Describe briefly any material pending legal proceedings, other than ordinary routine proceedings incidental to the business, to which the bank or any of its subsidiaries is a party or to which any of their property is the subject. Include the name of the court or agency in which the proceedings were instituted, the date instituted, and the principal parties thereto.

Any material proceedings to which any director, principal officer, or affiliate of the bank, or person who owns of record or beneficially 10 percent or more of the outstanding capital stock of the bank, or any associate of any such director, officer, or security holder, is a party adverse to the bank or any of its subsidiaries, shall also be described.

Item 9. *Description of securities being offered.* (a) In the case of equity securities, briefly describe all material terms and restrictions relating to the securities, including any dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provision, and liability to further calls or to assessments.

(b) In the case of debt securities, briefly describe all material terms and restrictions relating to the securities including:

(i) Any provision with respect to interest, conversion, maturity, redemption, amortization, sinking fund, or retirement;

(ii) Any provision restricting the declaration of dividends on equity securities of the bank or requiring the maintenance of any ratio of assets, creation or maintenance of reserves or the maintenance of properties;

(iii) Any provision governing the issuance of additional securities, withdrawal of cash deposited against such issuance, incurring of additional debt, release or substitution of assets securing the issue, and modification of the terms of the security;

(iv) Any requirements affecting the securities under Section 18(i)(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(i)(1), and the Corporation's Regulation § 329.10 (12 CFR) or any other applicable law, regulation, or contract;

(v) The general type of event which constitutes a default and whether or not any periodic evidence is required to be furnished as to the absence of default or as to the compliance with the terms of the indenture.

INSTRUCTION

In describing any terms relating to reduction or retirement of the issue, including terms relating to default or acceleration of payment, there shall be appropriate cross-reference to description of the general requirement for Corporation approval for reduction or retirement pursuant to Section 18(i)(1) of the Federal Deposit Insurance Act, 12 U.S.C. § 1828(i)(1).

(vi) If there is a trustee for the issue, state the name of the trustee and the nature of any material relationship which the trustee may have with the bank or any of its affiliates, the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the terms of the indeture.

(c) In the case of any other type of security, furnish appropriate information of a character comparable to that required by subsections (a) and (b) of this Item 9.

(d) If there is an established market for the securities being offered, set forth the high and low sale prices of the securities for each quarterly period within the past two years, the nature of the market, and source of the quotations. In the case of trading in the over-the-counter market or in the absence of trading on an exchange, during a particular period, the high and low bid prices should be given. If the securities are traded on an exchange, the name of the exchange should also be given. If there is no established trading market for the securities to be offered pursuant to the offering circular, so state.

NOTE.—the existence of limited or sporadic quotations should not of itself be deemed to constitute an established trading market. If any known facts indicate the absence of an established trading market, reference to quotations in the offering circular should be qualified by appropriate explanation.

Item 10. *Capitalization.* State in tabular form as of a specified date within 90 days of filing, the title of and amount in each category of the bank's capital accounts, the amount authorized or to be authorized, and the amount to be outstanding, assuming all the securities being offered are sold.

Item 11. *Summary of earnings.* Furnish in comparative form a summary of earnings for the bank or for the bank and its subsidiaries consolidated, or both, as appropriate, for each of the last three fiscal years of the bank (or for the life of the bank and its immediate predecessors, if less) and for any period between the end of the latest of such fiscal years and the date of the latest interim balance sheet furnished pursuant to § 340.71(a)(1) of this regulation, and for the corresponding period of the preceding fiscal year. In connection with such summary, whenever necessary, reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the offering circular.

If common stock is being offered, the summary shall be prepared to present earnings applicable to common stock. Per share earnings and dividends declared for each period of the summary shall also be included unless inappropriate.

If long-term debt or preferred stock is being offered, there shall be shown the annual interest requirements on such long-term debt or the annual dividend requirements on such preferred stock. To the extent that an issue represents refunding or refinancing, only the additional annual interest or dividend requirements shall be stated.

INSTRUCTIONS

1. Historical statements of income in their entirety, as required by § 340.71(a)(2), may be furnished in lieu of the summary of earnings.

2. If summary earnings information is presented, show, as a minimum, operating revenues, operating expenses, income before income taxes and securities gains (losses), applicable income taxes, income before securities gains (losses), securities gains (losses), and net income. The summary shall reflect retroactive adjustments of any material items affecting the comparability of the results.

3. In connection with any summary of earnings for an interim period or periods between the end of the last fiscal year and the balance sheet date, and any comparable prior period, state that all adjustments necessary to a fair statement of the results for such interim period or periods have been included and results of the interim period for the current year are not necessarily indicative of results for the entire year. In addition, there shall be furnished in such cases, as supplemental information but not as a part of the offering circular, a letter describing in detail the nature and amount of any adjustments, other than normal recurring accruals, entering into the determination of the results shown.

Item 12. *Management.* (a) State the full name of all present or proposed directors and principal officers. Indicate all positions and offices held with the bank during the past five years by each such person named and their principal occupations during that period. If the bank was opened for business within the past three years, give the full name and addresses of the promoters and indicate all positions and offices with the bank now held or proposed to be held by each such promoter.

INSTRUCTION

The applicable definition of the term "promoter" is contained in § 335.2(z).

(b) Furnish the following information in tabular form as to all direct remuneration paid by the bank and its subsidiaries during the bank's latest fiscal year to the following persons for services in all capacities:

(1) Each director of the bank whose aggregate direct remuneration exceeded $40,000, and each of the three highest paid officers of the bank whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and principal officers of the bank as a group, without naming them, but stating the number of persons included.

(c) Briefly describe any present or contemplated bonus, retirement, pension, stock option, or other similar plan or provisions and the class of persons covered, and also state in tabular form the amount set aside or

accrued during the bank's last fiscal year for each director or principal officer whose annual remuneration exceeds $40,000, named in answer to Item 12(b)(1).

Items 13. *Options or warrants.* Briefly describe all options, warrants or rights presently outstanding or proposed to be granted to purchase securities of the bank. State separately the amount of options, warrants or rights held or to be held by each director or principal officer of the bank named in answer to Item 12(b)(1), and each associate of such director or principal officer. In addition, state the total amount of such options, warrants or rights held or to be held by all directors and principal officers of the bank as a group, without naming them.

Item 14. *Principal security holders.* To the extent known:

(a) Give the name and relationship to the bank of any person who owns of record or beneficially 10 percent or more of the outstanding capital stock of the bank, stating the amount of such securities owned by such person.

(b) State the percentage of outstanding securities which will be held as a group, by directors and principal officers of the bank, without naming them. State the percentage of the bank's outstanding equity securities which will be held by the public if all the securities to be offered are sold.

INSTRUCTION

If, to the knowledge of the bank or any principal underwriter of the securities to be offered, more than 10 percent of any class of voting securities of the bank are held or are to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

Item 15. *Interest of management and others in certain transactions* (a) Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirtct, of any of the following persons in any material transaction (excluding loans or other extensions of credit) occurring at any time since the beginning of the last fiscal year of the bank, or in any material proposed transaction (excluding loans or other extensions of credit), to which the bank or its subsidiaries was or is to be a party:

1. Any director or principal officer of the bank;

2. Any person who owns of record or beneficially 10 percent or more of the outstanding capital stock of the bank;

3. Any promoter named in response to Item 12(a); or

4. Any associate of any of the foregoing persons.

(b) Loans and other extensions of credit to the persons specified in paragraph (a) of this Item must be disclosed where any of the following features are present:

1. A person together with his associates maintained an aggregate balance at any time during the preceding year which exceeded 10 percent of the equity capital accounts of the bank, or $1 million, whichever is less;

2. A loan or extension of credit is not made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with persons other than those specified in paragraph (a) of this Item;

3. A loan or extension of credit is not made in the ordinary course of business;

4. A loan involves more than the normal risk of collectibility or presents other unfavorable features.

INSTRUCTIONS

1. Balances of any letters of credit or similar obligations on which the bank is contingently liable shall be included in determining the amount of extensions of credit for the purposes of this Item.

2. For purposes of this paragraph, any extension of credit which violated restrictions imposed by State and Federal law shall be deemed to "present other unfavorable features."

(c) If aggregate extensions of credit to the specified persons, as a group, exceeded 20 percent of the equity capital accounts of the bank at any time during the preceding year, (1) the aggregate amount of such extensions of credit shall be disclosed, and (2) a statement shall be included, to the extent applicable, that the bank has had, and expects to have in the future, banking transactions in the ordinary course of its business with directors, officers, principal stockholders, and their associates, on the same terms, including interest rates and collateral on loans, as those prevailing at the same time for comparable transactions with others. For the purpose of determining "aggregate extensions of credit" in this paragraph, transactions which are exempted from disclosure pursuant to Instruction 5 to this Item may be excluded.

INSTRUCTIONS

1. The applicable definition of the terms "associate" is contained in § 335.2(d) of this Chapter of the Corporation's rules and regulations.

2. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated. Where the transaction involves an extension of credit, state the applicable approximate amounts in terms of the high and low points for the preceding year, and the current balance.

3. As to any transaction involving the purchase or sale of assets by or to the bank or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller of acquired by the seller within 2 years prior to the transaction.

4. No information need be given under this paragraph as to any remuneration or other transaction specifically reported in response to any other Item of this Part 340.

5. No information need be given under this paragraph as to any transaction or any interest therein where:

(i) The rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) The interest of the specified person in the transaction is solely that of a director of another corporation which is a party to the transaction;

(iii) The specified person is subject to this Item 15 solely as a director of the bank (or associate of a director) and his interest in the transaction is of less than 10 percent interest in, another person that is a party to the transaction;

(iv) The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services; or

(v) The interest of the specified person, includipg all periodic installments in the case of any lease or other agreement providing for periodic installments, does not exceed $40,000.

6. Information shall be furnished under this paragraph with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than a 10 percent interest in another person furnishing the services to the bank or its subsidiaries.

Item 16. *Financial statements.* (a) Provide the information called for in § 340.71 of this Part.

INSTRUCTIONS

1. If the securities to be offered are debt securities, provide in tabular form for each fiscal year or other period as to which financial statements are filed the ratio of (a) net operating income before taxes and before securities gains or losses and before historical fixed charges for long-term debt and leases to (b) such historical fixed charges. A pro forma ratio of net operating income as computed in (a) above to the fixed charges, as computed in (b) above, adjusted to give effect to the issuance of the debt securities to be offered, shall also be shown for each fiscal year.

2. The bank shall file as an exhibit under § 340.61(c)(11) a statement setting forth in reasonable detail the computations of the ratios required by Instruction 1.

(b) As to banks that have not yet commenced operations, or have commenced operations within the past 12 months, furnish a tabular presentation of the pro forma and/or existing capitalization indicating the bank's plan of operation for the remainder of the fiscal year or, if the offering circular is filed in the second half of the fiscal year, the bank's plan of operation through the first half of the next fiscal year. Furnish a statement of cash receipts and disbursements to date. Include a narrative statement indicating management's opinion as to the period of time that the proceeds of the offering will satisfy its capital requirements and whether in the next six months the bank will have to raise additional funds to meet its expenditures. The basis of such opinion must be stated. Where such statement is based on a cash budget, such budget will be furnished to the Corporation as supplemental information, but need not be filed as a part of the offering circular.

Item 17. *Counsel for the Bank.* State the name and address of counsel for the bank and for the principal underwriter in connection with the offering. Disclose any material interest in the bank or in the offering held by counsel for the bank or counsel for the principal underwriter.

Item 18. *Annual reports.* If the class of securities offered is not registered with this Corporation pursuant to Part 335 of this Chapter, indicate whether or not annual reports of the bank will be furnished to security holders.

§ 340.41 Notice of nonpublic sales.

The notice required by § 340.4(a) shall contain the following information:

(a) *Issuer.* The name and address of the principal place of business of the bank.

(b) *Class of Security.* The class of security to be sold.

(c) *Number of Offerees.* The number of persons to whom the securities were or are to be offered.

(d) *Offering Price.* The offering price of the securities on an aggregate basis and on a per share or per security basis.

(e) *Basis of Exemption.* A general description of the facts and circumstances on which the claim of exemption is based.

In this regard attention should be addressed to the conditions set out in § 340.101.

(f) *Signature.* This notice shall be signed and dated by a duly authorized representative of the bank.

§ 340.61 Contents of notification to the corporation.

The notification filed pursuant to this Part shall contain the following information:

INSTRUCTIONS

Omission of substantially identical documents. In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the bank need file a copy of only one of such documents, with a schedule identifying the documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The Corporation may at any time in its discretion require the filing of copies of documents so omitted.

(a) *Issuer.* The name and address of the principal place of business of the issuing bank, and reference to the particular offering circular to which the notification relates.

(b) *Prior sales.* The title and amount of any securities issued within the last three years by the bank or any of its predecessors or affiliated issuers, and a description of the transaction or transactions in which such securities were issued. With respect to a transaction as to which a notice was filed pursuant to § 340.4(a), in lieu of a description of the transaction, only the date of such notice need be given.

(c) *Exhibits.* As exhibits to the notification there shall be filed the following documents (except that any such documents previously supplied to the Corporation in connection with another offering circular or filed under Part 335 of this Chapter may be omitted where reference is made to such filing):

(1) Copies of any underwriting contract with a principal underwriter, any syndicate agreement and any purchase, sub-underwriting or selling group agreement or letter pursuant to which the securities being offered are to be distributed or, if the terms of such documents are not determined, the proposed forms thereof.

(2) Copies of any plan of merger, consolidation, purchase and assumption, or other reorganization, described in answer to Item 6 of § 340.31.

(3) If not previously submitted pursuant to this Part, composite copies of the bank's articles of incorporation and by-laws or comparable instruments as presently in effect or any amendments thereto since the date of the last such submission. All such copies shall be certified by a bank official as conformed and up to date.

(4) Specimens or copies both facing and reverse sides of all securities being offered hereunder and copies of all constituent instruments defining the rights of holders of long-term debt of the bank and of all subsidiaies for which consolidated or unconsolidated financial statements are required to be filed.

(5) Copies of any plan setting forth the terms and conditions upon which outstanding options, warrants or rights to purchase securities of the bank or its subsidiaries from the bank or any of its affiliates have been issued, together with specimen copies of such options, warrants, or rights; or, if not issued pursuant to such a plan, copies of each such option, warrant, or right.

(6) An opinion of counsel, as to the legality of the securities being offered, indicating whether they will when sold be legally issued, fully paid and whether in what respect the securities are assessable, and, if the debt securities, whether they will be binding obligations of the bank.

(7) Copies of any voting trust or similar agreement referred to in answer to Item 14 of § 340.31.

(8) Copies of all pension, retirement or other deferred compensation plans, contracts, or arrangements. If any such plan, contract or arrangement is not set forth in a formal document, furnish a reasonably detailed description thereof. Copies of any available booklet or other written description of any such plan, contract or arrangement shall also be filed.

(9) Copies of every material contract not supplied in response to any foregoing instruction which was not made in the ordinary course of business and which is to be performed in whole or in part at or after the filing of the offering circular or which was made not more than two years before filing.

INSTRUCTIONS

1. Only contracts need be filed as to which the bank or a subsidiary of the bank is a party or has succeeded to a party by assumption or assignment, or in which the bank or such subsidiary has a beneficial interest.

2. If the contract is such as ordinarily accompanies the kind of business conducted by the bank and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance: (a) directors, officers, promoters, voting trustees, security holders named in answer to Item 14 (a) of § 340.31 of this Part, or underwriters are parties thereto except where the contract is subject to paragraph (d) of this § 340.61 or where it merely involves purchase or sale of current assets having a determinable market price, at such price; (b) it is of such materially as to call for specific reference to it in the offering circular; (c) it calls for the acquisition or sale of fixed assets for a consideration exceeding 15 percent of all fixed assets of the bank and its subsidiaries; (d) it is a lease under which a significant part of the property described under Item 7(c) of § 340.31 of this Part is held by the bank; or (e) the amount of the contract, or its importance to the business of the bank and its subsidiaries, are material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(10) If any of the securities proposed to be offered hereunder are to be offered for the account of any person other than the bank, a written statement signed by the bank representing that the proposed offering will not interfere with any needed financing by the bank.

(11) The statement required by the second instruction to Item 16(a) of § 340.31, if applicable.

(12) The undertaking required by § 340.7.

(d) The following documents shall be filed, but, the bank may request that such documents not be treated as exhibits and be kept confidential: any management contract or bonus or profit-sharing plan, contract or arrangement (or if not set forth in any formal document, a written description thereof).

SIGNATURES

The bank has duly caused this offering circular and notification to be signed on its behalf by the undersigned thereunto who has been duly authorized by the Board of Directors (or other governing body) of the bank.

_____
(Name of Bank)

By _____

_____
(Date)

§ 340.71 Financial statements.

(a) *Required statements.* Every offering circular filed pursuant to this Part shall contain the following financial statements:

(1) *Balance sheets.* A balance sheet as of the preceding fiscal year-end. If the preceding fiscal year ended more than 90 days prior to the filing of the offering circular, also provide a balance sheet as of an interim date no more than 90 days prior to the filing date of the offering circular. In the case of an amended offering circular, such interim statements shall be as of a date no more than 90 days prior to the filing date of the amended offering circular.

(2) *Statement of income.* Statements of income for the preceding three fiscal years. If an interim date balance sheet is provided, also provide an income statement covering (i) the period between the preceding fiscal year and the date of the interim date balance sheet and (ii) the corresponding comparable interim period of the prior year.

(3) *Statement of changes in capital accounts.* A statement of changes in capital accounts for each period for which a statement of income is provided.

(4) *Statement of changes in financial position.* A statement of changes in financial position for each period for which a statement of income is provided.

(5) *Schedules.* Where applicable, schedules of allowance for possible loan losses, insider loans and other loans for each period for which a statement of income is provided.

(b) *Preparation of statements.*—(1) *Banks filing under the Securities Exchange Act.* Banks which have filed registration statements pursuant to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) shall prepare the financial statements required by this Part in accordance with the require-

ments of Part 335 of this Chapter, to the extent applicable, and shall follow the requirements of paragraph (b)(2) of this section as to the statement of changes in financial position.

(2) *Banks not filing under the Securities Exchange Act.* Banks which have not filed a registration statement pursuant to Section 12 of the Securities Exchange Act of 1934 shall prepare financial statements required by this Part as follows:

(i) *Balance sheets and statements of income.* Balance sheets shall be prepared in accordance with the instructions to FDIC Form 64, or 64 (Savings) Report of Condition, and statements of income shall be prepared in accordance with the instructions to FDIC Form 73, or 73 (Savings) Report of Income, to the extent applicable.

NOTE.—Banks which do not file Forms 64 or 64 (Savings) or 73 or 73 (Savings) on the basis of accrual accounting will be required to reflect accrual accounting in the financial statements filed pursuant to this Part if the accrual basis statements reflect financial position or results of operations which differ materially from nonaccrual statements.

(ii) *Statement of changes in capital accounts.* The statement of changes in capital accounts shall set forth, opposite descriptive captions, the additions to and deductions from the accounts. Each capital account shall be reconciled separately. For guidelines as to format, refer to § 335.71, Form F-9C of this Chapter.

(iii) *Statement of changes in financial position.* The statement of changes in financial position shall summarize the sources from which funds have been obtained and their disposition. The statement should disclose separately the financing and investing aspects of all significant transactions during the period. Material changes in the components of net funds shall be shown on the statement. The statement may be in balanced form or in a form expressing the changes in financial position in terms of a specified account or specific accounts. As a minimum, the following shall be reported:

(A) *Source of funds.* (1) Current operations (showing separately net income or loss and the addition and deduction of specific items which did not require the expenditure or receipt of funds; e.g., depreciation and amortization, deferred income taxes, undistributed earnings or losses of unconsolidated persons, etc.).

(2) Sale of noncurrent assets (identifying separately such items as investments, fixed assets, intangibles, etc.).

(3) Issuance of debt securities or other long-term debt.

(4) Issuance or sale of capital stock.

(B) *Disposition of funds.* (1) Purchase of noncurrent assets (identifying separately such items as investments, fixed assets, intangibles, etc.).

(2) Redemption of repayment of debt securities or other long-term debt.

(3) Redemption or purchase of capital stock.

(4) Dividends.

(C) *Increase (decrease) in net funds.*

(3) *Schedule of other loans.* Present a comparative statement in tabular form similar to that prescribed at § 335.71, Form F-9E, Schedule III of this Chapter.

(4) *Allowance for possible loan losses.* Present a comparative reconciliation in tabular form similar to that prescribed at § 335.71, Form F-9E, Schedule VII of this Chapter.

(5) *Schedule of insider loans.* Present a comparative statement in tabular form similar to that prescribed at § 335.71, for Form F-9E, Schedule VIII of this Chapter.

INSTRUCTIONS

1. A note to the financial statements, which includes a summary in tabular form and which discloses the information required by one of the foregoing schedules may be substituted in the offering circular in lieu of such schedule.

2. Schedules should be referenced against appropriate financial statement captions.

(c) *Notes to financial statements.* In addition to information specifically required, all supplementary information necessary to a proper understanding of each financial statement shall be provided in notes presented at the end of the statement, numbered sequentially, and cross-referenced against appropriate statement captions. At minimum, the following areas should be considered when preparing notes: inconsistent application of accounting principles; material retroactive adjustments; conversion basis of foreign currency; asset and lease commitments; intercompany profits and losses; preferred shares; pension and retirement plans; stock options; surplus or dividend restrictions; contingencies; depreciation and amortization; consolidations; basis of book value of investment securities; hypothecation of securities and liens on assets; market value of investment securities, if significantly different from book value; valuation of trading account securities; basis of accounting for fixed assets acquired before January 1, 1960; market value and cost adjustments of other real estate owned; mortgages payable; capital notes and debentures; description of the method of accounting for loan losses and disclosure of the portion of the reserve which arose from operating charges and is therefore considered a valuation reserve; earnings per share basis; and variation from statutory income tax rate.

(d) *General instructions.* (1) Financial statements shall be prepared in accordance with generally accepted accounting principles and practices applicable to banks.

(2) In addition to those financial statements specifically required above, there shall be filed such other financial statements with respect to unconsolidated subsidiaries and other persons as are material to a proper understanding of the financial position and results of operations of the total enterprise.

(3) The Corporation may, upon request of the bank, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Corporation may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

(4) To the extent practical, financial data shall be presented in comparative, columnar form.

(5) Statements shall be verified as provided at § 335.7(b) of this Chapter.

INTERPRETATIONS

§ 340.101 Public offering concept.

Section 340.4(a) exempts from the offering circular provisions of this Part the offer and sale of securities of insured State nonmember banks which are issued by or on behalf of the bank in a transaction which is not of a public nature provided that a timely notice conforming to the requirements of § 340.41 is filed with the Corporation. Section 340.2 states that principles developed under the federal securities laws, including the Securities Act of 1933 (15 U.S.C. 77a, et seq.) are to be followed in defining concepts used in the Part. Certain basic principles to be followed in determining whether an offering is public are here generalized for guidance, and they should be addressed when preparing the notice outlined in § 340.41 of this Part.

A public offering will not generally be deemed to exist if all the following conditions are met:

(a) The offer and sale of the securities are made by means of direct communications between the bank or anyone acting on its behalf and the purchaser or his authorized representative.

(b) The prospective purchasers or their authorized representatives are, prior to sale, provided or have access to the same kind of information that the offering circular required by this Part would provide and also have access to any additional information necessary to verify the accuracy of such information.

(c) All persons to whom the securities are offered, or their authorized representatives, have such knowledge and experience in financial and business matters that they are capable of using the information given them to evaluate the risks of the prospective investment, are capable of making an informed investment decision, and are able to bear the economic risks of the investment.

(d) The securities are not offered to more than 35 persons in any twelve-month period pursuant to the exemption contained in § 340.4(a).

(e) The purchaser or purchasers of the securities presently intend to hold the securities for investment and do not presently intend to redistribute the securities. The certificates evidencing the securities must bear a conspicuous restrictive legend to that effect.

§ 340.102 Amendments of inaccurate or inadequate offering circulars.

Where an offering circular has been amended because of its previous inaccurate or inadequate nature, the Corporation will consider in requests for acceleration of the effective date of the offering circular pursuant to § 340.9(a) and in considering suspension of such effectiveness pursuant to § 340.9(b) whether appropriate correcting material has been sent to persons to whom the inaccurate or inadequate material was sent.

By order of the Board of Directors, May 23, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Assistant Executive Secretary.

[FR Doc.77-15541 Filed 5-31-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 276]

DEPARTMENT OF DEFENSE INSTALLATIONS

Solicitation and Sale of Insurance

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule updates Department of Defense (DOD) policies governing the standards of conduct in soliciting and selling insurance on DOD installations. It replaces the existing criteria for life insurance companies applying for DOD accreditation to operate on military installations in overseas areas with a listing of B+ (or better) in Best's Life-Health Insurance Reports. This accreditation process was adopted in our efforts to reduce the current public reporting requirements. Through this process, the administrative paperwork, both at the DOD and by insurers seeking accreditation, will be greatly reduced.

DATES: Comments must be received on or before July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Colonel Robert E. Spencer, USAF, Director, Personnel Services (MPP), Office of Assistant Secretary of Defense (MRA & L), Room 3C-980 (Pentagon), Washington, D.C. 20301, Area Code 202-697-9191.

SUPPLEMENTARY INFORMATION: On March 16, 1972, there was published in the FEDERAL REGISTER (37 FR 5491) a final rule adoption effective January 21, 1972, which approved the consolidation of Parts 276 and 278 and established standards of conduct in soliciting and selling all types of insurance on DOD installations. This proposed rule incorporates a major change to Part 276 in the DOD overseas life insurance accreditation process. It also addresses the offering of variable life insurance policies and strengthens the prohibition that an insurance agent may not serve as a representative of an association in the sale of insurance.

Part 276 is revised as follows:

Sec.
276.1 Reissuance and purpose.
276.2 Objective and scope.
276.3 Applicability.
276.4 Definitions.
276.5 General policies and responsibilities.
276.6 Policies on life insurance.
276.7 Overseas accreditation program.
276.8 Policies on general forms of insurance.

AUTHORITY: 5 U.S.C. 301.

§ 276.1 Reissuance and purpose.

This part updates Department of Defense policies governing the standards of conduct in soliciting and selling all types of insurance on DOD installations. It continues the established annual DOD accreditation requirement for life insurance companies operating in overseas areas.

§ 276.2 Objective and scope.

(a) The policies and procedures contained in this part are designed (1) to promote uniformity of approach in the conduct of insurance solicitations and sales to DOD personnel on DOD installations on a world-wide basis, and (2) to initiate protective measures for DOD personnel where neither Federal nor State consumer protection policies govern.

(b) It sets forth (1) limitations in soliciting the sale of insurance to personnel on DOD installations; (2) standards governing the conduct of insurance companies, associations, insurance carriers, and representatives of any of these organizations; and (3) policies on the use of military personnel allotments in payment of premiums for life insurance.

§ 276.3 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").

§ 276.4 Definitions.

(a) *Insurer.* Any company or association engaged in the business of selling insurance policies to DOD personnel.

(b) *Association.* Any organization which has been established, whether or not the word "Association" appears in its title, and which:

(1) Is composed of and serving exclusively members of the armed forces of the United States (on active duty, in a reserve status, in a retired status, or individuals who entered into such associations while on active duty) and their dependents.

(2) Offers its members life insurance coverage, either (i) as part of the membership dues, or (ii) as a separately purchased plan made available through an insurance carrier or the association as a self-insurer, or a combination of subdivisions (i) and (ii) of this subparagraph.

(c) *Insurance carrier.* An insurance company issuing insurance through an association or reinsuring or coinsuring such insurance.

(d) *Solicitation.* The conduct of any private business, including the offering and sale of insurance on a military installation. Solicitation on installations is a privilege as distinguished from a right, and its control is a responsibility vested in the installation commander subject to compliance with this part and Part 43 of this chapter.

(e) *Agent.* An individual who receives remuneration as a salesman for an insurer or whose remuneration is dependent on volume of sales or the making of sales.

(f) *Insurance policy.* A policy or certificate of insurance issued by an insurer or evidence of insurance coverage issued by a self-insured association.

(g) *DOD Personnel.* DOD personnel as used in this part, unless the context indicates otherwise, means all active duty officers and enlisted members of the Army, Navy, Air Force, and Marine Corps (officers include commissioned and warrant) and all civilians, officers, and employees including special Government employees of all the offices, agencies, and departments carrying on functions on a Defense installation (including nonappropriated fund instrumentalities).

§ 276.5 General policies and responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) shall be responsible for overall administration of the DOD Insurance Program and for assuring its effective implementation throughout the DOD.

(b) DOD Components shall develop sound internal insurance programs to meet the varying requirements of personnel under their jurisdiction. These programs will be supported by implementing instructions which are consistent with this part; Part 43 of this chapter; and 32 CFR 40. The following general policies will be included:

(1) *Solicitation.* (i) Insurers are authorized to solicit on DOD installations provided they are licensed under the insurance laws of the State in which the installation is located. In overseas areas, DOD Components shall limit this authorization to those insurers accredited under the provisions of § 276.7.

(ii) The conduct of all insurance business on DOD installations shall be by specific appointment. Disinterested third-party counseling shall be provided, interviewing hours set aside and facilities supplied; if feasible.

(iii) Interviews by appointment at the designated areas shall be extended to all agents on an equitable basis. (Where space and other considerations dictate the limiting of the number of agents using the designated interviewing area, the DOD installation commander may develop and publish local policy consistent with this concept.)

(iv) The DOD installation commander shall deny or suspend permission to an insurer or an agent to solicit DOD personnel on an installation when the provisions of this Part have been violated.

(v) The solicitation provisions and suspension procedures outlined in Part 43 of this chapter will govern in all sales of insurance on DOD installations.

(2) *Supervision.* The offering and sale of insurance to DOD personnel on DOD installations shall be appropriately supervised. Particular emphasis shall be placed on establishing controls on regulating the activities of former military personnel conducting sales on military installations. In addition, DOD personnel will be expressly prohibited from representing any insurer or dealing either di-

rectly or indirectly with any insurer or any recognized representative of an insurer as an agent or in any official or business capacity for the solicitation of insurance to personnel on a military installation with or without compensation. This is in addition to the policies outlined in Part 43 and Part 40 of this chapter.

(3) *Prohibitions.* In addition to the solicitation prohibitions contained in Part 43 of this chapter, DOD Components shall prohibit the following:

(i) The use of an agent as a participant in any military-sponsored insurance education or orientation program.

(ii) The designation of any agent from assuming or using titles such as "Battalion Insurance Counselor," "Unit Insurance Advisor," "SGLI Conversion Consultant," etc.

(iii) The assignment of desk space for interviews to other than a specific prearranged appointment. During such appointment, the agent will not be permitted to display desk or other signs announcing name or company affiliation.

(iv) The use of the "Daily Bulletin" or any other notice, official or unofficial, announcing the presence of an agent and his availability.

(v) The distribution, or availability for distribution, of literature other than to the person being interviewed.

§ 276.6 Policies on life insurance.

(a) *Life insurance policy content prerequisites.* (1) Insurance policies, other than certificates or other evidence of insurance issued by a self-insured association, offered and sold to personnel on a military installation worldwide must:

(i) Comply with the insurance laws of the State or country in which the installation is located and the procedural requirements of this part.

(ii) Contain no restrictions by reason of military service or military occupational specialty of the insured, unless such restrictions are clearly indicated on the face of the policy.

(iii) Plainly indicate any extra premium charges imposed by reason of military service or military occupational specialty.

(iv) Not provide for a variation in the amount of death benefit or premium based upon the length of time the policy has been in force, unless any such variations are clearly described therein.

(v) For the purposes of this paragraph, an appropriate reference stamped on the face of the policy shall be utilized to draw the attention of the policyholder to any extra premium charges imposed and to any variations in the amount of death benefit or premium based upon the length of time the policy has been in force.

(2) Variable life insurance policies may be offered provided they meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

(3) Premiums shall reflect only the actual premiums payable for life insurance coverage.

(b) *Use of the allotment of pay system.* (1) Allotments of military pay for life insurance premiums shall be made in accordance with Part 59 of this chapter.

(2) For personnel in pay grades E–1, E–2, and E–3, at least 7 days shall elapse for counseling between the signing of a life insurance application and the certification of an allotment. The purchaser's commanding officer may grant a waiver to this requirement for good cause, such as the purchaser's imminent permanent change of station.

(c) *Associations—general.* The recent growth and general acceptability of quasi-military associations offering various insurance plans to military personnel are acknowledged. Some associations are not organized within the supervision of insurance laws of either the Federal or State Governments. While some are organized for profit others function as nonprofit associations under Internal Revenue Service regulations.

(1) Regardless of the manner in which insurance plans are offered to members, the management of the association is responsible to see that all aspects of its insurance programs comply fully with the instructions contained herein and the spirit of this part.

(2) A life insurance agent may not serve as a representative of an association on a military installation, regardless of title designation, except to assist in the processing of death and related benefits on the occasion of a claim of an association member or his dependent. This precludes a representative of the association from approaching a prospective association member on the installation and soliciting a sale of the insurance program for which he is an agent. It also prohibits the association representative/agent from soliciting insurance in conjunction with an association membership drive on the installation.

§ 276.7 Overseas accreditation program.

(a) *Accreditation criteria.*—(1) *Initial accreditation.* Insurers must be listed in Best's Life-Health Insurance Reports and be assigned a rating of B+ (Very Good) or better for the business year preceding the fiscal year for which accreditation is sought.

(2) *Reaccreditation.* (i) Insurers must retain a Best's rating of B+ or better, as described above.

(ii) Insurers must have established an agency sales force in one of the overseas commands within 2 years after initial accreditation.

(iii) Insurers must have complied with the provisions of applicable DOD Directives as evidenced by an absence of substantiated complaints concerning operations and sales techniques.

(iv) Waivers of the above provisions will be considered for those insurers accredited as of the effective date of this part.

(b) *Application instructions.*—(1) *Applications filed annually.* During the months of May and June of each year insurers may apply for solicitation privileges for personnel assigned to U.S. military installations in foreign areas for the fiscal year beginning the following October 1.

(2) *Application prerequisities.* A letter of appliaction (in duplicate), signed by the President, Vice-President, or designated official shall be forwarded to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Attention: Directorate, Personnel Services, ODASD(MPP), the Pentagon, Washington, D.C. 20301. The letter will contain information set forth below, submitted in the order listed. (Where not applicable so state).

(i) Fiscal years accredited by the DOD under the provisions of this Part and prior issuance thereof.

(ii) Overseas commands (e.g., European, Pacific, Atlantic) where presently soliciting, or planning to solicit, on U.S. military installations.

(iii) List of States and other jurisdictions in which the insurer is licensed and the effective and terminal dates of such licensing.

(iv) A statement that the insurer has complied with, or will comply with, the applicable laws of the country or countries wherein it proposes to solicit (by "laws of the country" is meant all national, provincial, city or country laws or ordinances of any country, as applicable).

(v) An authenticated copy of the current Annual Statement as filed with the insurance department of the state of domicile.

(vi) A current Report of Examination from an insurance department of a State.

(vii) A statement that the policies to be offered for sale conform to the standards prescribed in § 276.6 and contain only the standard provisions such as those prescribed by the laws of the state of domicile.

(viii) A statement that the insurer will assume full responsibility for the acts of its agents with respect to solicitation in accordance with Part 43 of this chapter and this part. Sales personnel will be limited in numbers to 1 General Agent (or company manager or director) and no more than 50 sales personnel for each overseas area. If warranted, the number of agents may be further limited by the overseas command concerned.

(ix) A statement that the insurer will not utilize agents for sale to DOD personnel on or off military installations overseas who have not been accredited by the appropriate overseas command.

(x) Any explanatory or supplemental comments that will assist in evaluating the application. For example, in the year in which a merger is involved, the Annual Statement referred to in paragraph (b)(2)(v) of this section, should be submitted for parent and subisidary companies.

(xi) Where the Department of Defense requires detailed facts or statistics over and beyond that normally involved in accreditation processing, it will be incumbent upon the applicant to provide the necessary information by separate arrangements.

(xii) A statement that the General Agent and other accredited agents are appointed consistent with the prereq-

uisites established in paragraph (c) of this section.

(xiii) A statement as to whether or not the General Agent and/or agents will be permitted to offer life insurance and security sales simultaneously.

(c) *General agent and agent requirements.* Unified and/or specified commanders shall apply the principles prescribed for the Secretaries of the Military Departments. Additionally:

(1) An agent must be a U.S. citizen. Unified or specified commanders may waive this requirement for indigenous personnel accredited prior to January 21, 1972.

(2) An agent must possess a current State license. The overseas commander may waive this requirement on behalf of an accredited agent who has been continuously residing and successfully selling life insurance in foreign areas and forfeits his eligibility for a State license, through no fault of his own, due to the operation of State law (or regulation) governing domicile requirements, or requiring that the agent's company be licensed to do business in that State. The request for a waiver shall contain the name of the State or jurisdiction which would not renew the agent's license.

(3) General Agents and agents will represent only one accredited commercial insurance company. This requirement may be waived by the overseas commander if multiple representation can be proven to be in the best interest of DOD personnel.

(4) An agent must have at least 1 year of successful life insurance underwriting in the United States or its territories, generally within the 5 years preceding the date of application, in order to be initially employed for overseas solicitation and designated as an accredited agent.

(5) Appropriate overseas commanders shall exercise further agent control procedures as deemed necessary.

(6) An agent, once accredited in an overseas area, may not change his affiliation from the staff of one General Agent to another, unless the losing company certifies in writing that the release is without justifiable prejudice. Unified or specified commanders will have final authority to determine justifiable prejudice.

(7) Where the accredited insurer's policy permits, an overseas accredited life insurance agent—if duly qualified to engage in security activities either as a registered representative of a member of a National Association of Securities Dealers or an associated person of a broker/dealer registered with the Securities and Exchange Commission only—may offer life insurance and securities for sale simultaneously. In cases of commingled sales, the allotment of pay for the purchase of securities cannot be made to the insurer.

(d) *Announcement of findings.* (1) Approval by the DOD upon annual applications for accreditation of insurers shall be announced as soon as practicable to each applicant and by a listing released annually in September to the appropriate overseas commander. This approval does not constitute DOD endorsement of the insurer. Any advertising by insurers which suggests such endorsement is prohibited (32 CFR 43).

(2) In the event accreditation is denied, specific reasons for such findings shall be submitted to the applicant.

(i) Upon receipt of notification of an unfavorable finding, the insurer shall have 30 days from the receipt of such notification (forwarded certified mail, return receipt requested) in which to request reconsideration of the original decision. Such requests must be accompanied by substantiating data or information in rebuttal of the specific reasons upon which the adverse findings are based.

(ii) Action by the ASD(MRA&L) on appeal is final.

(iii) If the applicant is presently accredited as an insurer, up to 90 days from final action shall be granted in which to close out operations on overseas installations.

(3) Upon receiving the annual letter of accreditation, each insurer shall send to the applicable unified or specified commander a verified list of agents currently accredited for overseas solicitation. Where applicable, the insurer shall also include the names of new agents for whom original accreditation and permission to solicit on base is requested. Insurers initially accredited will be furnished instructions by the DOD for agent accreditation procedures in overseas areas.

(4) Material changes affecting the corporate status and/or financial conditions of the insurer which may occur during the fiscal year of accreditation must be reported at the time of occurrence. The Department of Defense reserves the right to terminate accreditation if such material changes appear to substantially affect the financial and operational criteria (§ 276.7(a), above) on which accreditation was based. Failure to report such material changes can result in termination of accreditation regardless of their effect on the criteria.

(5) If an analysis of information furnished by the insurer indicates that there are developing unfavorable trends which may possible adversely affect its future operations, the Department of Defense may, at its option, bring such matters to the attention of the insurer and request a statement as to what action, if any, is contemplated to deal with such unfavorable trends.

§ 276.8 Policies on general forms of insurance.

(a) *Automobile insurance.*—(1) *General requirements.* Operators or owners of privately-owned vehicles allowed driving or parking privileges on military installations shall comply with the requirements, if any, of the State or host nation in which the installation is located unless excused therefrom by Federal, State or host nation law.

(2) Driving and parking privileges on military installations shall be as authorized by the unified or specified commander and/or the Military Department involved. Where controls are imposed for on-base privately-owned vehicle registration, proof of insurance coverage need only be certified to in writing by any registrant.

(3) *Motor vehicle liability insurance counseling.* (i) *General.* Commanders shall provide counseling for military personnel under their command on the purchase of motor vehicle liability insurance and publish, periodically, information on driver responsibility under State and local laws.

(ii) Importance of a safe driving record shall be stressed in counseling, including the information that some insurers offer coverage with substantial savings in premium to individuals who have removed themselves from extra risk classifications requiring premium surcharges by successfully completing driver training courses or by maintaining accident-free driving records which can be authenticated.

(iii) Assistance in obtaining assigned risk insurance shall be given to military personnel, particularly young motor vehicle operators, who are otherwise unable to obtain automobile liability insurance coverage. Military personnel shall be advised that assigned risk coverage may be available at premiums less than those offered in the voluntary market by some insurers.

(iv) *Courses in driver training.* Installation commanders are responsible for administering an effective driver training program commensurate with personnel and budgetary limitations.

(4) *Cooperation with State and local authorities.* (i) Installation commanders shall cooperate with State and local officials responsible for administering State and local laws and regulations relating to the insurance and operation of motor vehicles.

(ii) Cooperation may be extended to school officials, automobile associations, Armed Forces State Traffic Safety Workship Program, commercial private driver training course operators, and to civic groups concerned with public highway safety.

(b) *Health insurance.* Personal plans being offered through personal commercial solicitation must conform to the licensing requirements for both the insuring company and its agents (Part 43 of this chapter).

(c) *All other plans of insurance.* (1) Life insurance procedures are enumerated in § 276.6.

(2) All other insurance plans made available to DOD personnel through personal commercial solicitation must comply with Part 43 of this chapter.

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

MAY 24, 1977.

[FR Doc.77-15171 Filed 5-31-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 5B–2]

PROCUREMENT BY FORMAL ADVERTISING

Solicitation of Bids; Elimination of the Requirement for Bidders to Include a Listing of Subcontractors as Part of Their Bids

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would delete the requirement for bidders to include a listing of subcontractors as part of their bids. The listing of subcontractors has been found to delay contract awards and result in financial losses. This proposed rule is intended to simplify the procurement procedures and minimize delays and losses.

DATES: Comments must be received on or before July 1, 1977.

ADDRESSES: Comments should be addressed to the General Services Administration (PCC), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. T. L. Dunn, Director, Contract Systems Division, Office of Contruction Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405. (202–566–1860).

SUPPLEMENTARY INFORMATION: In 1963, the Commissioner, Public Buildings Service, adopted a policy which required bidders on certain General Services Administration (GSA) construction contracts to submit with their bids the names and addresses of their subcontractors for designated major categories of work. Currently, the categories designated are the mechanical, electrical, elevator, and/or escalator divisions of the project and all other general construction categories comprising at least 3½ percent of the estimated cost of the entire contracts. The purposes of this requirement is to curtail the practice of bid shopping by the successful bidder for lower subcontract prices after bids have been publicly opened.

During the past several months, bidding problems and protests directly related to the listing of subcontractors requirement have increased to the point where they are adversely affecting the GSA construction program. These problems have resulted in delays in award of contracts and in some cases in rejection of low bids, thereby preventing the timely accomplishment of important projects and causing considerable financial loss.

§ 5B–2.202–70 [Deleted]

§ 5B–2.404 [Deleted]

Therefore, pursuant to the authority of the Commissioner, Public Buildings Service contained in Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), it is proposed that Part 5B–2 of Title 41 of the Code of Federal Regulations be amended to delete §§ 5B–2.202–70 and 5B–2.404 to eliminate the listing of subcontractors provision.

Dated: May 13, 1977.

T. L. PEYTON, Jr.,
Acting Commissioner,
Public Buildings Service.

[FR Doc.77–15521 Filed 5–31–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 12]

FEDERAL PROPERTY ASSISTANCE PROGRAM

Conveyance of Former Federal Real Estate for Public Health, or Educational Purposes

AGENCY: Office of the Secretary, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rulemaking revises regulations on the conveyance of former Federal real estate for public health, or educational purposes. The proposed revisions to the existing Regulations will provide for clarification of terminology, creation of new procedures, and revisions to existing procedures to increase the effectiveness and efficiency of the Federal Property Assistance program.

DATES: Comments must be received by July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

C. A. Patterson, Director, Office of Federal Property Assistance, HEW, Room 514 Reporters Building, 300 Seventh Street, S.W., Washington, D.C. 20201. (202–755–8836).

SUPPLEMENTARY INFORMATION: Editorial changes are reflected throughout Title 45 Code of Federal Regulations Part 12. The more substantive revisions to existing procedures or new procedures are discussed below.

It is proposed to amend Part 12 of the regulations to provide specifically for leasing surplus real property at public benefit discount. The enabling legislation gave the Secretary the authority to sell or lease real property for educational or public health purposes. However, the regulations have not provided for leasing. This change would benefit those educational and public health institutions or programs with short-term needs for property.

Paragraph 12.3(c) would be amended to permit payment of cash in lieu of use after an initial period of 12 months, or 36 months where construction or major renovation is contemplated. This would replace the requirement that construction commence within 18 months from the date of the deed. This provision would eliminate the need for "deferred use" transfers, a change which would be beneficial in those States where "deferred use" transactions are not permissible under State law.

It is proposed that subparagraph 12.9 (c)(8) of the regulations be revised to eliminate as a standard condition the right of the Government to recapture property during a National emergency. As proposed, the right would be reserved only in cases where the Department of Defense has indicated in its report of excess that the property has a potential for use in a National emergency. It is expected that the Department of Defense would only earmark certain major airfields and industrial plants as potentially needed.

Subparagraph 12.9(c)(9) would be amended to simplify the abrogation process by adoption of a single procedure, based upon the unearned current fair market value of the property at the time of abrogation.

Prior to final adoption of the proposed regulations, consideration will be given to data, views, or arguments pertaining thereto which are submitted in writing to the Director, Office of Federal Property Assistance, at the above address.

Copies of all comments received will be available for public inspection during regular business hours at the same address.

The proposed revision is issued under the authority contained in the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 471 et. seq.). (Catalog of Federal Domestic Assistance Program Number 13.606 Surplus Property Utilization.)

NOTE.—It is hereby certified that this proposal has been screened pursuant to Executive Order 11821 and OMB Circular A–107, and does not require an Inflationary Impact Statement.

Dated: April 18, 1977.

JOHN D. YOUNG,
Assistant Secretary for
Management and Budget.

Approved: May 21, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education,
and Welfare.

Part 12 of Title 45 CFR is hereby amended to read as follows:

PART 12—DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL AND PUBLIC HEALTH PURPOSES

Sec.

12.1 Definitions.
12.2 Scope.
12.3 General policies.
12.4 Limitations.
12.5 Awards.
12.6 Notice of available property.
12.7 Applications for surplus real property.
12.8 Assignment of surplus real property.
12.9 General disposal terms and conditions.
12.10 Compliance with the preservation acts.
12.11 Special terms and conditions.
12.12 Utilization.
12.13 Form of conveyance.
12.14 Compliance inspections and reports.
12.15 Reports to Congress.

AUTHORITY: The provisions of this part 12 issued under sec. 203, 63 Stat. 385, as amended; 40 U.S C. 484.

§ 12.1 Definitions.

(a) "Act" means the Federal Property and Administrative Services Act of 1949, 63 Stat. 377 (40 U.S.C. 471 et seq.). Terms defined in the Act and not defined in this section have the meanings given to them in the Act.

(b) "Accredited" means having the approval of a recognized accreditation board or association on a regional, State, or national level, such as a State Board of Education or Health, State University, or the Middle States Association of College and Secondary Schools. "Approval" as used above describes the formal process carried out by State Agencies and institutions in determining that educational or health organizations or programs meet minimum acceptance standards. A college, university, or secondary school may be said to be accredited if the credits issued by it are and have been accepted for transfer purposes by no fewer than three accredited colleges, universities, or secondary schools not connected or associated with it.

(c) "Administrator" means the Administrator of General Services.

(d) "Assigned property" means real and related personal property which, in the discretion of the Administrator or his designee, has been made available to the Department for transfer for educational or public health purposes.

(e) "Department" means the U.S. Department of Health, Education, and Welfare.

(f) "Disposal agency" means the executive agency of the Government which has authority to assign property to the Department for transfer for educational or public health purposes.

(g) "Excess" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

(h) "Fair market value" means the highest price which the property will bring by sale in the open market by a willing seller to a willing buyer.

(i) "Holding agency" means the Federal agency which has control over and accountability for the property involved.

(j) "Nonprofit institution" means any institution, organization, or association, whether incorporated or unincorporated, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954.

(k) "Off-site property" means surplus buildings, utilities and all other removable improvements, including related personal property, to be transferred by the Department for removal and use away from the site for educational or public health purposes.

(l) "On-site" means surplus real property, including related personal property, to be transferred by the Department for use in place for educational or public health purposes.

(m) "Public benefit allowance" means a discount on the sale or lease price of real property transferred for educational or for public health purposes, representing any benefit determined by the Secretary which has accrued or may accrue to the United States thereby.

(n) "Related personal property" means any personal property: (1) Which is located on and is (i) an integral part of, or (ii) useful in the operation of real property; or (2) which is determined by the Administrator to be otherwise related to the real property.

(o) "Secretary" means the Secretary of Health, Education, and Welfare.

(p) "State" means a State of the United States, and includes the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States.

(q) "Surplus" when used with respect to real property means any excess real property not required for the needs and the discharge of the responsibilities of all Federal agencies as determined by the Administrator.

§ 12.2 Scope.

This part is applicable to surplus real property located within any State which is appropriate for assignment to, or which has been assigned to, the Department for transfer for educational or for public health purposes, as provided for in section 203(k) of the Act.

§ 12.3 General Policies.

(a) It is the policy of the Department to foster and assure maximum utilization of surplus real property for educational and for public health purposes, including research.

(b) Transfers may be made only to States, their political subdivisions and instrumentalities, tax-supported educational or public health institutions, and nonprofit educational or public health institutions which have been held tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954.

(c) Real property will be requested for assignment only when the Department has determined that the property is suitable and needed for educational or for public health purposes. The amount of real and related personal property to be transferred shall not exceed normal operating requirements of the applicant. Such property will not be requested for assignment unless it is needed at the time of application for educational or for public health purposes or will be so needed within the immediate or foreseeable future. Where construction or major renovation is not required or proposed, the property must be placed into use within twelve (12) months from the date of transfer. When construction or major renovation is contemplated at the time of transfer, the property must be placed in use within 36 months from the date of transfer. If the applicable time limitation is not met, the transferee shall either commence payments in cash to the Department for each month thereafter during which the proposed use has not been implemented or take such other action as set forth in § 12.12 as is deemed appropriate by the Department. Such monthly payments shall be computed on the basis of the current fair market value of the property at the time of the first payment by subtracting therefrom any portion of the purchase price paid in cash at the time of transfer, and by dividing the balance by the total number of months in the period of restriction. If the facility has not been placed into use within eight (8) years of the date of the deed, title to the property will be revested in the United States, or, at the discretion of the Department, the restrictions and conditions may be abrogated in accordance with § 12.9.

(d) Transfers will be made only after the applicant has certified that the proposed program is not in conflict with State or local zoning restrictions, building codes, or similar limitations.

(e) Organizations which may be eligible include those which provide elementary, secondary, post secondary, vocational, or specialized education, public library services, or similar programs which are primarily educational in character such as child development programs and adult education programs (including such programs for older Americans). Other organizations which are eligible include those which provide care and training for the physically and mentally ill, including medical care of the aged and infirm, clinical services, other public health services (including water and sewer), or similar services devoted primarily to the promotion and protection of public health. Services which have as their principal purpose the providing of custodial or domiciliary care are not elgible. The property applied for must be for a purpose which the eligible organization is authorized to carry out.

(f) An applicant's plan of operation will not be approved unless it provides that the applicant will not discriminate because of race, color, sex, handicap, or national origin in the use of the property.

§ 12.4 Limitations.

(a) Surplus property transferred pursuant to this part will be disposed of on an "as is, where is," basis without warranty of any kind.

(b) Unless excepted by the General Services Administration in its assignment, mineral rights will be conveyed together with the surface rights.

§ 12.5 Awards.

Where there is more than one applicant for the same property, it will be awarded to the applicant having a program of utilization which provides, in the opinion of the Department, the greatest public benefit. Where the property will serve more than one program, it will be apportioned to fit the needs of as many programs as is practicable.

§ 12.6 Notice of available property.

Reasonable publicity will be given to the availability of surplus real property which is suitable for assignment to the Department for transfer for educational or for public health uses. The Department will establish procedures reasonably calculated to afford all eligible users having a legitimate interest in acquiring the property for such uses an opportu-

nity to make an application therefor. However, publicity need not be given to the availability of surplus real property which is occupied and being used for eligible educational or public health purposes at the time the property is declared surplus, the occupant expresses interest in the property, and the Department determines that it has a continuing need therefor.

§ 12.7 Applications for surplus real property.

Applications for surplus real property for educational or for public health purposes shall be made to the Department through the Regional Office specified in the notice of availability.

§ 12.8 Assignment of surplus real property.

(a) Notice of interest in a specific property for educational or for public health purposes will be furnished the General Services Administration by the Department at the earliest possible date.

(b) Requests to the Administrator for assignment of surplus real property to the Department for transfer for educational or for public health purposes will be based on the following conditions:

(1) The Department has an acceptable application for the property.

(2) The applicant is willing, authorized, and in a position to assume immediate care, custody, and maintenance of the property.

(3) The applicant is able, willing and authorized to pay the administrative expenses incident to the transfer.

(4) The applicant has the necessary funds, or the ability to obtain such funds, to carry out the approved program of use of the property.

§ 12.9 General disposal terms and conditions.

(a) Surplus real property transfers under this part will be limited to educational or public health purposes. Transferees shall be entitled to a public benefit allowance in terms of a percentage which will be applied against the value of the property to be conveyed. Such an allowance will be computed on the basis of benefits to the United States from the use of such property for educational or for public health purposes. The computation of such public benefit allowances will be in accordance with Exhibits A and B attached hereto and made a part hereof.

(b) A transfer of surplus real property for educational or for public health purposes is subject to the disapproval of the Administrator within 30 days after notice is given to him of the proposed transfer.

(c) Transfers will be on the following terms and conditions:

(1) The transferee will be obligated to utilize the property continuously in accordance with an approved plan of operation.

(2) The transferee will not be permitted to sell, lease or sublease, rent, mortgage, encumber, or otherwise dispose of the property, or any part thereof, without the prior written authorization of the Department.

(3) The transferee will file with the Department such reports covering the utilization of the property as may be required.

(4) In the event the property is sold, leased or subleased, encumbered, disposed of, or is used for purposes other than those set forth in the approved plan without the consent of the Department, all revenues or the reasonable value of other benefits received by the transferee directly or indirectly from such use, as determined by the Department, will be considered to have been received and held in trust by the transferee for the account of the United States and will be subject to the direction and control of the Department. The provisions of this paragraph shall not impair or affect the rights reserved to the United States in paragraph (c)(6) of this section, or the right of the Department to impose conditions to its consent.

(5) Lessees will be required to carry all perils and liability insurance to protect the Government and the Government's residual interest in the property. Transferees will be required to carry such flood insurance as may be required by the Department pursuant to Pub. L. 93-234. Where the transferee elects to carry insurance against damages to or loss of on-site property due to fire or other hazards, and where loss or damage to transferred Federal surplus real property occurs, all proceeds from insurance shall be promptly used by the transferee for the purpose of repairing and restoring the property to its former condition, or replacing it with equivalent or more suitable facilities. If not so used, there shall be paid to the United States that part of the insurance proceeds that is attributable to the Government's residual interest in the property lost, damaged, or destroyer or, in the case of leases, attributable to the fair market value of the leased facilities.

(6) With respect to on-site property, in the event of noncompliance with any of the conditions of the transfer as determined by the Department, title to the property transferred and the right to immediate possession shall, at the option of the Department, revert to the Government. In the event title is reverted to the United States for noncompliance or voluntarily reconveyed, the transferee shall, at the option of the Department, be required to reimburse the Government for the decrease in value of the property not due to reasonable wear and tear or acts of God or attributable to alterations completed by the transferee to adapt the property to the educational or public health use for which the property was transferred. With respect to leased property, in the event of noncompliance with any of the conditions of the lease, as determined by the Department, the right of occupancy and possession shall, at the option of the Department, be terminated. In the event a leasehold is terminated by the United States for noncompliance or is voluntarily surrendered, the lessee shall be required at the option of the Department to reimburse the Government for the decrease in value of the property not due to reasonable wear and tear or acts of God or attributable to alterations completed by the lessee to adapt the property to the educational or public health use for which the property was leased.

With respect to any reverter of title or termination of leasehold resulting from noncompliance, the Government shall, in addition thereto, be reimbursed for such costs as may be incurred in recovering title to or possession of the property.

Any payments of cash made by the transferee against the purchase price of property transferred shall, upon a forfeiture of title to be property for breach of condition, be forfeited.

(7) With respect to off-site property, in the event of noncompliance with any of the terms and conditions of the transfer, the unearned public benefit allowance shall, at the option of the Department, become immediately due and payable or, if the property or any portion thereof is sold, leased, or otherwise disposed of without authorization from the Department, such sale, lease or sublease, or other disposal shall be for the benefit and account of the United States and the United States shall be entitled to the proceeds. In the event the transferee fails to remove the property or any portion thereof within the time specified, then in addition to the rights reserved above, at the option of the Department, all right, title, and interest in and to such unremoved property shall be retransferred to other eligible applicants or shall be forfeited to the United States.

(8) With respect only to on-site property which has been declared excess by the Department of Defense, such declaration having included a statement indicating the property has a known potential for use during a national emergency, the Department shall reserve the right during any period of emergency declared by the President of the United States or by the Congress of the United States to the full and unrestricted use by the Government of the surplus real property, or of any portion thereof, disposed of in accordance with the provisions of this part. Such use may be either exclusive or nonexclusive. Prior to the expiration or termination of the period of restricted use by the transferee, the Government will not be obligated to pay rent or any other fees or charges during the period of emergency, except that the Government will:

(i) Bear the entire cost of maintenance of such portion of the property used by it exclusively or over which it may have exclusive possession or control;

(ii) Pay the fair share, commensurate with the use of the cost of maintenance of such surplus real property as it may use nonexclusively or over which it may have nonexclusive possession or control;

(iii) Pay a fair rental for the use of improvements or additions to the surplus real property made by the purchaser or lessee without Government aid; and

(iv) Be responsible for any damage to the surplus real property caused by its use, reasonable wear and tear, the common enemy and acts of God excepted. Subsequent to the expiration or termination of the period of restricted use, the obligations of the Government will be as set forth in the preceding sentence and, in addition, the Government shall be obligated to pay a fair rental for all or any portion of the conveyed premises which it uses.

(9) The restrictions set forth in subparagraphs (1) through (7) will extend for thirty (30) years for land with or without improvements; and for facilities being acquired separately from land whether they are for use on-site or off-site, the period of limitations on the use of the structures will be equal to their estimated economic life. The restrictions set forth in subparagraphs (1) through (7) will extend for the entire initial lease period and for any renewal periods for property leased from the Department.

(d) Transferees, by obtaining the consent of the Department, may abrogate the restrictions set forth in paragraph (c) for all or any portion of the property upon payment in cash to the Department of an amount equal to the then current fair market value of the property to be released, multiplied by the public benefit allowance granted at the time of conveyance, divided by the total number of months of the period of restriction set forth in the conveyance document and multiplied by the number of months that remain in the period of restriction as determined by the Department. For purposes of abrogation payment computation, the current fair market value shall not include the value of any improvements placed on the property by the transferee.

(e) Related personal property will be transferred or leased as a part of the realty and in accordance with real property procedures. It will be subject to the same public benefit allowance granted for the real property. Where related personal property is involved in an on-site transfer, the related personal property may be transferred by a bill of sale imposing restrictions for a period not to exceed five years from the date of transfer, other terms and conditions to be the same as, and made a part of, the real property transaction.

§ 12.10 Compliance with the National Environmental Policy Act of 1969 and other related acts (environmental impact).

(a) The Department will, prior to making a final decision to convey or lease, or to amend, reform, or grant an approval or release with respect to a previous conveyance or lease of, surplus real property for educational or for public health purposes, complete an environmental assessment of the proposed transaction in keeping with applicable provisions of the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the National Archeological Data Preservation Act, and other related acts. No permit to use surplus real property shall allow the permittee to make, or cause to be made, any irreversible change in the condition of said property, and no use permit shall be employed for the purpose of delaying or avoiding compliance with the requirements of these Acts.

(b) Applicants shall be required to provide such information as the Department deems necessary to make an assessment of the impact of the proposed Federal action on the human environment. Materials contained in the applicant's official request, responses to a standard questionnaire prescribed by the Director of the Office of Federal Property Assistance, as well as other relevant information, will be used by the Department in making said assessment.

(c) If the assessment reveals (1) That the proposed Federal action involves properties of historical significance which are listed, or eligible for listing, in the National Register of Historic Places, or (2) that a more than insignificant impact on the human environment is reasonably foreseeable as a result of the proposed action, or (3) that the proposed Federal action could result in irreparable loss or destruction of archeologically significant items or data, the Department will, except as provided for in paragraph (d) below, prepare and distribute, or cause to be prepared or distributed, such notices and statements and obtained such approvals as are required by the above cited Acts.

(d) If a proposed action involves other Federal agencies in a sequence of actions, or a group of actions, directly related to each other because of their functional interdependence, the Department may enter into and support a lead agency agreement to designate a single lead agency which will assume primary responsibility for coordinating the assessment of environmental effects of proposed Federal actions, preparing and distributing such notices and statements, or obtaining such approvals, as are required by the above cited Acts. The procedures of the designated lead agency will be utilized in conducting the environmental assessment. In the event of disagreement between the Department and another Federal agency, the Department will reserve the right to abrogate its lead agency agreement with the other Federal Agency.

§ 12.11 Special terms and conditions.

(a) Applicants will be required to pay all external administrative costs which will include, but not be limited to taxes, surveys, appraisals, inventory costs, legal fees, title search, certificate or abstract expenses, decontamination costs, moving costs, closing fees in connection with the transaction and service charges, if any, made by State Agencies for Federal Property Assistance under the terms of a cooperative agreement with the Department.

(b) In the case of off-site property, applicants will be required to post performance bonds, make performance guarantee deposits, or give such other assurances as may be required by the Department or the holding agency to insure adequate site clearance and to pay service charges, if any, made by State Agencies for Federal Property Assistance under the terms of a cooperative agreement with the Department.

(c) Whenever negotiations are undertaken for disposal to private nonprofit educational or public health organizations of any surplus real property which cost the Government $1 million or more, the Department will give notice to the Attorney General of the United States of the proposed disposal and the terms and conditions thereof. The applicant shall furnish to the Department such information and documents as the Attorney General may determine to be appropriate or necessary to enable him to give the advice as provided for by section 207 of the Act.

(d) Where an applicant proposes to acquire or lease and use in place improvements located on land which the Government does not own, he shall be required, before the transfer is consummated, to obtain a right to use the land commensurate with the duration of the restrictions applicable to the improvements, or the term of the lease. The applicant will be required to assume, or obtain release of, the Government's obligations respecting the land including but not limited to obligations relating to restoration, waste, and rent. At the option of the Department, the applicant may be required to post a bond to indemnify the Government against such obligations.

(e) The Department may require the inclusion in the transfer or lease document of any other provision deemed desirable or necessary.

(f) Where an eligible applicant for an on-site transfer proposes to construct new, or rehabilitate old facilities, the financing of which must be accomplished through issuance of revenue bonds having terms inconsistent with the terms and conditions of transfer prescribed in § 12.9 (c), (d), and (e) of this chapter, the Department may, in its discretion, impose such alternate terms and conditions of transfer in lieu thereof as may be appropriate to assure utilization of the property for educational or for public health purposes.

§ 12.12 Utilization.

(a) Where property or any portion thereof is not being used for the purposes for which transferred, the transferee will be required at the direction of the Department:

(1) To place the property into immediate use for an approved purpose;

(2) To retransfer such property to such other educational or public health user as the Department may direct;

(3) To sell such property for the benefit and account of the United States;

(4) To return title to such property to the United States or to relinquish any leasehold interest therein;

(5) To abrogate the conditions and restrictions of the transfer, as set forth in § 12.9(d) of this chapter, except that, where property has never been placed in

use for the purposes for which transferred, abrogation will not be permitted except under extenuating circumstances; or

(6) To make payments as provided for in § 12.3(c) of this chapter.

(b) Where the transferee or lessee desires to place the property in temporary use for a purpose other than that for which the property was transferred or leased, approval from the Department must be obtained, and will be conditioned upon such terms as the Department may impose.

§ 12.13 Form of conveyance.

(a) Transfers or leases of surplus real property will be on forms approved by the Office of General Counsel of the Department and will include such of the disposal or lease terms and conditions set forth in this part and such other terms and conditions as the Office of General Counsel may deem appropriate or necessary.

(b) Transfers of on-site property will normally be by quitclaim deed without warranty of title.

§ 12.14 Compliance inspections and reports.

The Department will make or have made such compliance inspections as are necessary and will require of the transferee or lessee such compliance reports and actions as are deemed necessary.

§ 12.15 Reports to congress.

The Secretary will make such reports of real property disposal activities as are required by section 203 of the Act and such other reports as may be required by law.

EXHIBIT A

Public Benefit Allowance for Transfer of Real Property for Educational Purposes[1]

Classification	PERCENT ALLOWED													
	Basic Public Benefit Allowance	ORGANIZATION ALLOWANCES								UTILIZATION ALLOWANCES				Maximum Public Benefit Allowance
		Tax Support	Accreditation	Federal Impact	Public Service Training	Hardship	Inadequacy of Existing School Plant Facilities			Introduction Of New Instructional Programs	Student Health and Welfare	Research	Service to Handicapped	
							10-25%	26-50%	51-100%					
Elementary and High Schools	50	20	20	10	10	10	10	20	30	10	10	10	10	100
Colleges and Universities	50	20	20		10	10	10	20	30	10	10	10	10	100
Specialized Schools	50	20	20		10	10	10	20	30	10	10	10	10	100
Research & Related Activities	100[2]													100[2]
Public Libraries & Educational Museums	100[2]													100[2]
School Outdoor Education	50	20	20							10	10[3]			100
Central Administrative and/or Service Centers	100 80[4]													100 80[4]

[1] This public benefit allowance applies only to surplus real property being sold for on-site use. When surplus real property is to be moved from the site, a basic public benefit allowance of 100% will be granted.

[2] Applicable when this is the primary use to be made of the property. The public benefit allowance for the over-all program is applicable when such facilities are conveyed as a minor component of other facilities.

[3] This 10% may include recognition of an approvable recreation program operated in such a way as to be accessible to the public yet entirely compatible with, but subordinate to, the educational program.

[4] The maximum allowance available to eligible private, non-profit institutions. Tax-supported institutions receive 100% allowance.

EXHIBIT B

Public Benefit Allowance for Transfer of Real Property for Health Purposes[1]

Classification	PERCENT ALLOWED											
	Basic Public Benefit Allowance	ORGANIZATION ALLOWANCES						UTILIZATION ALLOWANCES				Maximum Public Benefit Allowance
		Tax Support	Accreditation	Hardship	Unmet Needs			Integrated Research Program	Outpatient Services	Public Service	Training Program	
					10 to 25%	26 to 50%	51 to 100%					
Hospitals	50	20	20	10	10	20	30	10	10	10	10	100
Clinics	50	20	20	10	10	20	30					100
Nursing Homes	50	20	20	10	10	20	30				10	100
Public Health Administration	100[2]											100[2]
Public Refuse Disposal Systems	100[2]											100[2]
Water Systems	100[2]											100[2]
Rehabilitation Facility	50	20	20	10	10	20	30	10	10	10	10	100
Special Services	50	20	20	10	10	20	30			10		100

[1] This public benefit allowance applies only to surplus real property being sold for on-site use. When surplus real property is to be moved from the site, a basic public benefit allowance of 100% will be granted.

[2] Applicable when this is the primary use to be made of the property. The public benefit allowance for the overall health program is applicable when such facilities are conveyed as a minor component of other facilities.

[FR Doc.77-15385 Filed 5-31-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 20828]

COMPUTER INQUIRY

Notice Listing Parties To Be Added to Service List

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing a list of additional parties who will be participating in the new computer inquiry rulemaking proceeding. The purpose of the list is to enable parties to the proceeding to serve the parties listed with a copy of their comments and reply comments. This list is being prepared to reflect additions to the previous service list of May 5, 1977.

DATES: Comments must be received on or before June 6, 1977, and Reply Comments must be received on or before July 25, 1977.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James K. Smith, Common Carrier Bureau 632-9342.

SUPPLEMENTARY INFORMATION:

Released: May 25, 1977.

In the matter of amendment of § 64.702 of the Commission's Rules and Regulations (Computer Inquiry), notice.

1. The following parties have stated their intention to participate in this proceeding and are to be added to the service list as set forth in Attachment A of the Notice released May 5, 1977 in Docket 20828:

Stuart F. Feldstein, Esq., National Cable Television Association, 918 Sixteenth Street, NW., Washington, D.C. 20006.

Wayne V. Black, Esq., Keller & Heckman, 1150 17th Street, N.W.—Suite 1000, Washington, D.C. 20036. Counsel for Central Committee on Telecommunications of the American Petroleum Institute.

Robert E. Jacobson, Walter J. Siembab, School of Architecture and Urban Planning, University of California, Los Angeles, CA 90024.

FEDERAL COMMUNICATIONS COMMISSION,
PHILIP V. PERMUT,
Acting Deputy Chief, Common Carrier Bureau.

[FR Doc.77-15464 Filed 5-31-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20548]

MULTIPLE OWNERSHIP OF STANDARD, FM, AND TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Comments and Reply Comments [1]

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Extension of time in which to file Comments and Reply Comments in Docket No. 20548 is granted in order to allow parties desiring to submit Comments further time to analyze the Notice of Proposed Rule Making.

DATES: Comments must be received on or before August 22, 1977 and Reply Comments must be received on or before September 1, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Dennis S. Kahane, Broadcast Bureau, telephone (202) 632-9356.

SUPPLEMENTARY INFORMATION:

Adopted: May 20, 1977.

Released: May 25, 1977.

In the matter of amendment of §§ 73.35, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, order extending time for filing comments and reply comments.

1. Before the Chief, Broadcast Bureau, is a "Motion For Enlargement Of The Time Allowed For The Filing Of Comments" in Docket No. 20548, filed May 18, 1977, by the National Association of Broadcasters (NAB). The NAB moves for an extension of ninety days of the time allowed for the submission of comments in this docket. The Commission's Further Notice of Proposed Rule Making in this docket was adopted on March 9, 1977, and publication was made in the FEDERAL REGISTER on March 25, 1977. The dates for filing comments and reply comments, as extended by a previous order, are presently May 23, 1977, and June 2, 1977, respectively.

2. The NAB states, in support of its Motion, that, "Extensive analysis is required to determine what practical effect, if any, the proposed changes would have upon the overall operation of the multiple ownership rules. Because of the extensive analysis required, NAB has been unable to make a determination as to whether it will file comments herein."

3. In the Further Notice the Commission stated that, " * * * (W)e do not believe that we have received sufficient comments from members of the public and broadcasters in this matter, and we believe it unwise to announced a rule change in so significant an area, without the benefit of a complete record." The Commission said further that its purpose in issuing the Further Notice was to "enable us to obtain further comments on which to base a second report and order." We recognize that the proposals made in this docket require detailed study. We find that the public interest would be served by an extension of the comments and reply comments dates.

4. Therefore, *it is ordered*, That the request of the National Association of Broadcasters is granted, and the dates for filing comments and reply comments are extended to and including August 22, 1977, and September 1, 1977, respectively.

(Sections 4(1), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Sections 0.281 and 1.46 of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-15461 Filed 5-31-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20901; RM-2625]

FM BROADCAST STATIONS; BREWER, MAINE

Report and Order Denying Petition for Rule Making

AGENCY: Federal Communications Commission.

ACTION: Report and Order denying Petition for Rule Making.

SUMMARY: A Report and Order is adopted denying a petition of the Bangor Broadcasting Corporation proposing assignment of Class B Channel 284 to Brewer, Maine. The Report and Order indicated petitioner's showing was not sufficient to indicate that either a Class B assignment was needed for a community the size of Brewer, or that petitioner's intent was really to serve Brewer, rather than the nearby and much larger urban community of Bangor, Maine.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Victor D. Ines, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 20, 1977.

Released: May 26, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Brewer, Maine), report and order, (Proceeding Terminated.

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted August 27, 1976, 41 F.R. 37345 (1976), inviting comments on a proposal to assign Class B FM Channel 284 to Brewer, Maine, as a first FM assignment to the community.[1] This proceeding was instituted on the basis of a petition filed on October 21, 1975, by Bangor Broadcasting Corporation ("petitioner"), licensee of AM Station WGUY, Bangor, Maine. Supporting comments were filed by petitioner, and comments opposing the proposed assignment

[1] See 42 FR 21630, April 28, 1977.

[1] Since Brewer is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the Notice indicated that the requested assignment would require Canadian concurrence.

were filed by Penobscot Broadcasting Corporation ("Penobscot"), permittee of a new FM broadcast station, WPBC, in Bangor, Maine, and by Community Broadcasting Service ("Community"), licensee of FM Station WBGW in Bangor.[2] Petitioner also filed a reply comment as well as two other documents: "Supplemental to Petition for Rule Making," and "Comments on Petition and Supplemental Petition for Rule Making."

2. Brewer (pop. 9,300)[3] is located in Penobscot County (pop. 125,393) approximately 8 kilometers (5 miles) southeast of Bangor, Maine (pop. 33,168). Because of the close proximity of Brewer to Bangor, and petitioner's express intent to provide a "first 24-hour broadcast service to Bangor * * *," the Notice had indicated the possible existence of a "Berwick" issue[4] and requested appropriate comments. Additionally, the Notice requested a revised preclusion study, since petitioner's initial study had failed to note that Channel 286 had been deleted from Skowhegan, Maine, and replaced by Channel 294. Any resulting changes in petitioner's Roanoke Rapids-Anamosa[5] showing of any first and second FM or first and second aural service was also requested.

3. In its comments, petitioner submitted a revised preclusion study which indicated alternate channels were available to areas which would be precluded by the assignment of Channel 284 to Brewer. Petitioner's comments again asserted that the assignment of Channel 284 to Brewer would provide a first FM service and first nighttime aural service to 195 persons in an area of 980 square kilometers (378 square miles) and a second nighttime service to a population of 2,630 persons in an area of 945 square kilometers (365 square miles). Petitioner asserted that a Class A assignment to any of the six precluded communities without an FM assignment having a population of 2,500–5,000 persons could not provide the first service shown above. Petitioner also pointed out that Brewer is one of the three Maine communities having populations in excess of 9,000 which lack an FM assignment, and noted that the other two are located within 19 kilometers (12 miles) and 13 kilometers (8 miles) of Brewer. However, the main emphasis of petitioner's comments was directed to the possible Berwick question. Although petitioner acknowledged that Brewer does receive 1 mV/m service from three existing FM stations and two full-time AM stations, plus petitioner's daytime-only Station WGUY,[6] it asserted that there is very little public affairs or news programming directed towards the residents of Brewer by these stations. Petitioner indicated that a survey had been conducted in preparation for its request to move its AM station from Bangor to Brewer, and that the survey indicated the citizens of Brewer consider themselves part of a separate and distinct community and desire a local radio service to "uplift the community of Brewer from the shadow of Bangor. * * *" Although petitioner repeats its intention to provide a "first 24-hour service to Bangor," it asserts that this situation is distinguishable from the facts of the Berwick case.[7] Petitioner contends that current Commission policy eliminates the presumption than an applicant is attempting to serve a larger community when he applies for a facility in a nearby smaller community.[8]

4. In opposition, Penobscot and Community[9] assert that Brewer is a suburb of Bangor and that its broadcasting needs are indistinguishable from those of Bangor. Penobscot cited a case where the Commission itself characterized Brewer as a bedroom community in effect "part of downtown Bangor, *Bangor Broadcasting Corp.*, 50 F.C.C. 2d 232 at 234 (1973). The opponents assert that petitioner is attempting to obtain indirectly a new Bangor station and cite petitioner's previous unsuccessful attempts to get an FM station in Bangor.[10] Additionally, Penobscot suggests that even if petitioner received an FM allocation it apparently would only duplicate the public affairs and news programming of WGUY, Bangor.[11] Penobscot and community put heavy emphasis on the assertion that the proposal was designed to serve Bangor rather than Brewer, and they assert that three elements of the *Berwick* doctrine are applicable to the current situation[12] and conclude that Brewer has no "meaningful separate and distinct programming needs." They also assert that the petitioner has not shown that any Brewer advertisers exist who are desirous of using a Brewer rather than a Bangor, radio station, much less that there are a sufficient number of non-Bangor oriented advertisers to support a Brewer station. Penobscot suggests that even if a new FM station were assigned to Brewer, Commission policy dictates assignment of a Class A, not a Class B channel, to a community of this size. Finally, Penobscot urges that if a station is assigned to Brewer, strict conditions should be made by the Commission to insure primary service to Brewer and not to Bangor.

5. In its reply comments, petitioner again asserts that Brewer is a large and separate city with its own community problems, needs and interests which is currently without needed local radio service. Petitioner contends that Brewer has its own economy, government and educational system and asserts that the opposition has falsely described petitioner's motives in seeking a Brewer channel. Petitioner cites examples where the Commission assigned Class B and C channels to cites smaller than Brewer, and contends that in the *Bangor, Maine*, 55 F.C.C. 2d 282 (1975) and *Bath, Maine*, 55 F.C.C. 2d 285 (1975), decisions the Commission has "encouraged the allocation of a Class B FM channel at Brewer," and submits that Penobscot's opposition to petitioner's request is merely to delay the possible allocation and stifle competition.

6. In reaching our own conclusions about the action to take we need not resolve the allegations as to the possible "motives" of the various parties. Our primary purpose now is only to determine if the public interest warrants the assignment which was proposed. We must simply determine whether a Class B assignment (whether ultimately licensed to petitioner or not) would be an appropriate channel for the community involved based on the facts before us. After objectively looking at those facts, we have concluded that the requested assignment would not be in the public interest.

7. In making our determination, we considered whether Brewer warranted an assignment and if so whether it should be a Class B channel. We also considered whether the information provided by petitioner was adequate to put to rest the *Berwick* concern as raised in the Notice.

[2] Community is also the licensee of Standard Broadcast Station WABI and TV Station WABI–TV, both in Bangor.

[3] All population data are from the 1970 U.S. Census.

[4] See Berwick Broadcasting Co., 12 F.C.C. 2d 8 (1968), and P.A.L. Broadcasting Co., 40 F.C.C. 2d 546 (1973), which states Commission policy disfavoring an FM proposal for a station in small, suburban communities when it appears that it is designed to serve a larger nearby community instead.

[5] Roanoke Rapids, 9 F.C.C. 2d 672 (1967), and Anamosa-Iowa City, 46 F.C.C. 2d 520 (1974).

[6] On June 25, 1976, WGUY filed an application to relocate its AM station in Brewer and operate full-time.

[7] Petitioner states that, unlike Berwick, the current proposal will provide a local transmission facility for Brewer rather than a primary facility for Bangor. It also asserts that "distinct unsatisfied programming needs separate and apart from Bangor" have been shown which were not shown in the Berwick Case.

[8] In 54 F.C.C. 2d 1, the Commission relaxed the 307(b) Surburban policy based on 5 mV/m incursion in AM applications. However, contrary to petitioner's statement, the Commission has continued to consider issues under Berwick and P.A.L. when warranted during the FM channel assignment process.

[9] Community's opposition was in the form of a letter sent to the Commission on December 16, 1976, supporting and reiterating the formal comments of Penobscot.

[10] In 1969, petitioner applied for an FM station in Bangor, and the application was ultimately denied after a comparative hearing. *Bangor Broadcasting Corp.*, 50 F.C.C. 2d 222 (1974). Again in 1975, petitioner was unsuccessful in an attempt to have a new FM channel assigned to Bangor. *In the Matter of Amendment of Section 73.202(b), Bangor, Maine*, 55 F.C.C. 2d 282 (1975). See also *Bangor, Maine*, 29 F.C.C. 2d 476 (1971) where the Commission denied petitioner's request for a third Bangor, Maine, station on the grounds the petition was an attempt to avoid comparative hearings and the population of Bangor did not justify the assignment.

[11] The opposition cites petitioner's "Application for Authority to Construct a Broadcast Station on Channel 225, 92.9 Mc" (F.C.C. Form 301, File No. BPH–6863).

[12] The Commission has looked with disfavor on FM drop-ins where (1) the city proposed to be served is the suburb of a larger, adjacent central city; (2) the proposed new station would place a city grade signal over the central city as well as the suburb; and (3) potential licensees of the new station would serve primarily the central city rather than the suburb.

8. As to our first question concerning Brewer's status as a separate community, sufficient data was furnished by petitioner to indicate that it is. Despite the previous indication in another case that "Brewer is part of downtown Bangor," [13] we now feel that petitioner has made a showing that the community is sufficiently separate as to be considered for a possible FM assignment.

9. Our second question regarding the need of Brewer for a Class B station was more difficult. Although it has been general Commission policy to assign a Class B or C channel only to communities of over 10,000 persons,[14] exceptions have been made when the assignment would result in a large first or second FM service [15] or when the assignment of a Class B or C channel would enable a large rural area to be served.[16] It appeared that an exception might lie through petitioner's showing of first or second FM and first or second aural nighttime service.[17] But at best only 195 persons in an area of 980 square kilometers (378 square miles) would receive a first service. A larger number was said to be able to receive a second FM service (17,671 persons in an area of 2,510 square kilometers (968 square miles)) and a second nighttime service (2,630 persons in an area of 945 square kilometers (365 square miles)). However, reliance cannot be placed on these figures as petitioner failed to comment on the possible changes which could occur if a major modification application filed by Grindstone Broadcasting Corporation were approved. Grindstone, licensee of WDEA-FM, Ellsworth, Maine, has an application pending (File No. BPH-10083) proposing to move its transmitter from Ellsworth to a point about half-way between Ellsworth and Bangor, and this move could affect the first and second showings presented by petitioner. Without better data on this point, we are unable to conclude that an exception to our policy of assigning a Class A channel to a town the size of Brewer is warranted.

10. An additional problem is presented by the policy considerations underlying *Berwick* and *P.A.L.*, supra. In this case, petitioner was asked to provide information to establish that it intended to serve Brewer rather than nearby (and much larger) Bangor. In this case, petitioner itself helped create the very doubts it was asked to resolve, as it had alleged that "the only FM channel available is Channel 284B." This representation was inaccurate since at least two Class A channels were shown to be available. Subsequently petitioner clarified its statement indicating that Channel 284 was the only channel available which would allow petitioner to provide a "first 24-hour service to Bangor." This intention to serve Bangor was subsequenty described as a "secondary" consideration, but if the need of Brewer was paramount in petitioner's intentions, it was never indicated why a Class A assignment would not appropriately respond to the needs of Brewer. This failure undermines petitioner's statements regarding an intent to serve Brewer not Bangor. Since the petitioner here has specifically and repeatedly stated its intention to serve Bangor, we continue to have serious doubts.

11. This issue of what class of channel to assign, if any, aside, it is clear that the needs of Brewer, such as they may be, need not go unmet. Petitioner has proposed to meet them with its application to move its AM station there and to operate full-time. In *Granger-Hunter, Utah, Report and Order*, Docket No. 20890, Mimeo 69294 (adopted April 7, 1977), the Commission rejected, under facts similar to this case, a petitioner's request for a higher class channel in a community of 9,029 persons, and in doing so the Commission noted the fact that the petitioner's AM station would itself respond to the needs of the smaller suburban community thus diluting the need for the FM assignment.

12. In summary, although there may well be a need for an FM assignment to Brewer, none has been established for a Class B assignment. Since petitioner did not indicate an interest in a Class A channel and we do not make assignments without such an expressed interest,[18] a Class A assignment is not a possible alternative at this time. However, this action does not preclude consideration of a new petition should petitioner or other parties come forward in the future with a petition whch furnishes the necessary interest and data regarding a Class A channel for Brewer.

13. Accordingly, *it is ordered*, That the Petition for Rule Making submitted on behalf of Bangor Broadcasting Corporation, Docket 20901, RM-2625, is denied.

14. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-15465 Filed 5-31-77;8:45 am]

[13] *Bangor Broadcasting Corp.*, supra.

[14] *Revision of FM Broadcast Rules*, 40 F.C.C., 747, 758 (1963).

[15] *Lyons, Kansas*, 42 F.C.C. 2d 215, 216 (1973); *Lexington, Missouri*, 53 F.C.C. 2d 893 (1975).

[16] *Clinton, Oklahoma*, 7 F.C.C. 2d 836, 839 (1967); *Saratoga, Wyoming*, 41 FR 26575, 37 R.R. 2d 813 (1976).

[17] Although the petitioner stated the Commission had "encouraged" a Class B assignment to Brewer (see paragraph 5 above) in two previous Maine cases, such was not our intent. In denying an additional channel to Bangor, the first case merely indicated a third channel in Bangor "could" result in deprivation of radio service which "might" be better used in an outlying community. In assigning Channel 290 to Bath, Maine, the second case only indicated Channel 284 (along with two Class A channels) remained "available" for assignment to Brewer. Any specific assignment request for Brewer would still have to be evaluated on its own merits.

[18] See *Atlanta, Georgia*, 55 F.C.C. 2d 62, 65, 70 (1975).

[47 CFR Part 73]

[Docket No. 21254, RM-2850]

FM BROADCAST STATION IN RICE LAKE, WISCONSIN

Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Proposed action assigning a second Class A FM channel to Rice Lake, Wisconsin. Petitioner, Red Cedar Broadcasters, Inc., states that the proposed FM channel would provide Rice Lake and the major part of Barron County with its first choice of broadcast service originating in Rice Lake or Barron County.

DATES: Comments must be received on or before July 5, 1977, and reply comments on or before July 25, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1977.

Released: May 24, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rice Lake, Wisconsin); notice of proposed rule making.

1. *Petitioner, proposal and comments.* (a) Petition for rule making,[1] filed March 2, 1977, by Red Cedar Broadcasters, Inc. ("petitioner"), proposing the assignment of Channel 249A to Rice Lake, Wisconsin, as its second FM assignment.

(b) The channel may be assigned without affecting any existing FM assignments in the Table. There were no oppositions to the proposal.

(c) Petitioner states that it will promptly file an application for a construction permit, and, if authorized, will proceed expeditiously to construct and operate an FM station.

2. *Community data.* (a) *Location.* Rice Lake is located approximately 80 kilometers (50 miles) northwest of Eau Claire, Wisconsin.

(b) *Population.* Rice Lake—7,278; Barron County—33,955.[2]

(c) *Present aural services.* Rice Lake presently receives local service from AM Station WJMC (Class IV) and Station WJMC-FM (Channel 242), both licensed to WJMC, Inc.

(d) *Economic considerations.* Petitioner states that, although the 1970 Census shows the population of Rice Lake to be 7,278, the current Chamber of Commerce figure is 7,900. It points out that the community serves a prime retail trade

[1] Public Notice of the filing of the petition was given on March 28, 1977 (Rept. No. 1033).

[2] Both population figures are taken from the 1970 U.S. Census.

area of more than 2,000 square miles. We are told that Rice Lake is the livestock auction and purchasing center of northwestern Wisconsin, in addition to being the location of various manufacturers.

3. *Preclusion studies.* Petitioner's engineering study showed that preclusion would occur only on the proposed cochannel. Three communities are located in the precluded area: Durand (pop. 2,103); Spooner (pop. 2,444), and Shell Lake (pop. 928). Durand and Shell Lake each has an FM station and Spooner, which is located about 10 kilometers (6 miles) from Shell Lake, has no local aural broadcast service.

4. Petitioner states that the proposed FM channel would provide Rice Lake and the major part of Barron County with its first choice of broadcast service originating in Rice Lake or Barron County. The assignment of Channel 249A to Rice Lake would result in intermixing a Class A channel with a Class C channel (Channel 242). The Commission has a policy against intermixture of classes of FM channels, but an exception is made when no Class C channel is available and the petitioner is willing to apply for the proposed Class A channel in spite of the intermixture situation. *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973). Since petitioner is willing to apply for and operate Channel 249A at Rice Lake, this assignment could be made.

5. In light of the above information and the fact that the proposed assignment would provide the community an opportunity to develop a second local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Rice Lake, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Rice Lake, Wis.	242	242, 249A

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel is assigned.

7. Interested parties may file comments on or before July 5, 1977, and reply comments on or before July 25, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in this Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-15466 Filed 5-31-77;8:45 am]

[47 CFR Parts 89, 91, 93, 95]

[Docket No. 21142]

DIGITAL VOICE MODULATION IN SECURE COMMUNICATIONS SYSTEMS[1]

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order, granting in part an extension of time for filing comments in Docket 21142, requested by the General Electric Company.

SUMMARY: The General Electric Company (GE) petitioned the Commission for a six month extension of time in which to file comments in Docket 21142, on the basis that additional time would be required to analyze data on the adjacent channel interference potential of digital voice and other types of systems requiring bypass of the presently required low pass audio filter. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, denied the request, arguing that the Commission should have the benefit of the views of all interested parties on the substantive issues before granting such an extension. Also, there was no evidence that the concern expressed by GE was shared by others in the radio equipment industry. Lastly, the Commission had been urged, in early comments filed by several police departments, to consider the proposals in this proceeding as early as possible. Nevertheless, a two week extension of time was granted in order to allow GE time to submit its views on the issues.

DATES: Comments must be received on or before June 7, 1977 and reply comments must be received on or before July 7, 1977.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. James E. McNally, Jr., Safety and Special Radio, Services Bureau (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: May 23, 1977.

Released: May 24, 1977.

In the matter of amendment of Parts 89, 91, 93, and 95 (General Mobile Radio Service) of the Commission's Rules and Regulations to provide for the use of F3Y emission (digital voice modulation) in secure communications systems and to eliminate the low-pass audio filtering requirements in digital voice, automatic vehicle monitoring (AVM) and other high bit rate digital applications; order granting in part request for extension of time for filing comments and reply comments.

[1] See 42 FR 21142, April 25, 1977.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a petition filed by General Electric Company (GE) for a six month extension of time in which to file comments in the above-captioned proceeding. The current time for filing comments ends May 24, 1977, and the time for filing reply comments ends June 23, 1977.

2. GE argues that additional time is needed for proper evaluation of the potential impact the proposed changes may have on adjacent channel interference. The present transmitter audio filtering requirements, GE points out, were established only after intensive rule making proceedings involving industry input thorugh established ad hoc committees which measured and compared adjacent channel interference data. They feel that the time for filing comments is not adequate to allow meaningful technical participation by anyone who had not formulated a basic position on the issues prior to the release of the Docket.

3. Continuing, GE states that if the currently-required low pass audio filter is to be removed for digital voice systems, these effects must be understood, and the level of transmitter sideband suppression required to assure no degradation of system performance must be established. Also, a measurement method to assure compliance must be developed. Lastly, GE contends that the questions of co-channel interference between digital and non-digital systems, the clear voice identification requirments, and the impact of the proposed changes on the 150 MHz band 15 kHz channel spacing requirements will not readily lend themselves to solutions in the time alloted for filing comments.

4. We agree that some of the technical issues raised in this proceeding are complex and that it may take more time and studies before they may be resolved. However, we do not believe that granting GE's request is the appropriate way to proceed. Instead, we believe that the issue raised by GE, that is, whether one or more of the substantive questions in this proceeding can indeed be resolved at this time, should be addressed by the comments and that the Commission should have the benefit of the view of all interested parties on the substantive issues themselves before it should decide whether additional studies are needed and, if so, on which of the issues. For example, the Commission after considering all of the comments, may decide that additional data are needed before the maximum permissible sideband emission envelope may be determined, or whether co-channel sharing between clear voice and digital scrambling is feasible. On the other hand, the Commission may well be in a position to decide the feasibility of authorizing digital voice modulation on frequencies above 450MHz without additional information or studies. In short, we believe that the Commission can only make these decisions on the basis of the information and data submitted in the comments. Moreover, we note that there is no justification in the petition that GE's concerns, and its views about the need for lengthy additional studies, are shared generally by the radio equipment industry. In this context, we feel that the six-month extension asked by GE is not justified at this time. In reaching this conclusion we have noted that the Commission has been urged, in early comments filed by several police departments, to consider the proposals in this proceeding as soon as possible.

7. Accordingly, the petition of the General Electric Company for a six-month extension of time is denied. However, in order to allow GE sufficient time to submit its views on the issues, the time for filing comments is hereby extended to June 7, 1977, and the time for filing reply comments to July 7, 1977.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.77-15463 Filed 5-31-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

IOWA GRAIN INSPECTION POINTS

Grain Standards

Statement of considerations. The Des Moines Grain Exchange, Inc., Des Moines, Iowa, has requested that is designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Des Moines and Iowa Falls, Iowa, be transferred to Messrs. James A. Tuttle and Andy E. McComb, who have contracted to purchase all the stock of the official agency, contingent upon approval of the transfer of designation by the Department.

Messrs. James A. Tuttle and Andy E. McComb have applied for designation in accordance with the Act and § 26.96 of the regulations (7 CFR 26.96) to operate the official agency at Des Moines and Iowa Falls, Iowa. This application does not preclude other interested persons from making similar applications.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the "Act", has been amended by Public Law 94-582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly-created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed two yaers from the effective date of the amended Act, provided such agencies pay any required fees to FGIS.

Accordingly, the transfer of designation would, if approved by the Department, be on an interim basis and continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the applicant or set a period of time for its termination.

Other interested persons are hereby given opportunity to make application for designation to operate as an official agency at Des Moines and Iowa Falls, Iowa, pursuant to the requirements set forth in section 7(f)(1)(A) of the amended Act (7 U.S.C. 79(f)(1)(A)), and § 26.96 of the regulations (7 CFR 26.96).

NOTE. Section 7(f) of the Act (7 U.S.C. 79(f)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Any interested persons who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate as an official agency at Des Moines and Iowa Falls, Iowa.

All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials submitted should be in duplicate and mailed to the Hearing Clerk not later than July 1, 1977. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on May 26, 1977.

WILLIAM T. MANLEY,
Interim Administrator.

[FR Doc.77-15509 Filed 5-31-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-5-133; Docket 27813, Agreement C.A.B. 25711]

INTERNATIONAL AIR TRANSPORT

Order Denying Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of May, 1977.

By petition filed August 3, 1976, Donald L. Pevsner, Esq. requests that the Board disapprove Resolutions R-4, R-8, R-9 of Agreement C.A.B. 25711, adopted by the members of the International Air Transport Association (IATA), which were approved in Order 76-5-95, May 21, 1976. Petiitoner alleges that these resolutions, which establish first-class and economy fares as well as proportional fares between the United States and the South Pacific, violate Section 404(a)(2) of the Federal Aviation Act of 1958 (the Act) insofar as the fares exceed the sum of the local sector fares from United States to Pago Pago, American Samoa, and from Pago Pago to South Pacific points in New Zealand and Australia. In support of this contention, petitioner cites Orders 74-3-63, March 13, 1974, and 74-4-92, April 17, 1974, wherein the Board required that IATA-agreed through first-class and normal economy fares between the U.S. Mainland and points in the South Pacific should be no greater than the sum of the local sector fares over Hawaii i.e., Mainland-Hawaii plus Hawaii-South Pacific. Here, by Mr. Pevsner's calculations, the one-way undercuts of the IATA through fares by the sum of the local fares over Pago Pago amount to $270 and $132.60, Los Angeles-Sydney, and $315.20 and $155.50, Los Angeles-Auckland, for first and normal economy class, respectively.[1] Finally, Mr. Pevsner argues that individual fares to the South Pacific are extremely high and that, with the grant of his petition, the carriers would retain more than an adequate level of fares.

Answers in opposition have been filed by Qantas Airways Limited (Qantas), Pan American World Airways, Inc. (Pan American), and Air New Zealand Limited (Air New Zealand).

Pan American contends that the petition seeks to apply a general rule with respect to fare structure in a manner and in circumstances that reduce an otherwise valid rule to an arbitrary technicality. The carrier notes that the Board's earlier decision, that through fares to the South Pacific should be no higher than the aggregate of intermediat local-sector fares over Hawaii, was based largely on the fact that the majority of South Pacific service is routed via Honolulu. Here, however, only a de minimis portion of total South Pacific service is provided via Pago Pago, according to Pan American. Pan American further claims that none of the foreign carriers in the market operate U.S.-South Pacific service via Pago Pago and that it would be unreasonable to require these carriers to reduce their through fares to the level of local-sector fares which are unrelated to the service they provide. Even the bulk of Pan American's South Pacific service overflies Pago Pago.

[1] Changes in fares since the filing of the petition have changed the applicable figures somewhat, but the undercuts are still very substantial. For example, the current Los Angeles-Sydney IATA normal economy one-way through fare is $809, whereas the combination of local fares over Pago Pago is $687.40 ($307.40 Los Angeles-Pago Pago plus $380 Pago Pago-Sydney), a difference of $121.60. Similarly, the current Honolulu-Auckland IATA economy through fare is $628, vs. combined local fares of $475.40 ($188.40 Honolulu-Pago Pago plus $287 Pago Pago-Auckland), for an undercut of $152.60, or nearly 25 percent of the through fare. The undercuts on first-class fares are about twice as great.

Pan American alleges that application of the rule to its operations would result in a $6.5 million annual revenue loss (based on data for the year ended June 30, 1976). Finally, the carrier argues that the disparity in fares for through service and service via Pago Pago reflects differences in load factors on the two routings which are expected to be a temporary phenomenon.

In its answer, Qantas takes issue with the petitioner's claim that South Pacific fares are too high and claims that these fares are comparable to those on selected U.S. domestic and North Atlantic routes. Qantas argues, as does Pan American, that the Board ruled on the Honolulu combinations as it did because the overwhelming majority of South Pacific traffic actually travels via Honolulu, and that the same consideration is not present here. Qantas further claims that existing fares on the Honolulu-Pago Pago sectors require extremely high load factors, which Qantas and other foreign carriers are unable to achieve because they can only uplift their own stopover traffic on cabotage sectors. Qantas concludes that fares on this sector cannot reasonably or logically constitute a basepoint for establishing through fares to/from the Southwest Pacific. Finally, Qantas alleges that grant of the petition would reduce its annual revenues on this route by $10.2 million (year ending March 31, 1977).

Air New Zealand also claims that the Board's decision in Order 74-3-63, March 13, 1974, has application only to sector fares over Hawaii and to no other offshore United States territory. The carrier states that the fares it has on file with the Board between points in the South Pacific, on one hand, and points in Hawaii and the U.S. Mainland, on the other, are those agreed to by IATA, and that it has not filed fares that by construction would permit the undercutting of the IATA through fare. Air New Zealand asserts that it cannot quote a combination of Los Angeles-Pago Pago and Pago Pago-Auckland fares since it does not have traffic rights between Los Angeles and Pago Pago. The carrier finally claims that granting the petition would reduce fares to such an extent that operations of transpacific carriers would be rendered totally uneconomic.

Upon consideration of the petition, the answers thereto, and all other relevant matters, the Board has decided to deny the request that it disapprove Resolutions R-4, R-8, and R-9 of Agreement C.A.B. 25711, Docket 27813, which were approved in Order 76-5-95, May 21, 1976. However the Board will condition its outstanding approval of IATA resolutions 056a and 066a which establish first-class and economy fares in the South Pacific to require that the through fares applicable to passengers making a stopover at American Samoa shall not exceed the sum of the local-sector fares over Pago Pago.

First, it should be emphasized that the reasonableness of the long-haul international fares between the U.S. Mainland/Hawaii and other nations in the South Pacific is a separate issue from the lawfulness of the specific fare anomalies pointed out by petitioner, i.e., the undercuts of the IATA through fares by combinations of local fares over Pago Pago. Petitioner assumes that elimination of these anomalies would necessarily involve a drastic reduction in the long-haul through fares. This is not necessarily the case; the anomalies might also be eliminated by increasing the U.S. Mainland/Hawaii-Samoa local fares, the Samoa-South Pacific local fares, or both, or by some combination of such increases and decreases. Since the local traffic in the U.S. Mainland/Hawaii-Samoa and Samoa-South Pacific markets combined is only a minor fraction of the total U.S.-South Pacific traffic flow, an adjustment of the fare structure to eliminate the anomalies while holding the carriers' total South Pacific revenue at a constant level would necessitate relatively large increases in the local fares to/from Samoa in either or both directions, while permitting only relatively small decrease in the long-haul through fares.

Subsequent to the filing of Mr. Pevsner's petition, the Board in Order 77-2-32, February 4, 1977,[2] disapproved an IATA agreement increasing certain fares to the South Pacific on the grounds that the data of record, as adjusted by the Board, showed that the proposed fares would result in a rate of return of over 17 percent for Pan American's South Pacific international operations. The rate of return under existing South Pacific fares (which continued in effect as a result of the Board's disapproval of the proposed increases) was not set forth in Order 77-2-32, but it was fractionally in excess of 12 percent.[3] Thus, as of the date of that order, the Board had no basis for forcing any material reduction in Pan American's overall South Pacific revenues, or, accordingly, in the overall South Pacific fare structure.

If the Board were now to order elimination of the fare anomalies pointed out by petitioner, therefore, the IATA carriers would be entitled to accomplish this elimination primarily by raising the local fares west of Samoa.[4] This, however, would be quite harmful to the economy of American Samoa, a dependency for whose welfare the U.S. government is responsible. To develop and strengthen its economy, Samoa needs to increase tourism, not only from the United States, but also from Australia and New Zealand.[5] A large increase in Samoa-Australia/New Zealand fares would undoubtedly operate to discourage tourism in these markets. We note that these fares are already very high on a per-mile basis—much higher, for example, than U.S. Mainland/Hawaii-Samoa fares—and there certainly is no indication that long-haul travelers are being called on to cross-subsidize the carriage of travelers in the Samoa-Australia/New Zealand markets.

The question posed by Mr. Pevsner's petition, therefore, is whether the principles set forth in the earlier orders cited in the petition nevertheless require the removal of these particular fare anomalies, regardless of the consequences. We do not think they do. This appears to us to be a case of a sound principle attempted to be pressed to an extreme and unreasonable application.

It should be noted to begin with that fare anomalies of various kinds are far from being unknown in the arena of international aviation, which is characterized by overlapping and sometimes conflicting ratemaking jurisdictions and mechanisms, in which there is no single ultimate authority to resolve conflicts, but which is ruled by a multitude of national governments whose views on ratemaking policy vary widely. In such an arena, ad hoc compromises often take the place of a consistent and logical application of agreed principles. Even when our own ratemaking philosophy clearly indicates a particular result in a given case, it is necessary to weigh the particular circumstances of the case, and the potential adverse effects of not following the principle, against the possible costs of insisting on its being followed.

The principle that a through fare which exceeds the sum of the local fares over an intermediate point is ordinarily considered to be unreasonable per se, which the Board first applied to South Pacific fares in Order 73-9-58, September 14, 1973,[6] is one of long standing, going back at least to the so-called TAN case in 1957,[7] and has recently been re-

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[2] Mr. Pevsner also filed a comment in that proceeding, opposing the fare increases and raising the same issue about the sum of the local fares over American Samoa that he does here. The Board indicated that this issue would be dealt with in a separate order responding to his earlier petition in the present docket.

[3] The exact figure is 12.05 percent, calculated under the same methodology as employed in the "Adjusted" column of Appendix B to Order 77-2-32. (The adjustment made there to eliminate Pan American's assumptions about demand elasticity, however, is applicable only to the proposed fares, not to the existing ones). It should be noted that a petition for reconsideration of Order 77-2-32 is pending, which will be dealt with in a separate order; the present order is not to be construed as passing judgment on any of the issues raised in said petition.

[4] IATA, of course, has no jurisdiction over U.S. Mainland/Hawaii-Samoa fares, which are at issue in the Pacific Overseas Fares Investigation, Docket 28004, presently awaiting decision by the Board.

[5] The exhibits of American Samoa in Docket 28036 show that (ignoring nearby Western Samoa) New Zealand and Australia are the second and third largest sources of visitor traffic to American Samoa, after the United States itself.

[6] See also Order 73-7-55, July 12, 1973, at pp. 6-7, where the Board raised the issue of U.S. Mainland-South Pacific IATA through fares exceeding the sum of the local fares over Hawaii, and required the carriers to file supplemental justifications, although it did not at that time disapprove the resultant fare structure. In Order 73-11-30, November 7, 1973, the Board dismissed a petition for reconsideration of Order 73-9-58, and elaborated on the reasoning of the earlier order.

[7] IATA Regional Traffic Conference Investigation, 24 C.A.B. 463 (1957), and see Order 72-10-1, October 2, 1972.

affirmed in Interstate and Intrastate Fares in California and Texas Markets, Order 76-7-23, July 7, 1976. In enunciating and enforcing this principle, the Board's concern has not been so much for mere theoretical neatness in the fare structure—hardly an attainable goal in the international area—as for the practical opportunities for unjust discrimination inherent in a situation where unsophisticated travelers are quoted, and pay, the higher through fare, while more knowledgeable travelers are able to take advantage of the lower combination of the local fares over the particular intermediate point, if necessary by buying separate tickets for each portion of their trip.

Where the intermediate point in question is a major connecting point, such as Honolulu, this potential for discrimination is both real and pervasive. Most U.S. South Pacific service is routed by way of Honolulu; there are several flights per day between Honolulu and the major foreign destinations in the South Pacific, Australia and New Zealand, while of course there are multiple daily services between Honolulu and a variety of U.S. Mainland points. Thus, if the Board in Order 73-9-58 had not required through fares over Hawaii to equal the sum of the local fares it would have been an easy matter for a sophisticated U.S. Mainland-South Pacific traveler to arrange for connecting service over Honolulu involving only a moderate loss of time, and minimal, if any, expense to offset the savings derived from the use of a combination of the local fares rather than the higher through fare.

The situation a Pago Pago, American Samoa, is entirely different. First, the great bulk of the U.S.-South Pacific international traffic uses flights which do not transit Pago Pago at all. Of the five carriers which provide U.S.-South Pacific service—Pan American, Qantas, Air New Zealand, UTA, and Canadian Pacific—Qantas and Canadian Pacific do not serve Pago Pago at all, while UTA operates a single weekly round trip between Noumea and Papeete by way of Nadi and Pago Pago, and Air New Zealand operates two weekly turnaround flights between Auckland and Pago Pago.[8] Of Pan American's eleven weekly round trips to the South Pacific, three serve Pago Pago between Honolulu and Sydney, while one serves it between Honolulu and Papeete.[9] Thus out of nearly thirty weekly round trips in the key U.S.-Australia/New Zealand markets, only Pan American's three stop at Pago Pago.

Moreover, Pago Pago is nothing of a connecting point, due both to the paucity of flights and the fact that for the most part they arrive and depart on different days of the week. Connections between Pan American flights ordinarily involve a minimum two-day layover at Pago Pago. It is theoretically possible to arrive at Pago Pago from the U.S. via Pan American before dawn on Wednesdays and Fridays, and depart again for Auckland via Air New Zealand in the late evening of the same days,[10] but there is no indication in the present record that any significant volume of U.S.-New Zealand (or U.S.-Australia) traffic actually uses this routing, except when a genuine stopover at Pago Pago is desired by the traveler.

Thus it appears that the existence of combinations of local fares over Pago Pago which undercut the related IATA through fares does not, as a practical matter, offer any genuine opportunity for the sophisticated U.S.-South Pacific traveler who is not interested in a stopover on American Samoa to gain an unfair advantage over the less sophisticated traveler. Though the undercut of the through fare by the combination of the locals is considerable,[11] the difficulty and inconvenience of attempting to make connections at Pago Pago is also formidable. When this is weighed against the significant injury to the economy of American Samoa which would result from a large increase in the Samoa-Australian/New Zealand local fares, such as would be required to eliminate the fare anomalies—an increase which would be balanced by at most a very small reduction in U.S.-Australia/New Zealand fares—we conclude that in this particular instance the cost of eliminating the anomalies is altogether too great in relation to the extremely limited possibilities of discrimination stemming from the anomalies themselves. Accordingly, we will not order an adjustment of the South Pacific international fare structure so as to eliminate the anomalies, as requested by the petitioner.

There is, however, a more limited action which we can and will take. Among those U.S.-South Pacific travelers who desire a stopover in American Samoa en route to their ultimate destination, there may well be instances of unjust discrimination, since it is unclear whether these passengers would ordinarily be quoted the local sector fares or the IATA through fare. If the latter, a case of unjust discrimination would be created since knowledgeable stopover passengers would clearly be able to take advantage of the local sector fares, if necessary by double-ticketing, while less knowledgeable stopover passengers would be paying the higher through fare for exactly the same service.

Accordingly, as a condition of our outstanding approval of IATA Resolutions 056a and 066a, which establish first-class and economy fares in the South Pacific, we will require Pan American to remove the discrimination among stopover passengers by publishing, within 30 days, first-class and normal economy fares for South Pacific services including a stopover at American Samoa which are set at the level of the sum of the local-sector fares over American Samoa.[12] This action will remove the possibility that passengers who stop over in American Samoa will be quoted the IATA through fare and thus will remove the potential for unjust discrimination among such stopover passengers which the present situation presents. Our action may well encourage additional travelers in both directions to make stopovers in American Samoa, which should be beneficial to the economy of that territory. At the same time, we do not expect the lower stopover fare to dilute the carriers' revenues to any significant degree, since only a relatively small minority of U.S.-South Pacific long-haul passengers are likely to be willing to add a Samoan stopover to their itineraries to take advantage of the stopover fare. Thus we do not anticipate that the existence of the stopover fare (already available to the knowledgeable travelers by double-ticketing) will lead to increases in any other South Pacific fares.

ACCORDINGLY, *it is ordered that:*

1. The Board's outstanding approval of IATA resolution 056a and 066a which establish first-class and economy fares in the South Pacific is reaffirmed, subject to the condition that, for transportation between the United States and points in the South Pacific involving a stopover at American Samoa, the through fare shall not exceed the sum of the local-sector fares over Pago Pago;

2. Pan American World Airways, Inc. shall file tariffs in conformity with paragraph one above not more than thirty days from the date of service of this order; and

3. Except to the extent granted herein, the petition and motion to expedite filed by Donald L. Pevsner, Esq. in Docket 27813 be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15483 Filed 5-31-77;8:45 am]

[Order 77-5-131; Docket 30290]

LINEAS AEREAS DE NICARAGUA, S.A. AND AEROVIAS CONDOR DE COLOMBIA, S.A.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of May 1977.

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[8] All schedules per Official Airline Guide Worldwide ed., April 15, 1977 (schedules effective as of May 1, 1977, unless otherwise indicated).

[9] The sum of the local fares over Pago Pago does not undercut the U.S. Mainland/Hawaii-Papeete through fare.

[10] In the opposite direction it is likewise possible to arrive at Pago Pago from Auckland via Air New Zealand in the early evening on Wednesday and Fridays, and depart for the U.S. via Pan Am shortly after midnight the same evening. It would theoretically be possible for U.S.-Australia traffic to move via double connections at Pago Pago (as above) and Auckland.

[11] See footnote 1, supra.

[12] The definition of stopover is that contained in the IATA resolutions governing promotional fares in the South Pacific: "* * * [s]topover means a stop at an intermediate point from which the passenger is not scheduled to depart on the date of arrival or within two hours after midnight of the date of arrival; provided that where there is no scheduled connecting departure on the date of arrival, departure on the next day within 24 hours of arrival shall not constitute a stopover."

On December 30, 1976, Lineas Aereas de Nicaragua (Lanica) and Aerovias Condor de Colombia (Aerocondor) jointly filed the subject application for disclaimer of jurisdiction, exemption, or approval with respect to a "blocked space" agreement. The facts are as follows:

Aerocondor holds a foreign air carrier permit to operate between a point or points in Colombia, the intermediate point Port-au-Prince, Haiti, and the terminal point Miami.[1] Among the points in Colombia served by Aerocondor is San Andres Island. Lanica's permit authorizes it to engage in foreign air transportation between a point or points in Nicaragua, the intermediate points S anAndres Isladn, Colombia, and San Salvador, El Salvador, and the terminal point Miami.[2] Thus, each airline independently may carry local traffic in foreign air transportation between San Andres Island and Miami. Under the agreement in question, the carriers wish to engage in a joint blocked space operation utilizing Lanica's equipment over the San Andres Island-Miami segment common to both of their systems.

The agreement stipulates that aircraft will be provided, maintained, and insured by Lanica and that exclusive operational control will rest with Lanica. Aeroconodor will completely control ground operations in San Andres, including servicing, airport recieving, and dispatching, but each party will control its own operations in Miami. The aircraft used will bear exterior identification of both carriers but all passengers will be advised that the aircraft is operated by Lanica crews. In all other major respects, such as ticketing and passenger handling, each carrier will provide its own services. Neither party will pass off its services as those of the other or indicate in any way that they are part of a united system. Two to four round trips per week will be operated, typically over a Managua-San Andres-Miami routing. Aerocondor will be allocated 48 seats on each fight segment between San Andres and Miami and will pay Lanica $50.00 per seat, whether or not each seat is actually sold. The agreement explicitly prohibits the pooling of revenues.

In support of their application, the parties allege that the proposed operation will enable them to improve the efficiency of their respective operations and, thereby, to strengthen their positions as independent international carriers. They argue that no United States flag carrier serves San Andres and, therefore, that there will be no adverse impact on any U.S. carrier. Finally, the parties point out that the Governments of Colombia and Nicaragua have already endorsed the agreement.

An answer to the application was filed by Pan American World Airways. Pan American does not, in terms, either support or oppose the agreement, but argues that the Board should undertake a formal proceeding under section 402 of the Federal Aviation Act because Lanica is not presently authorized to engage in foreign air transportation on behalf of any carrier other than itself. Pan American notes that the issuance of a separate permit is consistent with precedent and urges that the procedure be followed "to ensure Board control over this type of operation."

Upon consideration of the pleadings and all the relevant facts, we tentatively find (a) that Lanica is fit, willing, and able within the meaning of section 402 of the Act,[3] and (b) that it is in the public interest to issue Lanica a separate foreign air carrier permit to conduct operations pursuant to the agreement until July 2, 1981, subject to conditions.[4]

There are no provisions either in the Federal Aviation Act or the Board's regulations which deal explicitly with blocked space, as opposed to wet lease, agreements.[5] However, the Board has periodically considered blocked space agreements (a) between U.S. flag and foreign carriers involving both passenger[6] and cargo[7] service, and (b) between two foreign carriers involving passenger service.[8] In general, the Board has been liberal in approving agreements submitted by U.S. carriers as long as there has been no identifiable adverse economic impact on any other U.S. carrier not a party to the agreement. A similar test of adverse impact has been applied in the few cases involving two foreign carriers.

In the instant case, it is not contended by Pan American or any other person that implementation of the Lanica/Aerocondor agreement will adversely affect any U.S. flag carrier or any other economic interest of the United States. Because there will be affirmative benefits accruing both to the applicant and to the traveling public, and because the agreement is endorsed by two foreign Governments with whom the United States maintains friendly relations, it must be concluded that the agreement is not adverse to the public interest. The issue here is whether or not Lanica must obtain a new or amended foreign air carrier permit to carry Aerocondor's passengers. We find that a new permit should be issued based on the Board's established method of handling cases such as this one.[9]

Pan American submits the three cases cited at note 7, supra, to support its argument that Lanica needs a separate permit to operate on behalf of Aerocondor. It is contended that Lanica may only engage in foreign air transportation on behalf of itself. We agree with Pan American's interpretation. In *ALM Dutch Antillean Airlines*, 50 C.A.B. 18, 20–21 (1969), which involved the operation of wet lease services by KLM on behalf of ALM, the Board made the following observation:

> Equally sound is the examiner's conclusion that KLM's existing permit, which grants KLM itself the right to engage in foreign air transportation over the routes in question, does not also authorize the carrier to engage in air transportation on behalf of ALM. As the carriers recognize, the examiner's conclusion is supported by recent decisions in which the Board granted permits authorizing lessor carriers to perform wet-lease or blocked-space service for other direct carriers, even though the lessor carriers held prior permits over the routes in question (footnote omitted). Those decisions recognize the principle, which we reaffirm here, that foreign air carrier permits do not impliedly authorize carriers to conduct operations, including on-route charters, on behalf of other foreign direct air carriers.

Implicit in the Board's position is the fact that the permit provides the only handle for the Board to maintain control over these types of services. Disclaimer of jurisdiction precludes any oversight and there are no provisions in the Act or the Regulations which require that agreements between two foreign air carriers be submitted for approval. While Lanica and Aerocondor have voluntarily submitted their agreement, the Board has no power, other than through section 402 procedures, to assure that other airlines will do so. Therefore, we believe

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[1] Issued pursuant to Order 77-3-24, approved March 2, 1977.

[2] Issued pursuant to Order 76-7-8, approved July 2, 1976.

[3] In support of this tentative finding, we rely upon our findings and conclusions made on a formal evidentiary record less than one year ago in Dockets 28107 and 28175. See Order 76-7-8.

[4] The agreement by its own terms is for a one-year period, subject to automatic renewal unless either party requests termination. It becomes effective fifteen days after approval by all relevant Governments is obtained. The expiration date of July 2 1981, has been chosen because Lanica's permit issued pursuant to Order 76-7-8 expires on that date and there are no circumstances, other than termination of the agreement, which would require an earlier expiration.

[5] Section 412 of the Act, Subpart P of the Rules of Practice (14 CFR Section 302.1601 et seq.), and Part 261 of the Economic Regulations generally govern all types of agreements involving air carriers.

[6] Air Afrique, Foreign Permit, 40 C.A.B. 759 (1964); W.A.A.C. (Nigeria), Limited, Foreign Permit, 41 C.A.B. 111 (1964).

[7] Pan American-Qantas Agreement, Order 76-8-162, August 31, 1976; TWA-El Al Agreement, Order E-26685, April 18, 1968; Seaboard World-Air Canada Agreement, Order E-24976, April 13, 1967; TWA-Air France Agreement Order E-20553, March 6, 1964; and Seaboard and Pan American, Blocked Space Agreements, Orders E-20240 and E-19922, 39 C.A.B. 832 (1963).

[8] Lineas Aereas de Nicaragua, Foreign Permit, 50 C.A.B. 66 (1969); Austrian Airlines and Sabena, Foreign Permits, 49 C.A.B., 408 (1968); and Transportes Aereos Portugueses, Foreign Permit, 44 C.A.B. 542 (1966).

[9] Although the parties did not submit an application for a permit through diplomatic channels, we will waive the requirement in section 211.2 of the Economic Regulations that they do so. The primary purpose of this requirements is to assure that the foreign governments endorse the application; Lanica and Aerocondor have attached verified statements from their respective governments to that effect. In addition, it was not clear that new permit authority was required and we do not wish to penalize the applicants by injecting unnecessary delay.

that it is sound policy to continue to scrutinize these types of arrangements under section 402.[10]

Finally, consistent with precedent and the terms of the agreement itself, we shall impose the standard conditions previously imposed in similar cases. These conditions are designed to "insure that each carrier will maintain its separate identity and will not attempt to hold out its services as those of the other or as part of a unified system." [11]

Interested persons will be given 21 days from the date of adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We except such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objections are taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If a further evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing which cannot be established in the absence of a hearing. General, vague, or unsupported objections will not be entertained.[12]

Accordingly, *it is ordered that*:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and issuing a foreign air carrier permit in the form attached hereto to Lineas Aereas de Nicaragua, S.A. (LANICA);

2. The exercise of the privileges tentatively granted by the proposed permit shall be subject to the following conditions regarding operations thereunder to and from the United States:

(a) Lanica and Aerocondor shall file with the Board in Docket 30290 all written agreements, amendments to existing agreements, and memoranda setting forth the circumstances of oral agreements and understandings between them affecting, directly or indirectly, air services to the United States.

(b) Lanica and Aerocondor shall not engage in joint public relations activities at points served by both carriers which tend to pass off the services of one carrier as the services of the other carrier or as part of a unified system of which each is part.

(c) Where either Lanica or Aerocondor provides general agency services for the other carrier at points in the United States served by Lanica and Aerocondor, Lanica or Aerocondor shall specifically identify all flights of either Lanica or Aerocondor as flights of that carrier without reference to any relationship to the carrier performing the agency services.

(d) Telephone facilities to which the public has access at points served in the United States by Lanica and Aerocondor shall preserve the identity of the individual carriers.

(e) Where joint traffic or sales facilities are maintained by Lanica and Aerocondor in the United States, the separate identity of each carrier shall be maintained by reasonably comparable use of display advertising, desk space, personnel uniforms, and other facilities and activities.

(f) The respective personnel of Lanica and Aerocondor shall preserve the individual identity of the respective carriers in all public dealings.

(g) Where Lanica or Aerocondor sells time payment tickets for air travel over the other carrier (except interline travel), the application form shall identify the carrier performing the transportation.

(h) The interior of the aircraft operated pursuant to the agreement, dated October 15, 1976, between Lanica and Aerocondor, shall contain a sign, prominently displayed, which clearly identifies the carrier whose cockpit crew is in operational control of the aircraft; and the exterior of said aircraft shall carry a prominent identification, clearly visible to all passengers, showing that the capacity of the aircraft is shared by Lanica and Aerocondor.

3. Any interested person having objections to the issuance of an order making final any of the proposed findings and conclusions set forth herein shall, within 21 days after adoption of this order, file with the Board and serve upon all parties listed in paragraph 6, a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed, all further procedural steps shall be deemed waived and the Board will proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

6. A copy of this order shall be transmitted to the President and the Department of State and shall be served upon LANICA, AEROCONDOR and Pan American World Airways.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

PERMIT TO FOREIGN AIR CARRIER

Lineas Aereas de Nicaragua, S.A., is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail as follows:

Between a point or points in Nicaragua, the intermediate points San Andres Island, Colombia, and San Salvador, El Salvador, and the terminal point Miami, Florida.

The foreign air transportation authorized herein is limited to transportation performed by the holder pursuant to a blocked space agreement, dated October 15, 1976, between the holder and Aerovias Condor de Colombia, S.A. (Aerocondor).

This permit shall be subject to the condition that the holder shall serve Miami, Florida, only on flights originating or terminating at a point in Nicaragua.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Nicaragua for Nicaraguan international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Nicaragua shall be parties.

This permit shall be subject to the condition that, in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol, approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foriegn air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from any suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ and shall terminate on July 2, 1981, or upon the expiration or termination of the joint blocked space agreement dated October 15, 1976, between the holder and Aerovias Condor de Colombia, or upon the termination of the permit issued to Aerovias Condor de Colombia pursuant to Order 77-3-24: *Provided, however*, That if, in the period during which this permit shall be effective, the operation of the foreign air transportation authorized herein becomes the subject of any treaty, convention, or agreement to

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[10] See Transportes Aereos Nacionales, S.A. and Servicio Aereo de Honduras, S.A., Foreign Permits, Orders 76-10-53, October 14, 1976, and 77-1-20, approved January 4, 1977.

[11] Lineas Aereas de Nicaragua, Foreign Permit, 50 C.A.B. at 67.

[12] Because there will be no increase in operations, it is tentatively found that grant of the authority requested will not result in a major federal action significantly affecting the quality of the human environment within the meaning of section 102(C)(2) of NEPA.

which the United States and Nicaragua are or shall become parties, then and in that event, this permit is continued in effect during the period provided in such treaty, convention or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the-----

(SEAL) ----------,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on ----------, in ----------

[FR Doc.77-15482 Filed 5-31-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEY OF MANUFACTURES, SUPPLEMENT

Determination

In conformity with title 13, United States Code, sections 182, 224, and 225, and due notice having been published on March 31, 1977 (42 FR 17153), I have determined that the data received from this supplement will provide the information necessary to develop accurate estimates of the backlog of unfilled orders in manufacturing. The backlog of unfilled orders data and the estimates of new orders, which are partially based on the backlog data, are both highly important indicators of economic activity. Therefore, these data will have significant application to the needs of the public and industry. They are not available from nongovernmental or other governmental sources.

This survey is a supplement to the annual survey of manufactures and will request annual shipments and end-of-year unfilled orders data. The survey will include all multiestablishment companies currently reporting in the annual survey of manufactures and classified in industries in which a backlog of unfilled orders are normally maintained. Data for single establishment companies are currently being collected on the Annual Survey of Manufactures Form MA-100.

Discussions with multiunit companies indicate that unfilled orders data are normally maintained on a divisional rather than establishment baisis. Therefore, unfilled orders data and corresponding shipments data will be collected on this form on a divisional basis. A form requesting total domestic company shipments and unfilled orders will be sent to multiestablishment companies that are classified in a single industry groups. (For purposes of this survey, manufacturing industries are grouped into 79 categories.)

The resulting unfilled orders estimates will be used to revise the levels currently being published for the monthly survey of manufactures and will greatly improve the accuracy of the data; the current estimates are based on a small sample and may be subject to substantial error.

Copies of the report forms are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed this annual supplement be conducted for the purpose of collecting the data hereinabove described.

Dated: May 25, 1977.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc.77-15456 Filed 5-31-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT AND ENVIRONMENTAL IMPACT STATEMENT REFORM

Supplement to Notice of Public Hearing

As previously announced in the April 29 FEDERAL REGISTER (42 FR 21836), the Council on Environmental Quality will hold public hearings on reforming the implementation of the National Environmental Policy Act (NEPA), with special emphasis on the environmental impact statement process.

PRESIDENT'S ENVIRONMENTAL MESSAGE

This notice supplements the previous notice of the hearings to call attention to the Environmental Message issued by the President on May 23, 1977 and E.O. 11991 (42 FR 26967). In his Message, President Carter stated that NEPA:

"* * * is best known for requiring federal agencies to prepare environmental impact statements before taking actions having significant environmental effects. In the seven years since its passage, it has had a dramatic—and beneficial—influence on the way new projects are planned. But to be more useful to decision-makers and the public, environmental impact statements must be concise, readable, and based upon competent professional analysis. They must reflect a concern with quality, not quantity. We do not want impact statements that are measured by the inch or weighed by the pound.

Accordingly, I am today issuing an Executive Order directing the Council on Environmental Quality to issue regulations requiring all federal agencies to meet these criteria and the provisions of Section 102(2) of the National Environmental Policy Act in the impact statements they prepare and to establish a procedure for referring to the Council differences among agencies concerning implementation of the National Environmental Policy Act."

Your views on how best to implement the President's message and the Executive order will be appreciated in addition to the matters outlined in the previous notice.

The Council also intends to propose measures to implement the substantive requirements of the National Environmental Policy Act. Your views on the subject will also be appreciated.

The hearings will be held on June 6-8, 1977, in Washington, D.C. at Room 2008, New Executive Office Building (located on 17th Street NW., between Pennsylvania Avenue and H Street).

Thank you for your assistance.

CHARLES WARREN,
Chairman.

[FR Doc.77-15528 Filed 5-31-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

M-X BURIED TRENCH CONSTRUCTION AND TEST PROJECT

Intent to Prepare Environmental Impact Statement

This is to advise that, in accordance with the National Environmental Policy Act, PL 91-190, the United States Air Force intends to prepare an Environmental Impact Statement (EIS) on the proposed M-X Buried Trench Construction and Test Project. The proposed construction is a part of the validation phase for determining the feasibility of deploying a new Intercontinental Ballistic Missile system known as the M-X in a buried trench configuration.

The proposed action would include the construction of a 1,500 ft. and a 20,000 ft. trench on the Luke Air Force Range, Arizona, in the San Cristolbal Valley adjacent to and east of the Mohawk Mountain and south of Interstate Highway 8. Each trench will be a minimum of 21 feet deep and at least 17 feet wide.

Interested persons desiring to submit comments on the proposed action should address them to the Special Assistant for Environmental Quality, SAF/ILE, Office of the Secretary of the Air Force, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-15490 Filed 5-31-77;8:45 am]

Department of the Army

TRANSPORTATION OF CHEMICAL MATERIAL FROM ROCKY MOUNTAIN ARSENAL

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 20 May 1977 provided the Council on Environmenal Quality with a Draft Environmental Impact Statement concerning the Transportation of Chemical Material from Rocky Mountain Arsenal, Colorado to Tooele Army Depot (South Area), Utah.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, USA Armament Materiel Readiness Command, ATTN: DRSAR-ASN (CPT A. Cramblett), Rock Island Arsenal, IL 61201, telephone 309-794-3193.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone 202-694-1163.

Dated: May 26, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77-15489 Filed 5-31-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21257; CSC-150]

CENTRAL PLAINS CABLE TV, INC.

Petition for Order To Show Cause

Adopted: May 19, 1977.

Released: May 26, 1977.

1. Forum Communications Company, licensee of Station KSFY-TV (NBC, Channel 13), Sioux Falls, South Dakota, has filed a petition requesting that the Commission order Central Plains Cable TV, Inc. to cease and desist from carriage of the signal of Station KTIV (NBC, Channel 4), Sioux City, Iowa, on the cable television system at Mitchell, South Dakota. Forum alleges that the signal is being carried unlawfully and without authorization.

2. On April 5, 1977, the Commission released a memorandum opinion and order regarding this matter. "Central Plains Cable TV, Inc." (Mitchell, South Dakota), FCC 77-231, ____ FCC 2d ____ (1977). Therein the Commission directed the subject cable television system to comply with the requirements of § 76.63 of the Commission's rules within 15 days and to advise the Chief, Cable Television Bureau, of the fact of compliance within 30 days. Also, the Chief, Cable Television Bureau, was authorized to issue an order to show cause to be directed against the subject cable television system if it did not comply.

3. By letter of April 12, 1977, Central Plains Cable TV, Inc. advised the Chief, Cable Television Bureau, that it declines to terminate carriage of the signal of KTIV. Central Plains notes that it has filed a petition for reconsideration of "Central Plains Cable TV, Inc." (Mitchell, South Dakota), FCC 77-230, ____ FCC 2d ____ (1977), a Commission decision which denied its request for special relief seeking authorization for carriage of the signal of KTIV. It urges that the instant matter (CSC-150) be consolidated with the other (CSR-986) and that issues in both be resolved on the record. It contends that the two Commission actions raise substantial constitutional questions and are not within the Commission's jurisdiction.

4. At issue here is whether the subject cable television system is in compliance with the Commission's rules. Whether the cable system may subsequently seek and obtain authorization for carriage of the signal of KTIV does not bear on the issue at hand. Since the cable system has advised the Commission that it continues to carry the signal of KTIV and has not applied for a stay of our decision, an order to show cause should be issued in accordance with the Commission's decision.

In view of the foregoing, a grant of the petition for an order to show cause would be consistent with the public interest.

Accordingly, it is ordered, That the "Petition for Order" (CSC-150) filed by Forum Communications Company is granted.

It is further ordered, That pursuant to sections 312 (b) and (c) of the Communications Act of 1934, as amended, 47 U.S.C. 312 (b) and (c), Central Plains Cable TV, Inc. IS DIRECTED to show cause why it should not be ordered to cease and desist from further violation of § 76.63 of the Commission's Rules and Regulations on its cable television system at Mitchell, South Dakota.

It is further ordered, That Central Plains Cable TV, Inc. is directed to appear and give evidence with respect to the matters described above at a hearing to be held before an Administrative Law Judge at the Commission's headquarters in Washington, D.C. at a time to be specified by a subsequent order, unless the hearing is waived, in which event a written statement may be submitted.

It is further ordered, That Forum Communications Company is made a party to this proceeding.

It is further ordered, That the Secretary, Federal Communications Commission, shall send a copy of this order by certified mail to Central Plains Cable TV, Inc.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES R. HOBSON,
Chief, Cable Television Bureau.

[FR Doc. 77-15474 Filed 5-31-77;8:45 am]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: May 13, 1977.

Released: May 19, 1977.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on July 12, 1977, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to §§ 1.-227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 11, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete a tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on July 11, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix below by reason of conflicts betions appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-9863 (new), Grasonville, Md., Edward Mason & Joanne F. De Maso. Req: 103.1 mHz; Channel No. 276A. ERP: 3 kw; HAAT; 300 ft.

BPH-9875 (KPAT), Sioux Falls, S.D., KSOO Radio, Inc. HAs: 97.3 mHz; Channel No. 247C. ERP: 51 kW; HAAT; 1,880 ft. (lic.). Req: 97.3 mHz; Channel No. 247C. ERP: 29.8 kW; HAAT; 221 ft.

BHP-9886 (new), Eupora, Miss., Tri-County Broadcasting Co. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT: 300 ft.

BPH-9905 (WART), Plainfield, Ind., A & R Broadcasting, Inc. HAs: 98.3 mHz: Channel No. 252A. ERP: 3 kW: HAAT: 200 Ft. (lic.). Req: 98.3 mHz: Channel No. 252A. ERP: 3 kW HAAT: 300 ft.

BPH-9916 (new), Columbia, S.C., Midlands Communications Corp., Req: 103.1 mHz: Channel No. 276A. ERP: 3 kW: HAAT: 300 ft.

BPH-9998 (new), Gregory, S.D., West Central Investment Co., Inc. Req: 101.5 mHz: Channel No. 268C. ERP: 100 kW: HAAT: 640 ft.

BPH-10089 (new), Pauls Valley, Okla., Garvin County Broadcasting, Inc. Req: 97.7 mHz: Channel No. 249A. ERP: 2.47 kW: HAAT: 303.1 ft.

BPH-10094 (KGAB), Camarillo, Calif., Hot Air Radio. Has: 95.9 mHz; Channel No. 240A. ERP: 3 kW: HAAT: 155 ft. (lic.). Req: 95.9 mHz: Channel No. 240A. ERP: 3 kW: HAAT: 296 ft.

BPH-10116 (new), Corpus Christi, Tex., Kuno Radio, Inc. Req: 99.1 mHz; Channel No. 256C. ERP: 100 kW: HAAT: 754 ft.

BPH-10116 (new), Patterson, N.Y., Patterson Broadcasting Corp. Req: 105.5 mHz; Channel No. 288A. ERP: 1.11 kW; HAAT: 450 ft.

BPH-10324 (new), Glasgow, Mont., Glasgow Broadcasting Co. Req: 93.5 mHz; Channel No. 228A. ERP: 3 kW; HAAT: 29 ft.

BPH-10325 (new), Tucson, Ariz., Great Southwest Communications, Inc., Req: 107.5 mHz; Channel No. 298C. ERP: 14.7 kW; HAAT: 3547 ft.

BPH-10334 (new), Avon Park, Fla., Charles A. Esposito. Req: 105.3 mHz; Channel No. 292A. ERP: 3 kW; HAAT: 170 ft.

BPH-10345 (new), Tucson, Ariz., Tucson Community Broadcasting, Inc., Req: 107.5 mHz; Channel No. 298C. ERP: 14.4 kW; HAAT: 3527 ft.

PBH-10353 (new), Dunedin, Fla., Hispanic Broadcasting Associates. Req: 92.1 mHz; Channel No. 221A. ERP: 1.8 kW; HAAT: 362.6 ft.

BPH-10354 (KTBP-FM), Topeka, Kans., Harris Enterprises, Inc. Has: 100.3 mHz: Channel No. 2620. ERP: 5.3 kW; HAAT: 260 ft. (lic). Req: 100.3 mHz: Channel No. 2620. ERP: 100 kW; BAAT; 260.6 ft.

BHP-10367 (new), Safety Harbor, Fla., Tampa Bay Concert Radio, Inc. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; BAAT: 288.6 ft. (Allocated to Dunedin, Fla.)

BPH-10369 (new), Charlevoix, Mich., Island View Broadcasting Co. Req: 105.9 mHz; Channel No. 290C. ERP: 100 kW; BAAT: 590 ft.

BPH-10370 (new), Tucson, Ariz., Peter M. Marcus. Req. 107.5 mHz: Channel No. 298C. ERP+ 14.1 kW; HAAT; 3563 ft.

BPH-10371 (new), Charlottesville, Va., WUVA, Inc. Req: 92.7 mHz; Channel No. 224A. ERP: .220 kW; HAAT; 900 ft.

BPH-10372 (new), Hazlewood, N.C., Mountain Ridge B/Cting Media, Inc. Req: 104.9 mHz; Channel No. 285A. ERP: .125 kW BAAT; 1457 ft. (Allocated to Waynesville, N.C.)

BPH-10374 (new), Yuma, Colo., Cen-Ten Productions, Inc. Req: 100.9 mHz; Channel No. 265A. ERP: 2.5 kW; BAAT; 340 ft.

BPH-10375 (new), Lubbock, Tex., Radio Lubbock, Inc. Req: 102.5 mHz; Channel No. 273C. ERP: 100 kW; BAAT: 228 ft.

BPH-10377 (KKEZ), Fort Dodge, Iowa, KWMT, Inc. Has: 94.5 mHz; Channel No. 233C. ERP: 50 kW; HAAT; 290 ft. (lic.). Req: 94.5 mHz; Channel No. 233C. ERP: 50 kW; HAAT; 596 ft.

BPH-10379 (new), Henderson, Nev., KVOV, Inc. Req: 100.5 mHz; Channel No. 263C. ERP: 10c kW; HAAT; 119 ft.

BPH-10380 (new), Saegertown, Pa., Saegertown Broadcasting Corp., Inc. Req: 94.3 mHz; Channel No. 232A. ERP: 3 kW; HAAT; 300 ft.

BPH-10381 (new), Forrest Lake, Minn., Lakes Broadcasting Co., Inc. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT; 300 ft.

BPH-10382 (new), Munice, Ind., Munice Broadcasting Corp. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT; 300 ft.

BPH-10383 (new), Canton, Pa., Galen D. Castlebury, Jr. Req: 100.1 mHz; Channel No. 261A. ERP: 500 kW; HAAT; 652 ft.

BPH-10385 (KEBC), Oklahoma City, Okla., Electronic Broadcasting Co. Has: 94.7 mHz; Channel No. 234C. ERP: 5C kW; HAAT; 330 ft. (lic.). Req: 94.7 mHz; Channel No. 234C. ERP: 100 kW; HAAT; 440 ft.

BPH-10387 (new), Salmon, Idaho, Dale J. Smith. Req: 92.7 mHz; Channel No. 224A. ERP: 1.8 kW; HAAT; −1235 ft.

BPH-10388 (new), Dologah, Okla., Ambers Productions, Inc. Req: 106.1 mHz; Channel No. 291C. ERP: 100 kW; HAAT; 428 ft.

BPH-10389 (new), Clyde, Ohio, The Family B/cting & Communications. Req: 100.9 mHz; Channel No. 265A. ERP: 3 kW; HAAT; 300 ft.

BPH-10390 (WBYG), Kankakee, Ill., WKAK, Inc. Has; 99.9 mHz; Channel No. 260B. ERP: 6.6 kW; HAAT; 210 ft. (lic.). Req: 99.9 mHz; Channel No. 260B. ERP: 50 kW; HAAT; 500 ft.

BPH-10392 (new), Richfield, Utah, Sevier Valley Broadcasting Co. Req: 93.7 mHz; Channel No. 229C. ERP: 27.2 kW; HAAT; −821 ft.

BPH-10393 (WPEG), Concord, N.C., Concord-Kannapolis B/cting Co., Inc. Has: 97.9 mHz; Channel No. 250C. ERP: 10 kW; HAAT; 390 ft. (lic.). Req: 97.9 mHz, channel No. 250C. ERP: 50 kW; HAAT; 393 ft.

BPH-10394 (new), Frankfort, N.Y., WBVM Associates. Req: 92.7 mHz; Channel No. 224A. ERP: 1.45 kW; HAAT; 410 ft. (allocated to Herkimer, N.Y.).

BPH-10395 (new), Richland, Wash., Kale, Inc. Req: 94.9 mHz; Channel No. 235C. ERP: 100 kW; HAAT; 1250 ft.

BPH-10396 (WARV), Wilmington, N.C., New Hanover Broadcasting Co. Has: 102.7 mHz; Channel No. 274C. ERP: 50 kW; HAAT: 145 ft. (Lic). Req: 102.7 mHz; Channel No. 274C. ERP: 100 kW; HAAT: 357 ft.

BPH-10400 (new), Olean, N.Y., Great Dane Broadcasting Corp. Req: 100.9 mHz; Channel No. 265A. ERP: 1.55 kW; HAAT: 405 ft.

BPH-10402 (new), Omak, Wash., Komw, Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: −836 ft.

BPH-10404 (new), Clinton, Okla., Clinton-Cordell Broadcasting Co., Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 ft.

BPH-10406 (KSAQ), San Antonio, Tex., Radio Alamo, Inc. Has: 100.3 mHz; Channel No. 262C. ERP: 100 kW; HAAT: 155 ft. (Lic). Req: 100.3 mHz; Channel No. 262C. ERP: 100 kW; HAAT: 501 ft.

BPH-10407 (new), Millinocket, Maine, Katahdin Radio, Inc. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kW; HAAT: 190 ft.

BPH-10408 (WLTE), Waycross, Ga., Radio Waycross, Inc. Has: 102.5 mHz; Channel No. 273C. ERP: 100 kW; HAAT: 200 ft. (Lic). Req: 102.5 mHz; Channel No. 273C. ERP: 100 kW; HAAT: 511 ft.

BPH-10413 (new), Brady, Tex., Radio Brady, Inc., Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 55 ft.

BPH-10414 (KIXS-FM), Killeen, Tex., Accent Radio Corp., Has: 93.3 mHz; Channel No. 227C. ERP: 2.3 kW; HAAT: 175 ft. (Lic). Req: 93.3 mHz; Channel No. 277C. ERP: 100 kW; HAAT: 516 ft.

BPH-10415 (new), Newport, Vt., Newport Broadcasting Corp., Req: 107.9 mHz; Channel No. 300C. ERP: 25 kW; HAAT: 711 ft.

BPH-10416 (new), Collins, Miss., Covington County Broadcasters, Inc. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT: 300 ft.

BPH-10417 (new), Terrell, Tex., Terrell Radio. Req: 107.1 mHz; Channel No. 296A. ERP: 2 kW; HAAT: 300 ft.

BPH-10419 (new), Oakdale, Calif., Oakdale Broadcasting Corp. Req: 95.1 mHz; Channel No. 236B. ERP: 50 kW; HAAT: 459 ft.

BPH-10420 (new), Newport, N.C., The Jones Co., Req: 103.3 mHz; Channel No. 277C. ERP: 100 kW; HAAT: 451 ft. (allocated to Morehead-Beaufort, Inc.)

BPH-10426 (KHAK-FM), Cedar Rapids, Iowa, Communications Properties, Inc. Has: 98.1 mHz; Channel No. 251C. ERP: 6.8 kW; HAAT: 210 ft. (Lic). Req: 98.1 mHz; Channel No. 251C. ERP: 50 kW; HAAT: 863 ft.

BPH-10427 (KTDK), Tahlequah, Okla., KT-LQ Radio, Inc. Has: 101.7 mHz; Channel No. 269A. ERP: 1.9 kW; HAAT: 75 ft. (Lic). Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT: 300 ft.

BPH-10435 (KTCH-FM), Wayne, Nebr., Theodore S. Storck. Has: 104.9 hMz; Channel No. 285A. ERP: 3 kW; HAAT: 115 ft. (Lic). Req: 104.9 mHz; Channel No. 285A. ERP: 3kW; HAAT: 300 ft.

BPH-10437 (new), Calhoun City, Miss., Jesse R. Williams. Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-10440 (new), Greenfield, Mass., Poet's Seat Broadcasting, Inc. Req: 95.3 mHz; Channel No. 237A. ERP: .713 kW; HAAT: 553 ft.

BPH-10441 (new), Falmouth, Ky., Norkey Enterprises, Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 ft.

BPH-10442 (new), Grass Valley, Calif., Nevada County Broadcasters. Req: 92.1 mHz; Channel No. 281A. ERP: 290 kW; BAAT: 980 ft.

BPH-10443 (new), Marshfield, Mo., Webster County Broadcasting Co. Req: 104.9 mHz; Channel No. 285A. ERP: 3kW; BAAT: 120 ft.

BPH-10444 (new) Mechanisburg, Pa., West Shore Broadcasting Co. Req: 93.5 mHz; Channel No. 228A. ERP: 3 kW; BAAT: 300 ft. (Allocated to Carlisle, Pa.)

BPH-10448 (KBPI), Denver, Colo., KBPI Progressive Broadcasters, Inc. Has: 105.9 mHz; Channel No. 290C. ERP: 100 kW; BAAT: 57 ft. (Lic). Req: 105.9 mHz; Channel No. 290C. ERP: 100 kW; BAAT: 770 ft.

BPH-10459 (new), Sulphur, Okla., Lula M. Stone. Req: 100.9 mHz; Channel No. 265A. ERP: 3 kW; BAAT: 300 ft.

BPH-10460 (KPLA), Plainview, Tex., Plainview Broadcasting Co. Has: 97.3 mHz; Channel No. 247C. ERP: 3 kW; BAAT: 125 ft. (Lic). Req: 97.3 mHz; Channel No. 247C. ERP: 100 kW; BAAT: 439 ft.

BPH-10464 (new), Pequot Lakes, Minn., Minnesota Christian Broadcasters, Inc. Req: 100.1 mHz; Channel No. 261A. ERP: 3 kW; BAAT: 300 ft. (Allocated to Nisswa, Mn.)

BPH-10466 (new), Forest City, Iowa, Pilot Knob Broadcasting, Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-10467 (WBNC-FM), Conway, N.H., North Country Radio, Inc., Has: 93.5 mHz; Channel No. 228A. ERP: 3 kW; HAAT: −230 ft. (Lic). Req: 93.5 mHz; Channel No. 228A. ERP: 1.45 kW; HAAT: 410 ft.

BPH-10470 (new), Gladwin, Mich., Gladwin Broadcasting Co., Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: 148 ft.

BPH-10472 (new), Castle Rock, Colo., Maurice J. Devolt. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW HAAT: 299 ft.

BPH-10473 (new), Andrews, Tex., ZIA Broadcasting Co. Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: 210.8 ft.

BPH-10474 (new), Lufkin, Tex., Darrell E. Yates, Req: 99.3 mHz; Channel No. 257A. ERP: 1.9 kW; HAAT: 362 ft.

BPH-10475 (KQWB-FM), Moorhead, Minn., Midwest Radio Co., Has: 98.7 mHz; Channel No. 254C. ERP: 100 kW; HAAT: 410 ft. (lic). Req: 98.7 mHz; Channel No. 254C. ERP: 100 kW; HAAT: 375 ft.

BPH-10477 (new), Lihue, Hawaii, Commonico Honi Corp., Req: 93.5 mHz; Channel No. 228A. ERP; 0.11 kW; HAAT; 1590 ft.

BPH-10478 (new), Trenton, Tenn., Trentone Inc. Req: 97.7 mHz; Channel No. 249A. ERP; 3 kW; HAAT; 237.4 ft.

BPH-10488 (WVDH-FM), Hazlehurst, Ga., Jeff Davis Broadcasters, Inc. Has: 93.5 mHz; Channel No. 228A. ERP; 3 kW; HAAT; 230 ft. (lic). Req: 93.5 mHz; Channel No. 228A. ERP; 3 kW; HAAT; 300 ft.

BPH-10489 (new), Fort Walton Beach, Fla., White Sands Broadcasting, Inc. Req: 92.1 mHz; Channel No. 221A. ERP; 3 kW; HAAT; 195 ft.

BPH-10524 (KXEW-FM) Tucson, Ariz., Grabet, Inc., Radio Enterprises. Has: 93.7 mHz; Channel No. 229C. ERP; 29 kW; HAAT; 38 ft. (lic). Req: 93.7 mHz; Channel No. 229C. ERP; 28.1 kW; HAAT: 194 ft.

BPED-2142 (new), Middlefield, Conn., Connecticut Educ. Television Corp. Req: 90.5 mHz; Channel No. 213B. ERP; 2.1 kW; HAAT; 578 ft.

BPED-2292 (new), West Orange, N.J., Bd. of Educ., West Orange, N.J. Req: 88.9 mHz; Channel No. 205D. TPO; .01 kW.

BPED-2332 (WMWM), Salem, Mass., Salem State College. Has: 91.7 mHz; Channel No. 219D. TPO; .01 kW, (lic). Req: 91.7 mHz; Channel No. 219A. ERP; .13 kW; HAAT; 85 ft.

BPED-2351 (new), Windna, Minn., Saint Mary's College. Req: 90.9 mHz; Channel No. 215D. TRO; .01 kW.

BPED-2371 (KIEP), El Paso, Tex., University of Texas at El Paso. Has: 88.5 mHz; Channel No. 203C. ERP; 3.8 kW; HAAT; 1020 ft. (lic). Req: 88.5 mHz; Channel No. 203C. ERP; 100 kW; HAAT; 732 ft.

BPED-2385 (WHSS), Hamilton, Ohio, Hamilton City School District. Has: 89.5 mHz; Channel No. 208D. TPO: .01 kW, (lic). Req: 89.5 mHz; Channel No. 208A. ERP; .188 kW; HAAT; 285.8 ft.

BPED-2390 (new), Derby, Conn., Stand, Inc. Req: 90.1 mHz; Channel No. 211D. TPO: .01 kW.

BPED-2400 (new), Dodge City, Kans., Dodge City Community College. Req: 91.9 mHz; Channel No. 220D. TPO: .01 kW.

BPED-2401 (KLTT), Albuquerque, N.M., Christian B/Cting Academy, Inc. Has: 88.3 mHz; Channel No. 202C. ERP; 3.4 kW; HAAT; −400 ft. (lic). Req: 88.3 mHz; Channel No. 202C. ERP; 1.8 kW; HAAT; 1039 ft.

BPED-2402 (new), Charlotte, N.C., Charlotte Community B/Cting Found. Req: 91.7 mHz; Channel No. 219C. ERP; 100 kW; HAAT; 555 ft.

BPED-2404 (VARY), Valhalla, N.Y., Westchester Community College. HAS: BB.5 mHz; Channel No. 2030. ERP .014 kW; BAAT; 440 ft. (lic.). (Mt. Kisco, N.Y.). Req: BB.5 mHz; Channel No. 203D, TPO; .01 kW. (Valhalla, N.Y.)

BPED-2410 (NEW), Jamestown, N.Y., Jamestown Community College. Req: 91.5 mHz; Channel No. 218D. TPO; .01 kW.
BPED-2411 (NEW), Borrego Springs, Calif., Borrego Springs Unified School Dist. Req: 89.7 mHz; Channel No. 209C. ERP; 50 kW;
BPED-2412 (NEW), Council Bluffs, Iowa, Iowa Western Community College. Req: 89.7 mHz; Channel No. 209C. ERP; 50 kW; HAAT; 1303 ft.
BPED-2413 (WWNO), New Orleans, La., La. Univ. and Agricul. and Mech. College. HAS: 89.9 mHz; Channel No. 210C. ERP: 11.5 kW; HAAT; 600 ft. (Lic). Req: 89.9 mHz; Channel No. 210C. ERP; 50 kW; HAAT; 600 ft.
BPED-2415 (NEW), Baton Rouge, La., East Baton Rouge School Board. Req: 90.1 mHz; Channel No. 211D. TPO; .01 kW.
BPED-2432 (NEW), Thousand Oaks, Calif., Conejo Public Broadcasters, Inc. Req: 91.1 mHz; Channel No. 216B. ERP; 4.75 kW; HAAT; 1275 ft. (allocated to Moorpark, Calif.)
BPED-2451 (NEW), Las Vegas, Nev., Nevada Public Radio Corp. Req: 89.5 mHz; Channel No. 208C. ERP; 9 kW; HAAT 215 ft.

[FR Doc.77-15202 Filed 5-31-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

PRICE AND ALLOCATION INTERPRETATIONS

Interpretations Indexes

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretation indexes.

SUMMARY: Attached are indexes to Interpretations 1974–1 through 1977–6 issued by the Federal Energy Administration (FEA).

FOR FURTHER INFORMATION CONTACT:

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 514A, Washington, D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION:

Pursuant to FEA's initial notice concerning publication of Interpretations in the FEDERAL REGISTER (42 FR 7923, February 8, 1977) FEA has now completed its program to publish Interpretations issued in 1974, 1975 and 1976 pursuant to 10 CFR Part 205, Subpart F. In addition, six Interpretations issued in 1977 have been published and FEA plans to continue to publish Interpretations from time to time as they are issued.

FEA Interpretations have been published as indicated in the following table:

FEDERAL REGISTER CITATIONS FOR FEA INTERPRETATIONS

1974–1 THROUGH 1977–6

1974–1 through 1974–29: 42 FR ____, May 18, 1977.
1975–1 through 1975–74: 42 FR 23722, May 10, 1977.
1976–1 through 1976–23: 42 FR 7923, February 8, 1977.
1976–24: 42 FR 10963, February 25, 1977.
1976–25: 42 FR 23722, May 10, 1977.
1977–1 through 1977–5: 42 FR 10963, February 25, 1977.
1977–6: 42 FR 17100, March 31, 1977.

Now that a body of some 130 FEA Interpretations has been published, FEA believes it is appropriate also to publish index materials relating to these Interpretations. It is expected that the appended indexes, by facilitating access to published FEA interpretations, will provide significant additional guidance to the public and thus reduce the number of interpretation requests submitted in the future. In addition, the attached indexes are expected to facilitate FEA review of pending requests for interpretation.

Appendix A contains a general index of nearly 100 informal price and allocation subject entries, such as "Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," and "Wholesale Purchaser-Reseller." These entries are followed in each case by the reference number of published Interpretations which construe or otherwise directly relate to the subject entry concerned.

Appendix B provides a cross-index to FEA Price Interpretations according to the major regulatory subdivisions of 10 CFR Part 212—i.e., Subpart D (Producers of Crude Oil), Subpart E (Refiners), and Subpart F (Resellers and Retailers). Appendix B provides a broader index which may be useful in cases in which the question at issue relates to more than one of the specific subject entries in Appendix A, relates to Subparts D, E or F generally, or relates to a matter for which no specific entry is found in Appendix A. Appendix B may also be used to locate Interpretations which are related only indirectly or tangentially to the question at issue.

Appendix B does not include other subdivisions of Part 212, such as Subpart G (Rents), Subpart H (New Items), or Subpart K (Natural Gas Liquids) because these subjects are treated under the subject entries contained in Appendix A.

Allocation Interpretations are not cross-referenced in Appendix B because the structure of 10 CFR Part 211 lends itself well to the general subject entry system of Appendix A but not to the broad regulatory or industrial categories of Appendix B.

Appendix C provides an index of Interpretations which construe or comment on FEA Rulings and statutes relating to FEA regulatory authority.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulaion(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations indexed herein have been published only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A

SUBJECT INDEX FOR FEA INTEPRETATIONS (1974–1 THROUGH 1977–6)

Acquisition rule	1975–9
Affiliated entities, def	1976–4
Allocation entitlement	1974–17; 1975–37
Allocation entitlement, method of	1974–19
Allocation entitlement, transfer of	1974–29; 1975–35
Allocation levels	1974–1
Average daily production, def	1974–22; 1975: –4, –43
Assignment by FEA	1976–25
Base period supplies	1974: –6, –15; 1975: –31, –73
Base period supplier, designation of	1974–21
Base period supply obligations	1974–25; 1976–11
Base period volume	1975–50
Base price	1975–5
BPCL	1975–27; 1976–16
Base rent rule	1974: –24, –28
Base rent rule, lease termination	1975–58
Benzene and toluene, special rules for	1976–10
Blending costs, retailer	1975–74
Bonded fuel, def	1975: –8, –26, –46
Bonded fuel exemption	1975: –8, –26, –46
Borrow—pay back rule	1975–30
Burning of petroleum products by power generators.	1975–25
Class of purchaser	1974–7; 1975: –5, –6, –22, –31, –47, –63; 1976: –1, –6, –7, –20
Commission agents or consignees	1974–10; 1975: –13, –31, –48
Competitive bids	1975–56
Cost of crude oil, def	1976–4
Covered products	1976–24
Crude oil, def	1975–29; 1977–3
Crude oil ceiling prices rules, long-term contracts (premiums).	1977–2
Current cumulative deficiency	1974–8; 1976–16
Customary discounts	1975–66
D, subpart; part 212	1977–3

APPENDIX A—Continued

December 1 rule	1974: -2, -3, -4; 1975-45; 1976: -15, -20
EPAA supercession of other Federal laws	1974-27; 1975-15
Entitlements program	1975-21; 1976-22, 1977-5
Equal application rule	1975-5; 1976-17
Export sales deduction	1975-21
F, subpart; part 212	1976-6; 1977-3
Firm, def	1975: -3, -32, -52, -55, -69; 1976: -3, -8; 1977-6
First sale, def	1976-4
Five percent rule	1974-14; 1977-6
Guam	1975: -8, -26, -46
Import exemption	1975-24
Inventories	1975-23
K, subpart, part 212	1976: -2, -5; 1977-3
Naphtha allocation	1975-44
N. G. L. products	1974-13; 1977-3
New and released crude oil	1975-2
New item and new market rule	1974: -23, -24; 1975: -3, -9; 1976: -5, -7
"New" motor gasoline retail sales outlet	1975-61
"New" wholesale purchaser reseller	1975-57
Non-product cost increases	1975: -48, -59, -74
Normal business practices	1974: -3, -16, -27; 1975: -49, -62
Once-a-month rule	1975-64
Over-recoupment	1975-12
Passenger transportation services	1975-65
Posted price, def	1976-4
Price/octane number information and posting	1976-9
Procedural requirements	1975-40; 1976-12
Processing agreements	1974-6
Producer, def	1974-20
Product cost increases	1974-5
Product cost increases, carryover of; contracts entered into on or before September 1, 1974.	1975-16
Propane allocation	1975-14; 1976: -19, -21
Property, def	1974-22; 1975: -2, -4, -27, -42; 1977-1
Refined petroleum products, def	1975-1
Refiner, def	1974-13; 1976-2; 1977-6
Refiner price formula, "V" factor	1975-7
Refinery yield	1976-23
Refunds	1975-12
Rent, def	1975-51
Rent regulations (see also base rent rule)	1975-69
Reporting requirements, refiner	1975-11
Reseller, def	1974-12; 1976-2; 1977-3
Residual fuel oil, def	1975-29
Retailer, def	1974-12; 1976-2
Retaliatory actions	1975-63
Sales by Federal, State and local governments	1974-4; 1975-15
Sanitation services, def	1974-1; 1975-39
Seller, def	1976-8
State tax increase pass-through	1975-18
Stripper well lease exemption	1974: -22, -26; 1975: -4, -10, -41, -43
Supplier, def	1976-23
Supplier/purchaser relationship	1974: -17, -18, -19; 1975: -20, -54; 1976: -13, -14, -18
Supplier substitution	1976-25
Surplus product, purchase of	1974-19; 1975-20
S.N.G. feedstock allocation	1975-34
Temporary discounts on May 15, 1973	1975-6
Transfer pricing	1974-20
Transportation costs to reseller/retailer inventory.	1977-4
United States, def	1975: -8, -26, -46
Unitization	1974-22; 1975: -2, -4, -10, -27
Unleaded gasoline	1976-3
Waste crude oil, reclamation of	1974: -11, -20
Wholesale purchaser-consumer, def	1975: -37, -52
Whole purchaser-reseller, def	1974: -10, -12; 1975-13, -17, -19, -33, -37, -38, -53, -60, -67 -68 -70, -71, -72

APPENDIX B

PARTIAL REGULATORY CROSS-INDEX FOR FEA PRICE INTERPRETATIONS (1974-1 THROUGH 1977-6)

Subpart D—Producers of Crude Oil

1974: -8, -11, -20, -22, -26.
1975: -2, -4, -10, -27, -29, -41 -42 -43.
1976: -4, -16.
1977: -1, -2, -3.

Subpart E—Refiners

1974: -13, -14, -16, -20.
1975: -1, -3, -5, -7, -11, -12, -16, -22, -31, -32, -47, -63, -66.
1976: -1, -2, -4, -9, -10, -17.
1977: -6.

APPENDIX B—Continued

Subpart F—Resellers and Retailers

1974: –5, –7, –12, –14, –23.
1975: –1, –3, –6, –9, –18, –48, –49, –55, –59, –64, –74.
1976: –2, –4, –6, –7, –8, –9.
1977: –3, –4, –6.

APPENDIX C

STATUTES AND FEA RULINGS CONSTRUED BY FEA INTERPRETATIONS

(INTERPRETATIONS 1974–1 THROUGH 1977–6)

FEA rulings:	*FEA Interpretations*
1974–3	1975: –61, –62; 1976–25
1974–4	1975–18
1974–10	1974–16
1974–11	1976–15
1974–15	1975–39
1974–17	1975–66
1974–18	1975: –6, –66; 1976–20
1974–19	1974–15; 1975: –52, –56
1974–20	1974–24
1974–24	1974–28
1974–29	1975: –41, –43
1975–1	1975–74; 1977–4
1975–2	1975: –22, –47, –63, –66; 1976: –1, –20
1975–8	1975: –33, –60, –67, –70, –71, –72; 1976–23
1975–9	1975–74, 1977–4
1975–10	1977–4
1975–12	1975: –41, –43
1975–14	1976–8
1975–15	1975–42
1977–1	1977–1

Statutes	*FEA Interpretations*
Emergency Petroleum Allocation Act of 1973, as amended.	1974: –6, –13, –22; 1975: –1, –15; 1976: –4, –6, –22, –23
Federal Energy Administration Act of 1974	1974–13
Economic Stabilization Act of 1970, as amended	1975–12

[FR Doc.77–15459 Filed 5–26–77;2:34 pm]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 505–R]

AMCO CUSTOM BROKERAGE

Order of Revocation

By letter dated April 21, 1977, Mr. Arthur I. Keegan, Amco Custom Brokerage, 208 South 3rd Street, Philadelphia, Pa. 19106, was advised by the Federal Maritime Commission that Indepedent Ocean Freight Forwarder License No. 505–R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 21, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Amco Custom Brokerage has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 505–R issued to Amco Custom Brokerage be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 505–R be and is hereby revoked effective May 21, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Amco Custom Brokerage.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77–15506 Filed 5–31–77;8:45 am]

[Independent Ocean Freight Forwarder License No. 293]

BARCO INTERNATIONAL CORP.

Order of Revocation

On May 31, 1977, Barco International Corp., 7875 NW. 29th St., Miami, Florida 33148, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 293 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 293 issued to Barco International Corp., be and is hereby revoked effective May 31, 1977 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Barco International Corp.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77–15507 Filed 5–31–77;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and vessels*
01015	A/S Rederiet Odfjell: *Bow Sky.*
01039	Den Norske Amerikalinje A/S: *Bergensfjord.*
01172	H. Clarkson & Co. Ltd.: *Clarkspey.*
01185	Aksjeselskapet Kosmos: *Japana.*
01330	Shell Tankers (U.K.) Ltd.: *Litiopa.*
01935	Partnership between Steamship Co. Svendborg Ltd. and Steam-Co. of 1912 Ltd.: *Karama Maersk.*
02037	Shosen Mitsui Kyakusen K.K.: *Nippon Maru.*
02039	"Gryf" Deep Sea Fishing Co.: *Awior.*
02195	Welsh Ore Carriers Ltd.: *Welsh Voyager.*
02286	China Union Lines Ltd.: *Union Fraternity.*
02287	International Union Lines Ltd.: *Union Beauty.*
02341	Koninlijke Nederlandsche Stoomboot-Maatschappij B.V.: *Hollandia.*
02492	Interstate and Ocean Transport Co.: *Ocean 262.*
02497	Transworld Drilling Co.: *Transworld Rig 61, Transworld Drilling Tender IV.*
02660	Partenreederei MS Inge Kruger-Korrespondentreeder Hans Kruger GMBH: *Inge Kruger.*
02876	Kabushiki Kaisha Hokkaido Gyogyo Kosha: *Kohoku Maru No. 15.*
02958	Kawasaki Kisen K.K.: *Shinanogawa Maru.*
02977	J. Ray McDermott & Co., Inc.: *McDermott Tidelands 015.*
03389	Sanwa Shosen K.K.: *Shinnichi Maru.*
03462	Mitsubishi Koseki Yuso K.K.: *Neptune Diamond.*
03614	A/S Kristian Jebsens Rederi: *Binsnes.*
03735	Penrod Drilling Co.: *Penrod 66, Penrod 68, Penrod 69.*
03893	Skaarup Shipping Corp.: *Feddy.*
03923	Shinwa Kaiun Kaisha Ltd.: *Tobata Maru.*
04012	Lib-Ore Steamship Co., Inc.: *Tarpon.*
04126	Jugolinija Rijeka: *Klek, Tuhobic, Visevica, Zvir, Kastav, Kraljevica, Lovcen, Pionir, Treci Maj, Nikola Tesla, Susak, Drava, Losinj, Opatija, Senj, Bakar, Volosko, Dunav, Hreljin.*
04196	Otto Candies Inc.: *OC–350.*
04276	Rivtow Straits Ltd.: *Rivtow Carrier.*

Certificate No.	Owner/Operator and Vessels
04289---	Dixie Carriers Inc.: *ETT 110, ETT 118.*
04386---	Maritime Co. of the Philippines: *Palawan.*
04394---	Philippine President Lines Inc.: *Ocean Royal.*
04413---	Leif Hoegh & Co. A/S: *Hoegh Marlin, Hoegh Musketeer, Hoegh Mascot, Hoegh Merit.*
04520---	K. K. Ibaragi-Ken Gyogyo Kosha: *Ibaraki Maru.*
04532---	Shohachi Ohuchi: *Taisho Maru No. 15.*
04535---	Eizi Uehara: *Kochi Maru No. 66.*
04542---	Choe Okado: *Chokyu Maru No. 2, Chokyu Maru No. 11, Chokyu Maru No. 25.*
04594---	The Velley Line Co.: *L. J. Sullivan.*
04769---	Texaco Norway A/S: *Texaco Bergen.*
04770---	Texaco Panama Inc.: *Texaco Caribbean.*
05004---	Flowers Transportation Inc.: *Miss KAE-D.*
05204---	Steuart Transportation Co.: *STC-412.*
05239---	Zapata Off-Shore Co.: *Vinegarroon.*
05432---	Lloyd Triestion-Societa Per Azioni Di Navigazione: *Africa, Lloydiana.*
05579---	Black Sea Shipping Co.: *Sovietskiye Profsoyuzy.*
05736---	Flota Cubana De Pesca: *Rio Najasa, Rio Jibacoa.*
05767---	Neptune Orient Lines Ltd.: *Neptune Coral.*
06042---	Luzon Stevedoring Cor.: *Parkin.*
06248---	Commercial Corp. "Sovrybflot": *Antanas Snechkus, Taras Shevchenko.*
06399---	Tokumaru Kaiun K.K.: *Eitoku Maru.*
06429---	Ta Cheng Marine Co., Ltd.: *Great Concert, Great Universe, Great Welfare, Great Fort, Great Success, Great Victory, Great Faith, Great Glory.*
06511---	Associated Shipping Corp. Ltd.: *Eastern Confidence, Camphor.*
06640---	Aomori Prefectural Government: *Aomori Maru.*
06676---	Overseas Maritime Ltd.: *Sachsenhausen.*
06679---	Compania Arrendataria Del Monopolio De Petroleos S.A.: *Calvo Sotelo.*
06806---	Korea Marine Transport Co. Ltd.: *Korean Crystal, Korean Emerald.*
06877---	Societe Francaise De Transports Maritimes: *Sologne.*
06952---	Far East Shipping Co. Ltd.: *Silver Cardinal.*
07235---	A/S Songa: *Lake Anja.*
07360---	Hokuyo Suisan Kabushiki Kaisha: *Hoyo Maru No. 21, Hoyo Maru No. 3, Hoyo Maru No. 2, Hoyo Maru.*
07398---	Tasman Navigation Corp., Ltd.: *Propect.*
07640---	Exxon Co., U.S.A.: *CTCO 185, CTCO 186, H 2008.*
07765---	Tex Barge Inc.: *PC-260-1, PC 1402 B, PC-260-3.*
07816---	Kabushiki Kaisha Kyodogumi: *Sumi Maru 9001.*
07880---	Logicon Inc.: *Logicon 2702, Star Shamrock.*
07942---	Solstad Rederi A/S: *Wolfgang Russ.*
08347---	F.A.M. Flota Argentina Mineralera S.A. De Navegacion C.I.F.M.I.: *Punta Indio.*
08370---	Indiana & Michigan Electric Co.: *Ned C. Sheats, Harold Turner.*
08816---	Marukyu Gyogyo Kabushiki Kaisha: *Fukukyu Maru No. 15, Fukukyu Maru No. 21.*
08827---	P.E. Bentsen A/S: *Anett Bentsen, Susann Bentsen, Gerda Bentsen, Birgitte Bentsen.*
08948---	Veb. Deutfracht Seereederei: *Schwarzheide, Lutzkendorf, Heinersdorf, Schwedt, Grimmen, Wolfen, Zeitz, Grodeitz.*
09137---	Arne Teigens Rederi A/S: *Torasund.*
09329---	Rederikommanditselskabet Steencoasters IV: *Jytte Steen.*
09422---	Inland River Transportation Corp.: *I-51.*
09423---	Teh-Hu Cargocean Management Co. Ltd.: *Spacious.*
09775---	South East Shipping Co. Ltd.: *Central.*
10190---	Union Gulf Marine Co. S.A.: *Union Hong Kong.*
10239---	The Soo River Co.: *H.C. Heimbecker.*
10273---	Namyangsa Co. Ltd.: *Cipsa No. 1, Cipsa No. 2, Cipsa No. 5, Cipsa No. 6.*
10352---	Anglomar Supertankers Ltd.: *Stolt Lion.*
10409---	Oy Gustav Paulig Ab: *Patricia.*
10495---	Shipmair B. V. (Rotterdam): *Passaat Brasil.*
10829---	Egyptian Navigation Co.: *Al Chatby.*
10910---	Naviera Peninsular S.A.: *Azuero Cuatro.*
10962---	Shoei Suisan Kabushiki Kaisha: *Matsuei Maru No. 11.*
11381---	Ulkokaupat Oy: *Kara.*
11394---	Sedco Maritime Inc.: *Sedco 708.*
11492---	Wakamatsu Kaiun Kabushiki Kaisha: *Tensha Maru No 1.*
11611---	Amphitrite Shipping and Trading Corp., S.A: *Petrola's Seamaster 20.*
11638---	SC Deckships 3 Ltd.: *Delicia.*
11667---	Ingram Transportation Co.: *IB 2013 L, IB 1106 B, IB 1107 B, IB 2011 L, IB 2012 T, IB 2014 T, IB 2306 B, IB 2307 B.*
11837---	A/S Havfugl: *Havfalk.*
11873---	Columbia Marine Lines Inc.: *600, 601, 602.*
11880---	The General National Maritime Transport Co.: *Serir, Marsa El Hariga.*
11931---	Mackinnon Mackenzie & Co., Ltd.: *Chanda.*
12051---	Asahi Gyogyo Kabushiki Kaisha: *Asahi Maru No 8.*
12115---	Nippon Kyodo Hogei K.K.: *Syonan Maru, Syonan Maru No. 2, Konan Maru No. 21, Konan Maru No. 22, Konan Maru No. 23, Konan Maru No. 27, Toshi Maru No. 12.*
12180---	Yacintos Shipping Co., S.A.: *Theodoros V.*
12293---	Dimitrios M. Kotsakis: *Northern Frost.*
12335---	United Barge Co.: *Peter Fanchi, Ed Renshaw.*
12372---	Kuma Shipping Corp.: *Zao.*
12399---	K/S Nova Tanker A/S: *Dyvi Nova.*
12405---	Seecon Schiffahrtskontor GmbH: *Julienas, Gigondas, Cornas.*
12422---	Linnet Shipping Co. S.A.: *Linnet.*
12434---	United Arab Shipping Co. (S.A.G.): *Ibn Almoatz, Ibn Sina, Ibn Malik, Ibn Khallikan.*
12459---	Molena Gamma Inc.: *Lorfri.*
12486---	Shing Hwei Fisheries Ltd.: *Shing Hwei No. 16.*
12487---	William Navigation Corp., S.A.: *William.*
12488---	Robert Navigation Corp., S.A.: *Don Roberto.*
12496---	Rederiet for M.S. Pearl Castle: *Pearl Castle.*
12497---	Harrisburg Machine Co.: *MS-1.*
12499---	The G.B.L. Inc.: *Sea Striker.*
12503---	Rederiet Helleskov: *Marie Helleskov.*
12507---	Daewonsa Co. Ltd.: *Dae Soon.*
12514---	Giant Tarzan Marine Corp.: *Giant Tarzan.*
12517---	Navios Marineros Oceanica S.A.: *Theodoti.*
12523---	Caratlan Transport Inc.: *Weyroc.*
12529---	Hoi Loong Navigation Ltd.: *Andros.*
12547---	Madouri Shipping Co., Ltd.: *Madouri.*
12552---	Maxitanks Shipping Inc.: *Vanguard.*
12559---	Golden Dolphin Steamship Inc.: *Golden Dolphin.*
12566---	Loquat Shipping Pte. Ltd.: *Aventicum.*

By The Commission,

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15508 Filed 5-31-77;8:45 am]

PACIFIC WESTBOUND CONFERENCE

Notice of 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 San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 21, 1977. 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 statemen 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:

Edward D. Ransom, Esq., Lillick McHose and Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No. 57-108 amends Article 12(f)(4) of the Pacific Westbound Conference Agreement to provide that the neutral body shall be authorized to assess liquidated damages in an amount not to exceed $120,000 for each breach of the agreement, tariff rates, or rules and regulations. Presently, the agreement provides for a graduated scale of liquidated damages to be assessed in the following respective maximum amounts for the first, second, third, fourth and subsequent breaches, i.e., $20,000, $60,000, $80,000, and $120,000.

By Order of the Federal Maritime Commission.

Dated: May 25, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15504 Filed 5-31-77;8:45 am]

PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND UNIVERSAL MARITIME SERVICE CORP.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 21, 1977. 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 agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Mr. Francis A. Mulhern, Deputy General Counsel, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Agreement No. T-2884-9, between the Port Authority of New York and New Jersey (Port) and Universal Maritime Service Corporation (UMS), modifies the parties' basic agreement providing for UMS' lease of Pier 2 at the Brooklyn Port Authority Marine Terminal to be used as a marine terminal facility. The purpose of the modification is to eliminate the consent of a surety, since the relationship between UMS and the surety has changed.

Agreement No. T-2885-12, between the Port and UMS, modifies the parties' basic agreement providing for UMS' lease of Piers 4 and 5 at the Brooklyn Port Authority Marine Terminal to be used as a marine terminal facility. The purpose of the modification is to eliminate the consent of a surety, since the relationship between UMS and the surety has changed.

By Order of the Federal Maritime Commission.

Dated: May 26, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15505 Filed 5-31-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-365]

ALABAMA POWER CO.

Filing of Initial Rate Schedule

MAY 25, 1977.

Take notice that Alabama Power Company (Alabama) on May 9, 1977 tendered for filing an Agreement with Wiregrass Electric Cooperative, Inc., intended as an initial rate schedule. Alabama indicates that this filing concerns the proposed Webb delivery point of the Wiregrass Electric Cooperative, Inc. and that the delivery point will be served by Alabama's applicable revision to Rate Schedule REA-1 incorporated in FPC Electric Tariff, Original Volume No. 1, as allowed to become effective, subject to refund, by Commission Orders in FPC Docket Nos. E-8851 and ER76-659. Alabama indicates that Wiregrass Electric Cooperative has requested an increase in capacity to 10,000 KVA at 44 KV for its Columbia delivery point.

Alabama states that copies of the filing were served upon Wiregrass Electric Cooperative, Inc., and its Agent, Alabama Electric Cooperative.

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, 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 June 3, 1977. 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.77-15450 Filed 5-31-77;8:45 am]

[Project No. 2792]

CITY OF DELTA, COLO.

Application for Preliminary Permit

MAY 25, 1977.

Public notice is hereby given that an application for preliminary permit was filed on February 22, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by the City of Delta, Colorado (Applicant) (Correspondence to: James Mowbray, Mayor, P.O. Box 19, Delta, Colorado 81416; and J. V. Williamson, Partner, R. W. Beck and Associates, 200 Tower Building, Seattle, Washington 98101) for Project No. 2792 to be known as the Smith Fork Project. Project No. 2792 would be located on the Gunnison River in Delta and Montrose Counties, Colorado and affecting lands of the United States under the jurisdiction of the Bureau of Land Management.

According to the application, the proposed project would consist of: (1) a 275-foot high concrete arch dam located on the Gunnison River approximately 3.5 miles upstream of the confluence of the North Fork and one mile upstream of Smith Fork; (2) a 10.5 mile long reservoir with a normal maximum power pool at approximately elevation 5,425; and (3) a powerhouse located at the downstream toe of the dam containing two generating units with a total capacity of 35,500 kW.

Applicant proposes to use the energy generated by the project to meet its present and anticipated load requirements with any surplus capacity and/or energy being sold to, or exchanged with, electric utilities in the area.

Issuance of a preliminary permit does not authorize construction of the proposed project. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for a license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 8, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., 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 (1976). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15451 Filed 5-31-77;8:45 am]

[Project No. 2795]

CITY OF SEATTLE, WASH.

Application for Preliminary Permit

MAY 25, 1977.

Take notice that an application has been filed on March 29, 1977, under the Federal Power Act, (16 U.S.C. 791a–825r) by the Department of Lighting of the City of Seattle, Washington (Correspondence to: Mr. Gordon F. Vickery, Superintendent of Lighting, the City of Seattle, 1015 Third Avenue, Seattle, Washington 98104) for a preliminary permit for proposed Project No. 2795, to be known as the Copper Creek Project, located on the Skagit River in Skagit and Whatcom Counties, Washington. The project would affect lands of the United States within the Ross Lake National Recreation Area.

The proposed project, to have an installed capacity of 120,000 kW, would consist of a combination earth and rock-filled dam to be situated on the Skagit River approximately 10.4 miles below Gorge Powerhouse (one of the three developments included within Applicant's Skagit River Project, FPC No. 553) and about 83.9 miles above the confluence of the Skagit River with Puget Sound. The dam would be about 180 feet high with a crest length of about 1,900 feet. The full pond elevation of the reservoir would be 495 feet. The project would regulate flows from Applicant's upstream Project No. 553 in addition to producing power. Such additional power would be used by the City of Seattle to supply customers in its existing service area.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 2, 1977. 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 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. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically § 1.32(b) (18 CFR 1.32(b)), (1976), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15452 Filed 5–31–77;8:45 am]

[Docket No. E–9595]

CINCINNATI GAS & ELECTRIC CO. AND UNION LIGHT, HEAT & POWER CO.

Application

MAY 24, 1977.

Take notice that on May 12, 1977, The Cincinnati Gas & Electric Company (CG&E) of Cincinnati, Ohio, and The Union Light, Heat & Power Company (Union) of Covington, Kentucky, filed a joint application pursuant to Section 203 of the Federal Power Act seeking an order authorizing Union to sell and dispose of, and CG&E to purchase, merge and consolidate substantially all of Union's high-voltage electrical transmission lines and appurtenant substation facilities used in the transmission of electrical energy in interstate commerce between various points in and between the states of Ohio and Kentucky.

CG&E and Union indicate that the facilities of Union proposed to be sold to CG&E consists of approximately 110 circuit miles of transmission lines operated at voltages of 69 kV, 138 kV, and 345 kV, and necessary and appurtenant transformation and other substation equipment in six (6) separate substation sites of Union; all such facilities being located in Boone, Kenton, and Campbell Counties of the Commonwealth of Kentucky.

CG&E and Union allege that the facilities involved are presently almost wholly dedicated to interstate transmission of electrical energy by Union for CG&E under rate schedules of Union on file with the Federal Power Commission and are already part of CG&E's generation and high-voltage transmission "power pool".

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, 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 June 1, 1977. 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.77–15431 Filed 5–31–77;8:45 am]

[Docket No. ER77–366]

FLORIDA POWER & LIGHT CO.

New Delivery Point

MAY 24, 1977.

Take notice that on May 11, 1977, Florida Power & Light Company (FP&L) tendered for filing a Substitute Original Sheet No. 22 of Original Volume No. 1 of its FPC Electric Tariff, which provides for a new point of delivery between the Utilities Commission of the City of New Smyrna Beach, Florida-Smyrna Substation and FP&L.

To the extent necessary, FP&L requests that the Commission waive its notice requirements to permit the addition of the new delivery point to become effective as of April 13, 1977.

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 June 1, 1977. 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.77–15445 Filed 5–31–77;8:45 am]

[Docket No. G–16139, etc.]

GULF OIL CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 20, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Com-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

mission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the potestants parties to the poceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-16139..... D 5-12-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Transwestern Pipeline Co. (Alpar (Ronkawa) - Field, Hemphill County, Tex., Panhandle area of Texas).	(2)	.....
CI64-1392..... C 5-12-77	Monsanto Co. (Operator) et al., 5051 Westheimer, 1300 Post Oak Tower, Houston, Tex. 77056.	Lone Star Gas Co. (North Dibble and southeast Boyle area, McClain County, Okla.).	[3] [7] 19.2479¢	14.65
CI74-688..... C 4-27-77	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp. (Block 118, East Cameron area, offshore Louisiana).	[4] [5] [6] $1.4841	15.025
CI77-461..... C 5-9-77	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp. (certain acreage in Myette Point Field, St. Mary Parish, La.).	[7] $1.42	15.025
CI77-463..... B 5-9-77	Sueco Oil Corp., P.O. Box 2356, Tampa, Tex. 79065.	Diamond Shamrock Corp. (Tokkawa Field, Hemphill County, Tex.).	(8)	.....
CI77-464..... A 5-9-77	American Natural Gas Production, 1 Woodward Ave., Detroit, Mich. 48226.	Michigan Wisconsin Pipe Line Co. (Wheeler County, Tex.).	[8] [7] $1.56980	14.65
CI77-465..... A 5-9-77	Belco Development Corp., 2500 First City National Bank Bldg., Houston, Tex. 77002.	Colorado Interstate Gas Co. (Natural Buttes unit area, Uintah County, Utah).	[7] $1.45	14.73
CI77-466..... (CS71-247) (CI67-1363) E 5-5-77	Thomas C. Hoffpauir (successor to Dow Chemical Co.), Route 1, Box 12, Lake Arthur, La.	Michigan Wisconsin Pipeline Co. (southwest Lake Arthur Field, Cameron Parish, La.).	[9] [10] [11] 26.15¢	15.025
CI77-467..... B 5-9-77	Gas Producing Enterprises, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	Florida Gas Transmission Co. (State Tract 120, offshore Texas).	(8)	.....
CI77-468..... A 5-10-77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co. (Manary "A" No. 1 Well, North Richland Center Field, Texas County, Okla.).	[8] [7] $1.44	14.73
CI77-469..... A 5-11-77	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America (Block 305 Field, Eugene Island area, Federal offshore, Louisiana).	[7] 146.50¢	14.73
CI77-470..... (CI61-11) B 5-11-77	Edwin L. Cox, 3800 First National Bank Bldg., Dallas, Tex. 75202.	Penton & Penton (Gordon Field, Beauregard Parish, La.).	(12)	.....
CI77-471..... 5-11-77 A	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Columbia Gas Transmission Corp. (Wright Field, Vermilion Parish, La.).	[7] 190.00¢	15.025
CI77-472..... 5-9-77 A	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Northern Natural Gas Co. (undesignated field (Chester) Clark County, Kans.).	$1.45	14.73
CI77-473..... 5-9-77 B	Kewanee Oil Co., P.O. Box 2289, Tulsa, Okla. 74101.	Zenith Natural Gas Co. (Medicine Lodge Field, Barber County, Kans.).	(8)	.....
CI77-474..... (CI61-1542) 5-11-77 E	Big Lake Gas Corp. (Successor to Pecos Co.), 700 Praetorian Bldg., 1607 Main St., Dallas, Tex. 75201.	El Paso Natural Gas Co. (Barnhart (Big Lake) gas processing plant, Reagan County, Tex.).	[8] [13] 58.8023¢	14.65
CI77-475..... (CS74-370) 4-27-77 [14]	Robert L. Haynie, 1700 Broadway, Denver, Colo. 80290.	Northwest Pipeline Corp. (LaPlata County, Colo.).	.....	.....
CI77-476..... (CS71-179) 5-12-77 B	Herman Geo. Kaiser, 4120 East 51st, Tulsa, Okla. 74135.	Panhandle Eastern Pipe Line Co. (Tangier Field, Woodward County, Okla.).	(8)	.....
CI77-477..... 5-12-77 B	Herman Geo. Kaiser.....	Northern Natural Gas Co. (Tangier Field, Woodward County, Okla.).	(8)	.....
CI77-478..... 5-11-77 A	Tenneco Exploration II, Ltd., P.O. Box 2511, Houston Tex. 77001.	Tenneco Oil Co. (South Timbalier Blocks 36 and 37, offshore Louisiana).	[8] [15] 96.9025¢ 148.9239¢	15.025
CI77-479..... 5-11-77 A	Tenneco Exploration, Ltd.....	do.....	[8] [15] 96.9025¢ 148.9239¢	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 3,000 ft³	Pressure base
CI77-480..... 5-11-77 A	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co. (C. Killebrew No. 2 Well, sec. 219, Block 42, H. & T.C. Survey, Roberts County, Tex.).	[7] $1.45	14.73
CI77-481..... 5-11-77 A	Tenneco Oil Co.....	Tennessee Gas Pipeline Co. (South Timbalier Blocks 36 and 37, offshore Louisiana).	[8] [7] 96.9025 148.9239	15.025
CI77-482..... 5-12-77 B	do.....	Natural Gas Pipeline Co. of America (Lenora Field, Dewey County, Okla.).	[12]	.....
CI77-483..... 5-12-77 A	CIG Exploration, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co. (Natural Buttes Unit, Uintah County, Utah).	[3] [7] $1.5475	14.65
CI77-484..... 5-13-77 A	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Transwestern Pipeline Co. (West Atoka Field, Eddy County, N. Mex.).	[7] $1.442125	14.65
CI77-485..... 5-13-77 A	Southland Royalty Co., 1600 First National Bldg., Fort Worth, Tex. 76102.	Michigan Wisconsin Pipeline Co. (Mary Cannon No. 1 Well, sec. 20, township 24 north, Range 24 West, Ellis County, Okla.).	[7] 144.2134¢	14.65

[1] Released from contract due to low pressure and small volume.
[2] Subject to periodic escalations.
[3] Includes Tax reimbursement.
[4] Plus 2¢ yearly escalation.
[5] Applicant and Purchaser are affiliated.
[6] Subject to upward and downward Btu adjustments.
[7] Applicant proposes to collect the applicable national rate as prescribed in opinion No. 770-A, subject to adjustments contained therein.
[8] Uneconomical.
[9] Subject to downward Btu adjustments.
[10] Plus 1¢ quarterly escalations.
[11] If buyer installs compression, price reduced a maximum of 2¢ per 1,000 ft³.
[12] Well plugged and abandoned.
[13] Gathering allowance equals 1.4914¢ at 14.73/in²a.
[14] Applicant filing to continue sale of gas to a pipeline previously made under a contract which has expired by its own terms, and covered by Applicant's small producer certificate in Docket No. CS74-370. Applicant believes that this filing is not necessary, but the purchaser has indicated that this filing is necessary.

[FR Doc.77-15153 Filed 5-31-77;8:45 am]

[Docket No. CS77-386, etc.]

HOLLY ENERGY, INC., ET AL.

Applications for "Small Producer" Certificates [1]

MAY 19, 1977.

Take notice the each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No., Date Filed, and Applicant

CS77-386, Mar. 10, 1977, Holly Energy, Inc., 2001 Bryan Tower, Suite 2680, Dallas, Texas 75201.
CS77-387, Mar. 10, 1977, Armclar Gas Company, RD No. 1 Box 49, New Bethlehem, Pennsylvania 16242.
CS77-388, Mar. 11, 1977, R. H. Feuille, 11th Floor, El Paso National Bank Bldg., El Paso, Texas 79901.
CS77-389, Mar. 11, 1977, Indian Arrowhead Oil, Inc., 1140 N.W. 63rd, Suite 400, Oklahoma City, Oklahoma 73116.
CS77-390, Mar. 14, 1977, Franzheim Investment Company, (A Grantor Trust), 2370 The Transco Tower, Houston, Texas 77056.
CS77-391, Mar. 14, 1977, A. De Quevedo, 1211 North Shartel, Oklahoma City, Oklahoma 73103.
CS77-392, Mar. 14, 1977, A. Z. Skeeters & W. C. Curry, et al. P.O. Box 1528, Longview, Texas 75601.
CS77-393, Mar. 14, 1977, Barbara Kelley Joste, Grantor's Trust, 2 Houston Center, Suite 800, Houston, Texas 77002.
CS77-394, Mar. 14, 1977, John H. Hendrix Corporation, P.O. Box 82, Midland, Texas 79702.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.77-15152 Filed 5-31-77;8:45 am]

[Docket No. ER77-381]

KANSAS POWER & LIGHT CO.

Proposed Changes in Rates

MAY 24, 1977.

Take notice that Kansas Power and Light Company (Kansas) on May 16, 1977, tendered for filing an Amendment dated April 21, 1977, to a Contract dated September 21, 1973, with Leavenworth-Jefferson Electric Cooperative, Inc. for wholesale service to that cooperative. Kansas indicates that this Contract dated September 21, 1973, has been designated KPL Rate Schedule FPC No. 157. Kansas further indicates that the Amendment to this Contract will provide for a change in the maximum capacities of four delivery points, and the addition of a new delivery point.

Kansas requests that the Commission waive its notice requirements and allow an effective date of April 21, 1977.

Kansas states that copies of the Amendment have been mailed to Leavenworth-Jefferson Electric Cooperative, Inc. and the State Commission of Kansas.

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 and 1.10). All such petitions or protests should be filed on or before June 3, 1977. 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.77-15443 Filed 5-31-77;8:45 am]

[Docket No. ID-1473]

LELAN F. SILLIN, JR.

Application

MAY 25, 1977.

Take notice that on May 16, 1977, Lelan F. Sillin, Jr., Chairman, President and Trustee of Northeast Utilities and Chairman of the Board, President and Director of Northeast Utilities Service Company, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President, The Connecticut Light and Power Company, Public Utility.
President, The Hartford Electric Light Company, Public Utility.
President, Western Massachusetts Electric Company, Public Utility.

President, Holyoke Water Power Company, Public Utility.
President, Holyoke Power and Electric Company, Public Utility.

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 June 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. 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. 77-15454 Filed 5-31-77;8:45 am]

[Docket No. CP77-386]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

MAY 24, 1977.

Take notice that on May 16, 1977, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP77-386 an application pursuant to Section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operation of facilities which are necessary to connect to its existing offshore gathering system, gas reserves underlying Eugene Island Area Blocks 307 and 327, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application indicates that as a result of active drilling and development programs in offshore Louisiana, proven reserves of approximately 57 Bcf have been developed in Eugene Island Area Block 307, and proven reserves of approximately 32 Bcf have been developed in Eugene Island Area Block 327. In addition, potential reserves underlying Blocks 307 and 327 are projected to be in the magnitude of 25 Bcf and 38 Bcf, respectively.

Applicant states that it has acquired the preferential right to purchase all gas produced in Block 307 attributable to Atlantic Richfield Company's 25 percent interest, and the contractual right to purchase all of the gas attributable to Cities Service Oil Company's (Cities) 25 percent interest. Moreover, Continental Oil Company (Conoco) has agreed to sell to Applicant all of the gas attributable to Conoco's 25 percent interest in Block 307 pursuant to a contract which is currently being finalized and which will be in substantially the same form as the contract with Cities. Applicant further states that it has acquired the right to purchase all gas produced in Block 327 attributable to each of American Natural Gas Production Company's (Production Company) 27.5 percent interest, Dow Chemical Company's (Dow) 10 percent interest, and Energy Reserves Group, Inc.'s (Energy Group) 13.77 percent interest.

Applicant states to connect the reserves underlying Block 327, that it proposes by the instant application to construct approximately 9 miles of 16" O.D. pipeline extending between the Block 327 production platform and the southerly terminus of its existing offshore gathering system in Eugene Island Area Block 296. Moreover, to connect the reserves underlying Block 307, Applicant further proposes by the instant application to construct approximately 6 miles of 16" O.D. pipeline extending laterally between the Block 307 production platform and the aforementioned proposed 16" extension. In conjunction with the pipeline facilities, Applicant also proposes to install and operate gas measurement facilities on both the Block 327 and Block 307 production platforms, and cause to have installed 400 horsepower of compression on the Block 307 production platform. The 400 horsepower of compression, including associated appurtenances, will be wholly owned by Applicant but designed, installed, and operated by Conoco on Applicant's behalf and subject to Applicant's approval as to design, material and construction specifications, construction drawings, and equipment selections. The arrangement is set forth in a Construction and Operating Agreement between Applicant and Conoco dated March 30, 1977.

The application indicates that the facilities for which authorization is requested are estimated to cost $15,356,680. Applicant states that it contemplates that the $15,356,680 will be financed with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short-term lines of credit as may be required.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 15, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15444 Filed 5-31-77;8:45 am]

[Docket Nos. CP77-106; CP77-131]

MISSISSIPPI RIVER TRANSMISSION CO. AND NATURAL GAS PIPE LINE CO. OF AMERICA

Order Setting Date for Hearing, Consolidating Proceedings, and Granting Interventions

MAY 24, 1977.

On December 22, 1976 Mississippi River Transmission Corporation (MRT) filed in Docket No. CP77-106 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities for the sale of natural gas. MRT requests authorization to construct and operate approximately 12.3 miles of six-inch trunk pipe line running from a point in the Little Washita area, Grady County, Oklahoma, to a point of connection with an existing eight-inch pipe line of Natural in Grady County, Oklahoma. MRT also requests authorization to sell natural gas to Natural Gas Pipe Line Company of America (Natural) in accordance with the provisions of a November 18, 1976, Gas Transportation Sales Agreement between Natural and MRT.

MRT states that it would deliver gas from the Little Washita area to Natural at a side tap to be installed by Natural on its eight-inch Chitwood pipe line in Grady County. It is further stated that the maximum volume of gas which Natural is obligated to receive at the point receipt is 15,000 Mcf per day. Natural would redeliver to MRT at an existing gas sales point in Clinton County, Illinois, or at MRT's option at an existing point of interconnection in Randolph County, Arkansas, 75 percent of the volumes of gas delivered by MRT to Natural at the point of receipt in Grady County, and the remaining 25 percent of the volumes would be sold to Natural. MRT states that for the transportation service to be performed by Natural, MRT would pay Natural 15 cents per Mcf of gas redelivered. It is further stated that MRT would sell to Natural 25 percent of the volumes delivered at the point of receipt in Grady County, at a price equal to the product of the volume of such gas times the volume-weighted average purchase price per Mcf paid by MRT for such gas. The estimated initial price

which MRT would charge for gas sold to Natural would be $1.54 per Mcf.

MRT states that the total estimated cost of the six-inch trunkline and appurtenant facilities is $645,000. MRT indicates that this cost would be financed initially from available funds and/or short-term borrowings. Any gathering facilities required to be installed by MRT in order to effectuate this proposal would be constructed under applicant's budget-type authorization for gas purchase facilities.

On January 19, 1977, Natural filed in Docket No. CP77–131 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf per day of natural gas for MRT and the construction and operation of facilities to effectuate such transportation. Natural proposes to construct and operate an additional eight-inch measuring facility at its Grady County, Oklahoma, installation in order to implement the transportation service; and it states that no additional facilities would be required at the Clinton County, Illinois, or Randolph County, Arkansas, delivery points. Natural further states that the cost of additional measuring facilities would be approximately $29,000 and would be financed from funds on hand.

Natural states that the subject transportation and sales arrangement would be beneficial to it in that gas retained for the purchase by Natural would augment Natural's overall gas reserves to the benefit of all its customers, and would have no effect on any other sales or services now rendered by Natural.

We feel these applications present both sides of the same project and similar aspects of the same question: reasonable rates for gas transported by displacement, and we therefore feel that the public interest would be served most expeditiously by the consolidation of these matters for hearing. At such time the applicants should make an affirmative showing of their actual costs and the proposed disposition of the revenues.

After due notice of the application in Docket No. CP77–106 by publication in the FEDERAL REGISTER on January 24, 1977 (42 FR 4200) and in Docket No. CP77–131 on February 8, 1977 (42 FR 7992), MRT filed a timely petition to intervene in Docket No. CP77–131, and a petition for leave to intervene out of time was filed in Docket No. CP77–106 by the Illinois Power Company. No other interventions or petitions for leave to intervene have been filed in the subject application.

The Commission finds. (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved herein and the issues presented in these proceedings as hereinbefore described.

(2) The public convenience and necessity warrants the consolidation of Docket Nos. CP77–106 and CP77–131.

(3) Participation in these proceedings by the aforementioned intervenors may be in the public interest. Permitting the filing of late petitions to intervene will not delay the proceedings and may be in the public interest.

The Commission orders. (A) The proceedings in Docket Nos. CP77–106 and CP77–131 are consolidated and set for hearing and disposition.

(B) Pursuant to the Natural Gas Act, particulary Section 4, 5, and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part D), and the Regulations under the Natural Gas Act (18 CFR, Chapter 1, Subchapter (E)), a pre-hearing conference shall be held on June 2, 1977, commencing at 10 o'clock a.m. in a hearing room of the Federal Power Commission, 826 North Capitol Street NE., Washington, D.C. 20426, to discuss procedural issues and the clarification of issues.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the pre-hearing conference in this proceeding with authority to establish and change all procedural dates, and to rule on all motions (with the sole exceptions of petitions to intervene, motions to consolidate or sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The direct case of Applicants Natural and MRT, including testimony on the issues raised by this Order, shall be filed and served on all parties, the Presiding Administrative Law Judge, and the Commission Staff on or before June 17, 1977. All supporting Intervenors shall file testimony and exhibits comprising their cases-in-chief on or before June 27, 1977. Similarly, opposing Intervenors and Staff may file their testimony on or before July 11, 1977, and should said filing give rise to the need for Natural or MRT or supporting Intervenors to file in rebuttal, the same shall be done on or before July 15, 1977.

(E) The aforementioned are permitted to intervene in the instant proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That such participation by the Intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *provided, further,* That the admission of such Intervenors shall be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in the proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15455 Filed 5–31–77;8:45 am]

[Docket No. ER77–376]

MONTAUP ELECTRIC CO.

Tariff Change

MAY 25, 1977.

Take notice that Montaup Electric Company ("Montaup"), on May 17, 1977, tendered for filing an amended Exhibit A to Supplement No. 8 to Montaup's Rate Schedule FPC No. 36 for service to the Middleboro Municipal Gas and Electric Department ("Middleboro"). Montaup indicates that the amendment will, on an annual basis, increase by $7,032,000 the charge paid by Middleboro for non-firm transmission service over the 115 kV radial line connecting Montaup and Middleboro.

Montaup states that the existing charge to Middleboro is based on 1975 costs. Montaup further states that the amended Exhibit A is based on 1976 costs. Montaup has requested a waiver of the Commission's notice requirements to allow a January 1, 1977, effective date for the new rate.

Montaup indicates that copies of the filing have been served on Middleboro and the Massachusetts Department of Public Service.

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 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 June 8, 1977. 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.77–15449 Filed 5–31–77;8:45 am]

[Docket No. ER77–253]

NIAGARA MOHAWK CORP.

Tariff Filing

MAY 25, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara), on May 18, 1977, tendered for filing proposed changes in Rate Schedule R–1 of its FPC Electric Tariff, Original Volume No. 1. Niagara indicates that the proposed changes would increase revenues from jurisdictional sales and service by $36,747 based on the 12 month period ending December 30, 1976.

Niagara states that the increase is necessary to make the charges contained in Rate Schedule R–1 comparable to Niagara's other rates charged to customers who have requirements of a magnitude similar to those serviced by this tariff.

Niagara further states that copies of the filing have been served upon the Village of Green Island, New York, the only customer presently served under this tariff.

Any person desiring to be heard or to protest said application 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 pro-

cedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1977. 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.77-15448 Filed 5-31-77;8:45 am]

[Docket No. ER77-372]

PACIFIC POWER & LIGHT CO.

Filing of Revised Exhibit

MAY 24, 1977.

Take notice that Pacific Power & Light Company (Pacific) on May 11, 1977, tendered for filing, in accordance with Section 35 of the Commission's Regulations, Revision No. 1 of Exhibit A, to Pacific's Rate Schedule FPC No. 123. Pacific indicates that Rate Schedule FPC No. 123 provides for transmission service to Tri-State Generation and Transmission Association, Inc. (Tri-State). Pacific also indicates that Exhibit A, in accordance with the terms of the rate schedule, is revised annually by Tri-State and approved by Pacific, specifying amounts to be transferred for the fourth year of the commitment period.

Pacific requests waiver of the Commission's notice requirements to permit the Exhibit to become effective on February 1, 1977, which Pacific claims is the date of commencement of service. Pacific also claims that the waiver will have no effect upon purchasers under other rate schedules.

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 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 June 1, 1977. Protests will be considered by the Commission in determining thet 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.77-15447 Filed 5-31-77;8:45 am]

[Docket No. ER77-238]

PUBLIC SERVICE CO. OF OKLAHOMA

Capacity Sale

MAY 25, 1977.

Take notice that Public Service Company of Oklahoma (PSO) tendered for filing on April 29, 1977, a letter agreement Supplement to Rate Schedule FPC No. 181 with The Empire District Electric Company (EDE). PSO indicates that the proposed Supplement provides for the sale by PSO of 50 MW of capacity from its Riverside Station Unit No. 1 to EDE during the 12-month period beginning June 1, 1977, and ending May 31, 1978.

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 June 3, 1977. 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.77-15453 Filed 5-31-77;8:45 am]

[Docket No. E-9592]

ROSCOE E. DEAN, JR., AND WILLIAM D. LOVIN v. GEORGIA POWER CO.

Complaint and Request for Institution of Investigation

MAY 23, 1977.

Take notice that Roscoe E. Dean, Jr., and William D. Lovin on April 11, 1977, tendered for filing a Complaint alleging illegal activities on the part of Georgia Power Company and requesting that the Federal Power Commission institute an investigation into said company. The Complaint alleges that kickbacks, thefts, frauds and other illegal activities have occurred at Georgia Power Plant Hatch in Baxley, Georgia, and also have occurred at other power plants owned by the Georgia Power 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 and 1.10). All such petitions or protests should be filed on or before June 22, 1977. 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.77-15446 Filed 5-31-77;8:45 am]

[Docket Nos. CS66-96, etc.]

SABINE PRODUCTION CO. ET AL.

Applications for Small Producer Certificates [1]

MAY 19, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No., Date filed, and Applicant

CS66-96, May 10, 1977, Sabine Production Company, 1200 Mercantile Bank Building, Dallas, Texas 75201.
CS74-168, November 26, 1976, L&M Oil Company,[2] P.O. Box 9077, Canton, Ohio 44711.
CS77-527, May 9, 1977, Michael H. Shelby, 6116 N. Central Expressway, Suite 922, Dallas, Texas 75206.
CS77-528, May 9, 1977, W. P. Properties Corporation, P.O. Box 2250, Denver, Colorado 80201.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

CS77-529, May 9, 1977, Harmon Oil and Gas Company, 2625 Fresno Place, Fort Smith, Arkansas 72901.
CS77-530, May 9, 1977, Texlan Oil Company, Inc., 3821 Old Bullard Road, Tyler, Texas 75701.
CS77-531, May 9, 1977, Kathryn McCormick, 2905 San Pablo NE., Albuquerque, New Mexico 87110.
CS77-532, May 9, 1977, GBK 1972 B, 301 Little Building, Ardmore, Oklahoma 73401.
CS77-533, May 9, 1977, E. Dean Thornton, Box 5041, Midland, Texas 79701.
CS77-534, May 9, 1977, Lee Duncan, P.O. Box 12828, Dallas, Texas 75225.
CS77-535, May 9, 1977, GBK 1976.
CS77-536, May 9, 1977, William C. Doenges, P.O. Box Z, Bartlesville, Oklahoma 74003.
CS77-537, May 6, 1977, Wilson Estates, 826 Union Center Building, Wichita, Kansas 67202.
CS77-538, May 11, 1977, Robert L. Hadwiger and William A. Hadwiger, Drawer H, Alva, Oklahoma 73717.
CS77-539, May 12, 1977, Charles E. Branham, 2550 Liberty Tower, Oklahoma City, Oklahoma 73102.
CS77-540, May 13, 1977, Patrick J. Hannifin, Quarters E., Washington Navy Yard, Washington, D.C. 20374.
CS77-541, May 13, 1977, Tom F. Marsh, Operator, P.O. Box 1746, Amarillo, Texas 79105.
CS77-542, May 16, 1977, N.Y. Petrominco, Inc., 339 Bloomfield Avenue, Caldwell, New Jersey.
CS77-543, May 16, 1977, M&R Properties, Box 776, Pampa, Texas 79065.

[FR Doc.77-15150 Filed 5-31-77;8:45 am]

[Docket No. CI61-1265, etc.]

SUPRON ENERGY CORP.

Application

MAY 20, 1977.

Take notice that on May 11, 1977, Supron Energy Corporation, Suite 1700, Campbell Centre, 8350 North Central Expressway, Dallas, Texas 75206, filed an application in Docket Nos. CI61-1265, et al., for a certificate of public convenience and necessity to render service previously authorized by the Commission in certificates of public convenience and necessity issued to Southern Union Production Company. Supron Energy Corporation also filed for a Certificate of Adoption and Request for Redesignation of Southern Union Production Company Rate Schedules. The application is the result of the transfer of oil and gas properties by Southern Union Production Company to Supron Energy Corporation, effective April 18, 1977.[1]

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

EXHIBIT "A"

Docket Numbers in Which Certificates Were Issued to Southern Union Production Company, Buyer, and Southern Union production Company, Rate Schedule Number

CI-61-1265, Southern Union Gathering Company, 3 and 6.
CI-61-1265, El Paso Natural Gas Company, 1 and 2.
CI-61-1266, El Paso Natural Gas Company, 8.
CI-61-1267, El Paso Natural Gas Company, 5.
CI-61-1268, El Paso Natural Gas Company, 7.
CI-64-282, El Paso Natural Gas Company, 10.
CI-64-935, Michigan Wisconsin Pipeline Company, 11.
CI-65-26, Champlin Oil & Refining Company, 12.
CI-65-263, Northern Natural Gas Company, 13.
CI-65-472, Michigan Wisconsin Pipeline Company, 14.
CI-65-767, El Paso Natural Gas Company, 15.
CI-65-767, Northwest Pipeline Corporation, 33.
CI-65-846, El Paso Natural Gas Company, 16.
CI-66-403, Arkansas Louisiana Gas Company, 17.
CI-66-772, Arkansas Louisiana Gas Company, 18.
CI-66-1003, Michigan Wisconsin Pipeline Company, 19.
CI-66-1346, Michigan Wisconsin Pipeline Company, 20.
CI-67-195, El Paso Natural Gas Company, 22.
CI-67-304, Southern Union Gathering Company, 21.
CI-68-679, El Paso Natural Gas Company, 24.
CI-68-1107, Western Gas Interstate Company, 25.
CI-69-1163, Arkansas Louisiana Gas Company, 26.
CI-73-605, Arkansas Louisiana Gas Company, 32.
CI-75-136, Arkansas Louisiana Gas Company, 34.
CI-77-314, El Paso Natural Gas Company,[1] 35.

[1] L&M Exploration is the successor to the L&M Oil Company.
[1] See Exhibit A for a list of the rate schedules and certificates involved.

[1] Application is pending, but certificate has not yet been granted in this docket.

FPC PROCEEDINGS IN WHICH SOUTHERN UNION PRODUCTION COMPANY IS A PARTICIPANT

National Rate Proceedings	*Rate Suspension Dockets*
RM75-14	RI74-77.
RM77-13	RI74-134.
	RI74-151.
	RI74-209.
	RI75-102.
	RI75-105.
	RI76-93.

[FR Doc.77-15151 Filed 5-31-77;8:45 am]

[Docket Nos. ER76-303 and ER76-399]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Approving Settlement

MAY 25, 1977.

On December 15, 1976, the Presiding Administrative Law Judge in these proceedings certified to the Commission the proposed settlement agreement together with the record. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Docket No. ER76-303 was initiated on November 28, 1975, when Wisconsin Electric Power Company (WEPCO) and its wholly-owned subsidiary Wisconsin Michigan Power Company (WMPCO) jointly tendered for filing increased rates affecting 16 municipalities, 3 rural electric cooperatives, and one investor-owned utility.[1] On December 29, 1975, WMPCO submitted for filing, in Docket No. ER76-399, increased rates for the Cities of Kaukauna and Menasha, two electrically interconnected municipal utilities acting in concert as a single customer. The two filings proposed a total rate increase of $3,496,000. By orders issued December 31, 1975 and January 30, 1976, the Commission accepted the proposed rates for filing with an effective date, subject to refund, of March 1, 1976 for ER76-303 and May 1, 1976 for ER76-399. By order issued on March 22, 1976, the Commission consolidated the subject dockets for hearing and decision.

Under the proposed settlement, joined by all parties, the rate increase would be reduced to $2,072,000 based on the same test year, the 70 percent demand ratchet would be eliminated from the rate in Docket No. ER76-303, and there would be a moratorium on rate changes effective before January 1, 1978. The Staff top sheet supports the increase of $2.07 million based on an allowable rate of return of 8.78 percent including 12.25 percent on common equity. The settlement agreement does not resolve the Sierra-Mobile[2] issues relating to the cit-

[1] The cities and villages of Cedarburg, Clintonville, Deerfield, Elkhorn, Florence, Hartford, Jefferson, Kiel, Lake Mills, New London, Oconomowoc, Oconto Falls, Shawano, Slinger and Waterloo Wisconsin and Crystal Falls, Michigan; Alger Delta Cooperative Elec. Association, Oconto Electric Cooperative, and Ontonagan County REA; Upper Peninsula Power Company.
[2] *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Co.* v. *Mobile Gas Corp.*, 350 U.S. 332 (1956).

ies of Florence, Kaukauna, New London, and Shawano, which are reserved for decision by the Commission [2] and the courts.[3]

Public notice of the proposed settlement was issued on January 1, 1977. Both the Customers and Staff filed comments supporting the agreement. No other comments were received.

The Commission finds. The proposed settlement agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders. (A) The settlement agreement certified to the Commission in these proceedings on December 15, 1976, is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, WEPCO and WMPCO shall file with the Commission revised tariff sheets and rate schedules in conformance with the settlement agreement.

(C) Within 30 days after the compliance rate filings are accepted for filing, WEPCO and WMPCO shall refund amounts collected in excess of the settlement rates with interest computed at 9 percent per annum.

(D) Within 15 days after refunds, have been made, WEPCO and WMPCO shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly revenue refund; and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) The rates to the Cities of Florence, Kaukauna, New London, and Shawano, which involve the reserved Sierra-Mobile issues, are subject to the final determination of those issues by the Commission and the courts.

(F) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against WEPCO or WMPCO or any person or party.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15430 Filed 5-31-77;8:45 am]

[2] The Cities of Florence, New London and Shawano, Wisconsin, on July 14, 1976 moved for reconsideration of the Commission order dated February 9, 1976, with respect to the Sierra-Mobile issue. The Commission issued a Notice of Intention to Act on October 8, 1976, and, on April 29, 1977, the Commission issued an Order on Reconsideration directing WMPCO to file a revised tariff in conformance with the Commission's determination of the Sierra-Mobile issue.

[3] The Commission's denial of Kaukauna's motion for rehearing with respect to the Sierra-Mobile issue (by Order dated April 30, 1976) is being appealed in the USCA, D.C. Circuit 76-1561.

[Docket No. ER77-375]

GULF STATES UTILITIES CO.

Cancellations

MAY 26, 1977.

Take notice that Gulf States Utilities Company (GSU) on May 13, 1977 tendered for filing six (6) notices of cancellation pursuant to Section 35.15 of the Commission's Regulations. GSU requests waiver of the notice requirements of Section 35.15 that notices of cancellations are to be filed not more than ninety (90) days prior to the dates of termination. GSU tenders notices of cancellation of the following agreements:

Agreement for Electric Service between GSU and the City of Liberty, Texas, dated December 10, 1963, as amended, designated Rate Schedule FPC No. 96

Agreement for Electric Service between GSU and the City of Vinton, Louisiana, dated December 1, 1935, as amended, designated Rate Schedule FPC No. 24

Agreement for Electric Service between GSU and the City of Jasper, Texas, dated January 4, 1963, as amended, designated Rate Schedule FPC No. 95

Agreement for Electric Service between GSU and the City of Livingston, Texas, dated February 20, 1953, as amended, designated Rate Schedule FPC No. 86

Agreement for Electric Service between GSU and Sam Houston Electric Cooperative, Inc., dated May 25, 1950, as amended, designated Rate Schedule FPC No. 69

Agreement for Electric Service between GSU and Jasper-Newton Electric Cooperative, Inc., dated May 25, 1950, as amended, designated Rate Schedule FPC No. 71

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 and 1.10). All such petitions or protests should be filed on or before June 7, 1977. 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.77-15702 Filed 5-31-77;12:03 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 17]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending April 23, 1977

ACTIONS OF THE BOARD

Purchase of a computer by the Minneapolis Federal Reserve Bank.

Equitable Company of Texas, a wholly-owned subsidiary of Mercantile Texas Corporation, Dallas, Texas, extension of time to June 2, 1977, within which to divest of shares of Liquidonics Industries, Inc.[1]

Millikin Bancshares, Inc., Decatur, Illinois, extension of time to August 5, 1977, within which to become a bank holding company through the acquistion of 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The Millikin National Bank of Decatur, Illinois.[1]

Utah Bancorporation, Salt Lake City, Utah, extension of time to July 21, 1977, within which to acquire shares of Utah Valley Bank, Orem, Utah, in addition to an extension of time to January 21, 1978, within which Utah Valley Bank must open for business.[1]

Citizens Bank and Trust Company, Campbellsville, Kentucky, to make an additional investment in bank premises.[1]

Elberfeld State Bank, Elberfeld, Indiana, to make an additional investment in bank premises.[1]

United California Bank, Los Angeles, California, extension of time to December 21, 1977, within which to establish a branch in the vicinity of the southeast corner of the intersection of Carillo and Castillo Streets, City of Santa Barabara, California.[1]

Commerce Bank of Kirkwood, Kirkwood, Missouri, extension of time to October 12, 1977, within which to complete the sale of subordinated capital notes to the public.[1]

Citibank, N.A., New York, New York, extension of time within which to establish a branch in Hodeida, Yemen Arab Republic.[1]

Anchor Savings Bank, Brooklyn, New York, proposed merger with North New York Savings Bank, White Plains, New York, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Bank of Virginia-Southwest, Bistol, Virginia, proposed merger with Bank of Virginia, N.A., Roanoke, Virginia, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Second National Bank of Decatur, Decatur, Illinois, proposed merger with The Millikin National Bank of Decatur, Decatur, Illinois, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Northern Trust Company, Chicago, Illinois. Branch to be established at 118-120 East Oak Street, Chicago, Illinois.[2]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

Alexandria Bank Company, Alexandria, Ohio. Branch to be established at 8200 East Main Street, Reynoldsburg, Licking County.[2]

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

United California Bank: Branch—Manila, Republic of the Philippines.

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bank of America: Investment—additional in Banca Per Finanziamenti a Medio a Lungo Termine S.P.A. (Interbanca), Milan, Italy.

Mellon International Finance Corporation: Investment—to acquire 3.18 per cent of the shares of Development & Investment Bank of Iran, Tehran.

Bamerical International Financial Corporation: to continue to hold the shares of Finamerica Paraguaya S.A., Asuncion, Paraguay after the latter issues debt obligations.

Bamerical International Financial Corporation: to continue to hold the shares of Bamerical Mortgage and Finance Co., Inc., Hato Rey, Puerto Rico, after the latter issues debt obligations.

* * * * *

To Withdraw from Membership in the Federal Reserve System Without a Six-Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

DENIED

Home State Bank, Trent, Texas.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Baylake Corp., Sturgeon Bay, Wisconsin, for approval to acquire 80 per cent or more of the voting shares of Bank of Sturgeon Bay, Sturgeon Bay, Wisconsin.[2]

Wilber Co., Wilber, Nebraska, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Saline State Bank, Wilber, Nebraska.

Yoakum County Bancshares, Inc., Denver City, Texas, for approval to acquire 96.04 per cent of the voting shares (less directors' qualifying shares) of Yoakum County State Bank, Denver City, Texas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

First Bankers Corporation of Florida, Pompano Beach, Florida, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Winter Garden, Winter Garden, Florida.[2]

Chemical Financial Corporation, Midland, Michigan, for approval to acquire 100 per cent of the voting shares of The Au Gres State Bank, Au Gres, Michigan.[2]

Valley Bancorporation, Appleton, Wisconsin, for approval to acquire 80 per cent or more of the voting shares of The Brownsville State Bank, Brownsville, Wisconsin.[2]

Woodford Bancorporation, Inc., El Paso, Illinois, for approval to acquire an additional 1,000 shares of the voting shares of Woodford County Bank, El Paso, Illinois.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

REACTIVATED

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (acting as insurance agent or broker in offices at which Bancorp or its subsidiaries are otherwise engaged in business (or in offices adjacent thereto) with respect to the following types of insurance: credit life insurance and credit health and accident insurance pursuant to group policies in connection with extensions of credit by subsidiaries of Bancorp) at Baltimore and St. Paul Streets, Baltimore, Maryland, through a subsidiary, UTB Agency, Inc. (4/21/77)[2]

PERMITTED

Bank of Virginia Company, Richmond, Virginia, notification of intent to relocate de novo activities (making loans or extensions of credit such as would be made by a finance company; and acting as agent for credit life/accident and health insurance and other insurance written to protect collateral during the period of credit extension) from 721 Braddock Avenue, Braddock, Pennsylvania to The Greater Valley Shopping Center, Room L, 500 Lincoln Highway, North Versailles, Pennsylvania, through its indirect subsidiary, General Finance Service Corporation (4/18/77)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at Point West Executive Centre, 1455 Response Road, Sacramento, California, through its subsidiary, Security Pacific Finance Corp. (4/21/77)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at the Warner Victory Center, 6355 Topanga Canyon Boulevard, Woodland Hills, California, through its subsidiary, Security Pacific Finance Corp. (4/22/77)[2]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Genesee Merchants Bank & Trust Co., Flint, Michigan. Branch to be established in the Thompson Shopping Center, 3400 block, Richfield Road, Flint, Genesee County.

State Bank of St. Charles, St. Charles, Illinois. Branch to be established at the Southeast Corner of Oak Street and Randall Road, St. Charles.

The Central Bank of Denver, Denver, Colorado. Branch to be established at the Southwest Corner of 10th & Larimer Streets, Denver.

The Farmers Savings Bank, Marshall, Missouri. Branch to be established at 1255 South Odell Avenue, Marshall.

* * * * *

Thirty-Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

Bank of America NT & SA: Branch—Additional in Red Hook, St. Thomas, Virgin Islands.

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

Chase Manhattan Bank NA: Branch—Manila, Republic of the Philippines.

Crocker National Bank: Branch—Manila, Republic of the Philippines.

To Withdraw from Membership in the Federal Reserve System Without a Six-Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

Citizens Bank & Trust Company, Campbellsville, Kentucky.

Home State Bank, Trent, Texas.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Banbogota, Inc., New York, New York, for approval to directly acquire 99.992 per cent of the voting shares of Banco de Bogota Trust Company, New York, New York, a proposed new bank.

Banco de Bogota, Bogota, Colombia, for approval to indirectly acquire 99.99 per cent of the voting shares of Banco de Bogota Trust Company, New York, New York, a proposed new bank.

Farmbanc Company, Chattanooga, Tennessee, for approval to acquire 95.7 per cent of the voting shares of Farmers National Bank, Winchester, Tennessee.

Goodlettsville Bacshares, Inc., Goodlettsville, Tennessee, for approval to acquire 80 per cent or more of the voting shares of The Bank of Goodlettsville, Goodlettsville, Tennessee.

Brogan Bankshares, Inc., Kaukauna, Wisconsin, for approval to acquire 80 per cent of the voting shares of The Bank of Kaukauna, Kaukauna, Wisconsin.

Panhandle Aviation, Inc., Clarinda, Iowa, for approval to acquire 80 per cent or more of the voting shares of Citizens State Bank, Clarinda, Iowa.

Berbanc, Inc., Salina, Kansas, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Gypsum Valley National Bank of Gypsum, Gypsum, Kansas.

North Fork Corporation, Paonia, Colorado, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Paonia, Colorado.

Preferred Management Company, Omaha, Nebraska, for approval to acquire an additional 60 per cent of the voting shares of North Side Bank, Omaha, Nebraska.

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[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Berco, Inc., Bennington, Kansas, for approval to acquire 24 per cent of the voting shares of Berbanc, Inc., Salina, Kansas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corporation, Providence, Rhode Island, notification of intent to relocate de novo activities (consumer finance and insurance agency for any insurance directly related to an extension of credit or provision of other financial services) from 1768 Lawrenceville Highway, Decatur, Georgia to 2955B N. Druid Hills Road, Atlanta, Georgia, through a subsidiary, Southern Discount Company, a subsidiary of Industrial National Corporation (4/21/77) [2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making consumer installment personal loans, purchasing and servicing for its own account consumer installment sales finance contracts, making loans for the account of others such as one-to-four family unit mortgage loans; and acting as agent or broker for the sale of credit related life/accident and health insurance) at Vista Grand Shopping Center, Colorado Springs, Colorado, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (4/22/77) [2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Citicorp Person-to-Person Financial Center) from 6544 E. 22nd Street, Tucson, Arizona, 4441 North Oracle Ridge, Tucson, Arizona, and 4754 East Grant, Tucson, Arizona to El Con Shopping Center, Tucson, Arizona, 201 Stone Street, Tucson, Arizona, and Park Mall Center, Tucson, Arizona, respectively through its subsidiary Nationwide Financial Corporation of Arizona (4/21/77)[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 2235 East Broadway, Tucson, Arizona, 169 Fry Boulevard, Sierra Vista, Arizona, 250 West 24th Street, Yuma, Arizona, El Con Shopping Center, Tucson, Arizona, 201 Stone Street, Tucson, Arizona, and Park Mall Center, Tucson, Arizona, through its subsidiary, Nationwide Financial Corporation of Arizona (4/21/77)[2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Citicorp Person-to-Person Financial Center) from 1301 South Pueblo Boulevard, Pueblo, Colorado and Academy Fair Shopping Center, 1518 N. Academy Boulevard, Colorado Springs, Colorado to Pueblo Mall, 148 West 29th Street, Pueblo, Colorado and Suite 2304, Janitell Two Building, Garden Valley Center, 2860 South Circle Drive, Colorado Springs, Colorado, respectively through its subsidiary, Nationwide Financial Corporation of Colorado (4/21/77)[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 315 South Circle Drive, Colorado Springs, Colorado, 380 Main Street, Security, Colorado, 1150 North 25th Street, Grand Junction, Colorado, Pueblo Mall, 148 West 29th Street, Pueblo, Colorado, and Suite 2304, Janitell Two Building, Garden Valley Center, 2860 South Circle Drive, Colorado Springs, Colorado, through its subsidiary, Nationwide Financial Corporation of Colorado (4/21/77)[2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; the sale of credit related life/accident and health insurance to be hold in accordance with applicable State laws and regulations; in regard to the sale of credit related insurance, the business of a general insurance agency is not included) from 1465 Cassat Avenue, Jacksonville, Florida to 2415 Blanding Boulevard, Jacksonville, Florida, through its subsidiary, Nationwide Financial Corporation of Florida (4/22/77) [2]

United Bank Corporation of New York, Albany, New York, notification of intent to relocate de novo activities (making and acquiring, for its own account or for the account of others, loans and other extensions of credit such as could be made by a finance company including secured and unsecured loans to individuals, discounting of installment sales contracts, and secured commercial financing such as dealer floor-plan financing and furnishing services or performing services in the leasing of personal property and equipment under the terms of leases which provide for compensating the lessor for not less than the lessor's full investment in the property) from 3588 Delaware Avenue, Buffalo, New York to Liberty Bank Building, Buffalo, New York, through its subsidiary, UBC Leasing of New York, Inc. (4/18/77)[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with regulations of the Board of Governors of the Federal Reserve System) at 60 Cathedral Place, St. Augustine, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (4/22/77)[2]

Third National Corporation, Nashville, Tennessee, notification of intent to engage in de novo activities (conducting the business of a mortgage company including the making or acquiring, for its own account or for the account of others, loans and other extensions of credit, servicing loans and other extensions of credit for any persons; and acting as agent or broker in the sale of mortgage redemption insurance, credit life/accident and health insurance) at Third National Bank Building, 201 Fourth Avenue, North, Nashville, Tennessee, through a subsidiary, Third National Mortgage Company (4/19/77)[2]

Continental Illinois Corporation, Chicago, Illinois, for approval to acquire Great Lakes Insurance Company, Phoenix, Arizona (engaged in underwriting, as reinsurer of credit life and credit accident and health insurance directly related to extensions of credit by the bank holding company system)

First Bank System, Inc., Minneapolis, Minnesota, notification of intent to engage in de novo activities (mortgage banking business including the brokering, origination, purchase, sale, and servicing of real estate mortgage loans) in the metropolitan areas of Portland, Oregon and Seattle, Washington, through its subsidiary, FBS Financial, Inc. (4/20/77) [2]

NBC Co., Lincoln, Nebraska, for approval to acquire 100 percent of the voting shares of Fremont State Company, Fremont Nebraska (engaged in conducting the business of an industrial loan and investment company, pursuant to the laws of the State of Nebraska, including the issuance of paid-up certificates of indebtedness and installment certificates of indebtedness, and the making of consumer loans, commercial loans, and real estate mortgage loans; and acting as an insurance agent in the sale of credit life and credit health and accident insurance directly related to extensions of credit by Fremont State Company for the purpose of assuring the repayment of extensions of credit in the event of death or disability of the borrower).

Preferred Management Company, Omaha, Nebraska, for approval to continue to engage in the sale of credit life insurance, credit accident and health disability insurance, and property damage insurance directly related to extensions of credit by North Side Bank, Omaha, Nebraska.

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; leasing personal property and equipment, or acting as agent, broker, or adviser in such leasing where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors) at 1729 Tuly Road, Modesto, California, through its subsidiary, Rainier Credit Company (April 13, 1977).[2]

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To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

Heights Finance Corporation, Peoria, Illinois, notification of intent to indirectly acquire the assets of Montgomery County Loan Company, Hillsboro, Illinois, through Commerce Loan Corporation (April 21, 1977).[2]

REPORTS RECEIVED

Registration Statement Filed Pursuant to Section 12(g) of the Securities Exchange Act.

Farmers & Merchants State Bank, Fredericksburg, Virginia.

* * * * *

Footnote[2] on previous folio.

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The Bank of Eden, Eden, North Carolina.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15426 Filed 5-31-77;8:45 am]

ACTIONS OF THE BOARD

[H. 2, 1977 No. 20]

Applications and Reports Received During the Week Ending May 14, 1977

ACTIONS OF THE BOARD

Regulation B interpretation, dealing with Federal or State special purpose credit programs; the Board will receive comment through June 17, 1977 (Docket No. R-0100).

Regulation C, Home Mortgage Disclosure Act of 1975, the Board approved continuance of the exemption it previously granted to most New York State lenders from the disclosure requirements of the Act (Docket No. R-0047).

Rules Regarding Delegation of Authority, revocation of certain previous delegations, effective May 9, 1977.

Issuance of subordinated capital notes by First Trust & Savings Bank of Kankakee, Kankakee, Illinois.

Issuance of subordinated capital notes by Saratoga State Bank, Saratoga, Wyoming.

Jackson State Bank, Jackson, Wyoming, extension of time to July 30, 1977, within which to issue subordinated capital notes.

The Board denied the request of Mr. William J. Kennedy III, to permit his services as a member of the board of directors of Wachovia Corporation, Winston-Salem, North Carolina; Mr. Kennedy is presently a director of Mechanics and Farmers Bank, Durham, North Carolina.

First Missouri Banks, Inc., Creve Coeur, Missouri, additional extension of time until August 31, 1977, to open its de novo bank, First Missouri Bank of West County, St. Louis County, Missouri.[2]

Mingo Bankshares, Inc., Puxico, Missouri, a proposed one bank holding company, request for an additional extension of time until June 14, 1977, to acquire shares of Puxico State Bank, Puxico, Missouri.[1]

Texas Commerce Bancshares, Inc., Houston, Texas, extension of time to September 30, 19777, within which to divest of two remaining properties which had been agreed upon.[1]

Trust Company of Georgia, Atlanta, Georgia, extension of time until August 1, 1977, within which to acquire the First National Bank of Albany and to September 1, 1977, to acquire the First National Bank of Brunswick, Brunswick, Georgia.[1]

Termination of registration pursuant to Regulation G for Springfield Production Credit Association, Springfield, Tennessee.[1]

First International Bancshares, Inc., Dallas, Texas, extension of time to August 2, 1977, within which to consummate the acquisition of Beaumont State Bank, Beaumont, Texas.[1]

Bucksport Loan and Building Association, Bucksport, Maine, proposed merger with Brewer Savings Bank, Brewer, Maine, report to the Federal Deposit Insurance Corportion on competitive factors.[1]

Citizens National Bank of Havre de Grace, Havre de Grace, Maryland, proposed merger with Elkton Banking and Trust Company of Maryland, Elkton, Maryland, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First National Interim Bank of Albany, Georgia, Albany, Georgia, proposed merger with First National Bank, Albany, Georgia, Albany, Georgia, report to the Comptroller of the Currency on competitive factors.[1]

Florida Coast Bank of Pompano Beach, Pompano Beach, Florida, proposed merger with Florida Coast Bank of Lighthouse Point, Lighthouse Point, Florida, and Florida Coast Bank of Oceanside, Pompano Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Lincoln Center Savings & Loan Association, Ardmore, Oklahoma, proposed acquisition by Lincoln Bank & Trust Company, Ardmore, Oklahoma, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Parkway National Bank, Grand Prairie, Texas, proposed merger with Midway National Bank of Grand Prairie, Grand Prairie, Texas, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

American Bank of Lake Wales, Lake Wales, Florida, Branch to be established on the East Side of U.S. Highway 27A at the Southeast Corner of Libby Road Intersection, Babson Park.[2]

Royal Trust Bank of Tampa, Tampla, Florida. Branch to be established on the South Side of Fowler Avenue, 365 ft. West of 22nd Street, in the City of Tampa.[2]

Valley Bank of Nevada, Las Vegas, Nevada. Branch to be established on the Southwest Corner of the Intersection of Glendale Avenue and Rock Boulevard, Sparks.[2]

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Citibank National Association: Branch Tunis, Tunisia.

Citibank National Association: Branch Victoria, Seychelles.

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

European-American Bancorp, New York, New York: Investment—to acquire European-American Finance (Bermuda) Limited and Euro-Credit, S.A.

Morgan Guaranty International Finance Corporation: For J. P. Morgan Overseas Capital Corporation, N.Y., to issue obligations with maturities in excess of one year.

Crocker International Investment Corporation: Investment—establish a wholly owned Financial Services Company in Hong Kong.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

European-American Bancorp, New York, New York, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of European-American Bank & Trust Company, New York, New York.

Security Bancshares, Inc., Shenandoah, Iowa, for approval to acquire 84.39 percent of the voting shares of The Security Trust and Savings Bank, Shenandoah, Iowa.[2]

Washington Bancorporation, Washington, Iowa, for approval to acquire 80 percent or more of the voting shares of The National Bank of Washington, Washington, Iowa (a proposed new bank) the successor by merger to The National Bank of Washington, Washington, Iowa, and the successor by merger to Ainsworth State Bank, Ainsworth, Iowa.

Klossner Bancorporation, Incorporated, Klossner, Minnesota, for approval to acquire 81.3 percent of the voting shares of Klossner State Bank, Klossner, Minnesota.[2]

DENIED

Mahaska Investment Company, Oskaloosa, Iowa, for approval to acquire 51.47 percent of the voting shares of Farmers Savings Bank, Freemont, Iowa. The Section 4(c)(8) application for permission to continue to engage directly in the activity of leasing real property or acting as agent, broker, or adviser in leasing such real property, and to engage indirectly, through its wholly owned subsidiary, MIC Leasing Co., Oskaloosa, Iowa, hereby becomes moot.

To expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Alabama Bancorporation, Birmingham, Alabama, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Farmers & Merchants Bank, Ashford, Alabama.

DENIED

National Detroit Corporation, Detroit, Michigan, for approval to acquire 80 percent or more o fthe voting shares of The Brighton State Bank, Brighton, Michigan.

* * * * *

To expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

DELAYED

Valley Bancorporation, Rexburg, Idaho, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans secured by real property and related fixtures and/or personal property and servicing such loans for any other person, corporation, firm or legal entity) at 110 East Main, Rexburg; 1625 Northgate Mile, Idaho Falls; 1 Riverside Plaza, Blackfoot; 910 Yellowstone Avenue, Pocatello; 30 West Main, St. Anthony; 503 Main, Ashton; and 15 North Main, Driggs; all located in Idaho,

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

through its subsidiary, Mountain Mortgage Company (May 9, 1977).[3]

PERMITTED

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to relocate de novo activities (making or acquiring for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities, such insurance will be provided only in connection with extensions of credit by Local Loan Co., and its wholly owned subsidiaries and will be available solely at the option of the borrower and the borrower is advised to this option in advance) from 210 7th Street, Los Angeles, California, to 910-A North Brand Boulevard, Glendale, California, through its wholly owned subsidiary, Local Loan Co., Chicago, Illinois (May 14, 1977).[3]

Merchants National Corporation, Indianapolis, Indiana, notification of intent to relocate de novo activities (leasing of capital goods and equipment to industry, books, or others, or acting as agent, broker, or adviser in leasing such personal property where at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease) from 3625 N. 16th Street, Phoenix, Arizona, to 7806 North 27th Avenue, Phoenix, Arizona, through its subsidiary, Pacific American Leasing Corp. May 9, 1977).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation; in addition, FinanceAmerica Corporation, doing business under the fictitious name, FinanceAmerica Mortgage Services Company, proposes to engage in the activity of making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by real property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with the extensions of credit made or acquired by FinanceAmerica Corporation, doing business under the fictitious name, FinanceAmerica Mortgage Services Company) at 6021 West Broad Street Road, Richmond, Virginia, through its indirect subsidiary, FinanceAmerica Corporation (a Virginia Corporation), d.b.a. FinanceAmerica Mortgage Services Company, a direct subsidiary of FinanceAmerica Corporation (May 9, 1977).[3]

APPROVED

European-American Bancorp, New York, New York, for permission to acquire all of the voting shares (except directors' qualifying shares and 130 additional shares) of European-American Banking Corporation, New York, New York.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Warner Communications Inc., New York, New York, notification of intent to acquire Malibu Grand Prix Corp., Orange, California (May 9, 1977).[3]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Long Island Trust Company, Garden City, New York. Branch to be established in the Southwest Corner of Horseblock Road and County Road 83, Farmingville, Suffolk County.

The New Waterford Bank, New Waterford, Ohio. Branch to be established at 20 South Main Street, Columbiana, Columbiana County.

Lake View Trust and Savings Bank, Chicago, Illinois. Branch to be established at 538 W. Diversey Parkway, Chicago.

First State Bank of Taos, Taos, New Mexico. Branch to be established on Highway No. 68 and Camino De Santiago (South Santa Fe Road Branch), Taos.

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To form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

United Banks Corporation, Hanover, New Hampshire, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Hanover Bank & Trust Company, Hanover, New Hampshire and to acquire 100 percent of the voting shares (less directors' qualifying shares) of Lebanon Bank & Trust Company, Lebanon, New Hampshire, a proposed new bank.

GEMA Financial Corporation, Chicago, Illinois, for approval to acquire 80 percent or more of the voting shares of The Lawndale Trust and Savings Bank, Chicago, Illinois.

Norris Bancor Ltd., Cantril, Iowa, for approval to acquire 80 percent or more of the voting shares of State Savings Bank, Cantril, Iowa.

Ark Valley Bankshares, Inc., La Junta, Colorado, for approval to acquire 83 percent of the voting shares of The La Junta State Bank, La Junta, Colorado and to acquire 56 percent of the voting shares of The Empire State Bank, Rocky Ford, Colorado.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

The Central Bancorporation, Inc., Cincinnati, Ohio, for approval to acquire 100 percent of the voting shares of the successor by merger to The Central Security National Bank of Lorain County, Lorain, Ohio.

The Central Bancorporation, Inc., Cincinnati, Ohio, for approval to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Mercer County, Celina, Ohio.

Old Kent Financial Corporation, Grand Rapids, Michigan, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Old Kent Bank of Norton Shores, N.A., Norton Shores, Michigan, a proposed new bank.

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Main Street National Bank of Dallas, Dallas, Texas.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(5) of the Bank Holding Company Act of 1956.

DETROITBANK Corporation, Detroit, Michigan, for approval to acquire 100 percent of the voting shares of the successor by merger to Lake Shore Financial Corporation, Muskegon, Michigan, and to indirectly acquire Hackley Union National Bank and Trust Company of Muskegon, Muskegon, Michigan.

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To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

Texas American Bancshares Inc., Fort Worth, Texas, for approval to retain 575 shares of Riverside State Bank, Fort Worth, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

First Bancorp of N.H., Inc., Manchester, New Hampshire, notification of intent to engage in de novo activities (originating, selling, and servicing both residential and commercial mortgages; originating and servicing construction loans; and as an incident to the real estate lending activities providing advice and appraisal services for self and others) at 156 Main Dunstable Road, Nashua, New Hampshire, through its subsidiary, FirstBank Mortgage Corp. (May 13, 1977).[3]

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (origination and sale of residential mortgages; servicing of residential mortgage loans; and insurance agency for any insurance directly related to an extension of credit or provision of other financial services) at 100 Quintard Avenue, Suite 410, Anniston, Alabama, through its subsidiary, Mortgage Associates, Inc. (May 9, 1977).[3]

Industrial National Corporation, Providence, Rhode Island notification of intent to relocate de novo activities (origination and sale of residential mortgages; servicing of residential mortgage loans; and insurance agency for any insurance directly related to an extension of credit or provision of other financial services) from 5335 66th Street North, St. Petersburg, Florida, to 3601 Central Avenue, St. Petersburg, Florida, through its subsidiary, Mortgage Associates, Inc. (May 9, 1977).[3]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 5567 D Memorial Drive, Stone Mountain, Georgia; 2096 N. Decatur Plaza, Decatur, Georgia; 4471 Jonesboro Road, Forest Park, Georgia; 3355 Lenox Road NE., Atlanta, Georgia; 204 Spring Street, Macon, Georgia; and 5067 Austell Road, Austell, Georgia, through its subsidiary, Nationwide Financial Corporation of Georgia. (May 10, 1977).[3]

[3] 4(c)(8 and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 314 Gold SW., Albuquerque, New Mexico; 3416 Central Avenue SE., Albuquerque, New Mexico; 2203 Central Avenue NW., Albuquerque, New Mexico; 1501 Eubank Boulevard NE., Albuquerque, New Mexico; 3601 San Mateo NE., Albuquerque, New Mexico; 10701 Lomas Boulevard NE., Suite 106, Albuquerque, New Mexico; and 3157 Cerrillos Road, Santa Fe, New Mexico, through its subsidiary, Nationwide Financial Corporation of New Mexico (May 10, 1977).[3]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 2702 NE Broadway, Portland, Oregon; 4240 NE 122nd Street, Portland, Oregon; 1543 Hawthorne Avenue NE., Salem, Oregon; 615 SW. Park Avenue, Portland, Oregon; 939 River Road, Eugene, Oregon; and 10615 SE. Cherry Blossom Drive, Portland, Oregon, through its subsidiary, Nationwide Financial Corporation of Oregon (May 10, 1977).[3]

Bank of Virginia Company, Richmond, Virginia, notification of intent to relocate de novo activities (making loans or extensions of credit such as would be made by a finance company; and acting as agent for credit life/accident and health insurance and other insurance written to protect collateral during the period of credit extension) from 2920 West Broad Street, Richmond, Virginia, to 4509 West Broad Street, Richmond, Virginia, through its indirect subsidiary, The Budget Plan Company of Virginia (May 13, 1977).[3]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company, including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 1001 East Atlantic Avenue, Delray Beach, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (May 12, 1977).[3]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company, including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 11 Fifth Street, Southwest, Winter Haven, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (May 13, 1977).[3]

American Fletcher Corporation, Indianapolis, Indiana, notification of intent to relocate de novo activities (the making of loans and extending of credit, and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans, purchasing installment sales finance contracts, extending credit secured by real or personal property; and acting as agent or broker for the sale of credit related life insurance in connection with such financing activities) from 209 East Liberty Street, Ann Arbor, Michigan, to 2261 West Liberty Street, Ann Arbor, Michigan, through its subsidiary, Local Finance Corporation (May 9, 1977).[3]

Merchants National Corporation, Indianapolis, Indiana, notification of intent to relocate de novo activities (leasing of capital goods and equipment to industry, banks, or others or acting as agent, broker, or adviser in leasing such personal property where at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease) from 3110 S. Wadsworth, Denver, Colorado, to East 47th Street, Denver, Colorado, through its indirect subsidiary, Circle Leasing of Colorado Corp. (May 3, 1977).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at Turnpike Tower Office Building, 7475 Dakin Street, Denver, Colorado, through its subsidiary, FinanceAmerica Corporation (a Colorado Corporation) (May 4, 1977).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 413 South Broadway, Rochester, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (May 5, 1977).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 200 Woolworth Building, St. Cloud, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (May 5, 1977).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 109 Oakland Avenue, West, Austin, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (May 5, 1977).[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

The Sperry and Hutchinson Co., New York, New York, notification of intent to acquire Harlan, Incorporated, Houston, Texas (May 10, 1977).[3]

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

Metropolitan Bank, Tampa, Florida.
The Sylvania Savings Bank Company, Sylvania, Ohio.
United California Bank, Los Angeles, California.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15427 Filed 5-31-77;8:45 am]

DCB INVESTMENT CO., INC.

Formation of Bank Holding Company

DCB Investment Co., Inc., David City, Nebraska, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of David City Bank, David City, Nebraska. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 22, 1977.

Board of Governors of the Federal Reserve System, May 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-15523, Filed 5-31-77;8:45 am]

FULTON NATIONAL CORP.

Acquisition of Bank

The Fulton National Corporation, Atlanta, Georgia, 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 indirectly 86 per cent or more of the voting shares of Duco, Inc., Duluth, Georgia ("Duco"). Duco, a bank holding company, owns 61 per cent of the voting shares of The Bank of Duluth, Duluth, Georgia. Applicant has also applied to acquire indirectly 85 per cent or more of the voting shares of Doraco, Inc., Doraville, Georgia ("Doraco"). Doraco, a bank holding company, owns 82.9 per cent of the voting shares of The Northeast Commercial Bank, Doraville, Georgia. Applicant's wholly-owned subsidiary, Fulcorp., Inc., Atlanta, Georgia, would acquire and hold all of Applicant's voting shares of Duco and Doraco and accordingly has applied pursuant to § 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) to become a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 22, 1977.

Board of Governors of the Federal Reserve System, May 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15524 Filed 5-31-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. F-426]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the interests of the executive agencies of the Federal Government in a rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Louisiana Public Service Commission involving the application of South Central Bell Telephone Company for increases in its rates and charges. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

MAY 19, 1977.

[FR Doc.77-15491 Filed 5-31-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

OKLAHOMA HOSPITALS MEDICARE UTILIZATION REVIEW OPTION NOTICE

Oklahoma Hospitals Participating in Medicare and in a Section 1115 Utilization Review Demonstration Project Under Medicaid

Notice is hereby given that pursuant to authority contained in the Medicare regulations set forth at 20 CFR 405.1035 (I) the Secretary of Health, Education, and Welfare has decided to offer an option to hospitals which participate both in the Oklahoma Section 1115 (42 U.S.C. 1315) utilization review demonstration project (No. 11-P-90321/6-01 entitled "Oklahoma Utilization Review") under title XIX (Medicaid) and as providers of services under title XVII (Medicare). The option will permit hospitals to elect to substitute the utilization review procedures under the section 1115 (42 U.S.C. 1315) utilization review demonstration project for the procedures otherwise required by § 405.1035 (a) through (k) (20 CFR 405.1035 (a) through (k)). Any Oklahoma hospital participating in both the section 1115 (42 U.S.C. 1315) project and as a title XVIII provider of services which chooses to elect the option must notify the Secretary in writing within 30 days of this notice.

I. *BACKGROUND.* On January 5, 1977, an amendment to Subpart J of Part 405 of the Code of Federal Regulations (20 CFR 405.1035(I)) was published in the FEDERAL REGISTER (42 FR 1028). The amendment allows the Secretary of Health, Education, and Welfare, under certain circumstances, to substitute the procedures under Utilization Review Demonstration Projects in effect under title XIX (Medicaid), pursuant to section 1115 of the Social Security Act (42 U.S.C. 1315), for title XVIII utilization review requirements (Medicare).

II. *EFFECTIVE DATE OF OPTION.* For those hospitals which notify the Secretary of their intent to elect the option in writing within 30 days after publication of this Notice, the election shall be effective for patients admitted to the hospital on the fifteenth day after the close of this 30-day period, or on the starting date of the project, whichever is later. Once a hospital elects the option, it will remain in effect until the date on which the section 1115 (42 U.S.C. 1315) project ceases, unless the hospital chooses to withdraw the election in accordance with section 405.1035(I)(2)(iii). Oklahoma hospitals which choose to elect the option must send such notification to the Acting Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 5006, HEW South Building, 330 C Street SW., Washington, D.C. 20201.

(Secs. 1102, 1861 (e)(6) and (k), and 1871 of the Social Security Act, as amended; 49 Stat. 647, as amended; 79 Stat. 322, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x (e)(6) and (k) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged and Disabled—Hospital Insurance.)

Dated: April 8, 1977.

DON I. WORTMAN,
Acting Administrator, Health Care Financing Administration.

Approved: May 25, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-15428 Filed 5-31-77;8:45 am]

National Institutes of Health

National Cancer Institute

PRESIDENT'S CANCER PANEL

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the President's Cancer Panel, National Cancer Institute, National Institutes of Health, June 7, 1977, which was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21853).

Dated: May 27, 1977.

THOMAS E. MALONE,
Acting Deputy Director, NIH.

[FR Doc.77-15606 Filde 5-31-77;8:45 am]

Office of Human Development

[Program Announcement No. 13612-771]

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

Announcement of Grants for FY '77

The Office of Native American Programs, (ONAP), Office of Human Development, announces that applications will be accepted until July 21, 1977, from Indian tribes, Alaskan native villages, Alaskan regional corporations, and Indian organizations in rural, non-reservation areas, which are not presently funded by ONAP and who wish to compete for grants in Fiscal Year 1977, authorized by Section 803 of the Native American Programs Act of 1974, Title VIII, Headstart, Economic Opportunity, and Community Partnership Act of 1974, Pub. L. 93-644.

All applications received by the closing date which are complete and conform

to the requirements of this program announcement will be accepted for review and consideration for a grant award.

Regulations applicable to Native American Project grants were published in the FEDERAL REGISTER in 45 CFR Part 1336, on January 19, 1977, (Program Rules).

A. PROGRAM OBJECTIVES

The purpose of this program announcement, consistent with the legislative objectives of the Office of Native American Programs, is to promote the goal of social and economic self-sufficiency of Native Americans by supporting projects which, if successfully implemented, would result in significant improvements in the communities of the ONAP grantees.

Financial assistance under this program announcement is to: (1) Support projects for locally determined human services priorities which fill a critical gap and which are not available elsewhere. (2) Support projects to strengthen the administrative capacities of the grantee, particularly with regard to planning and management. These projects may include the development of the appropriate systems, capacities and instruments for, and the implementation of, needs assessment and prioritization, resource assessment and allocation, comprehensive planning, program and project development, project monitoring and self-evaluation, as well as the coordination of planning, programming, budgeting and control functions. Also, projects focusing on the initiation or improvement of record keeping and information systems, budget formulation and financial management, personnel management and staff development, as well as the development of special management skills.

B. ELIGIBLE APPLICANTS

The governing bodies of the following public and nonprofit private agencies will be deemed eligible to apply for a Native American Project grant if they are not presently funded by the Office of Native American Programs:

Indian tribes on Federal or State reservations and rancherias;

Alaska Native Villages;

Regional corporations established by the Alaska Native Claims Settlement Act.

Indian organizations and tribes in rural, non-reservation areas Governing body means those duly elected or appointed representatives who have the authority to provide services to, and enter into contracts, agreements, and grants on behalf of their constituency.

Indian tribes or organizations who have such a small service population as to make it impractical to fund directly may consider joining with other small groups to submit one application to serve the consortium.

C. AVAILABLE FUNDS

An estimated $200,000 is available for new grantees pursuant to this program announcement during Fiscal Year 1977. It is anticipated that five (5) grant awards will be made with a range of $30,000 to $70,000 per award. The project period for a grant may be up to three (3) years. Refunding on a non-competitive basis beyond the first year will depend upon the grantee's satisfactory performance of the project, upon availability of funds, and upon the grantee's compliance with the Native American Programs Rules and Regulations.

D. GRANTEE SHARE OF PROJECT

It is expected that grantees will provide 20 percent of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services, and must be allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ONAP. Further explanation is contained in Section 1336.52 of ONAP's Program Rules.

E. THE APPLICATION PROCESS

A-95 CLEARINGHOUSE NOTICE:

In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouse of the intent to apply for Federal assistance. Some State and Area Clearinghouses provide their own form for the notification of intent and others use the facesheet of the standard application form. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

APPLICATION SUBMISSION:

In order to be considered for a grant under this program announcement, all applications must be submitted on the Standard forms enclosed in the ONAP Application Kit.

The application shall be executed by an individual authorized to act for the applicant agency and to assume obligations imposed by the terms and conditions of the grant award, including the Office of Native American Programs Final Regulations.

One signed original and two copies of the application including all attachments, are required. It is requested that an additional three copies be submitted to facilitate the review process.

APPLICATION CONSIDERATION:

The Director of the Office of Native American Programs determines the final action to be taken with respect to each grant application. Applications which do not conform to this announcement or are late or are not complete will not be accepted and applicants will be notified accordingly. Otherwise, all applicants will be considered for funding.

All accepted grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside of the Office of Native American Programs. The results of the competitive review supplement and assist the Director's consideration of the competing applications. The Director's consideration also takes into account the comments of the A-95 Clearinghouse, the headquarters program office, and other interested organizations.

After the Director has reached a decision either to disapprove or approve a competing grant application, the applicant will be notified of that decision.

GRANT AWARD

The Director makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantees the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of grantee financial participation. The initial award also specifies the total project period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Competing grant applications will be reviewed and evaluated by the independent panel against the following criteria: (100 points total).

Clear identification of problems and needs facing the applicant (i.e. social, economic, administrative), with regard to achieving successful completion of the applicant's long range goals. (10 points)

Specific, quantifiable objectives and procedures for the first year and a clear outline of the objectives and procedures for the following two years, if applicable, including a time frame for the achievement of specific project objectives of the entire project period. (20 points)

That insofar as practicable, the proposed procedures, if well executed, are capable of attaining project objectives. (12 points)

That the project objectives include, are identical with, or are capable of achieving the specific objectives in the program announcement. (7 points)

That the estimated cost to the Government of the project is reasonable considering the anticipated results. (8 points)

That (1) project personnel are well qualified and (2) the applicant organization has adequate facilities and resources to carry out the project. (8 points)

The system proposed by the applicant to monitor and evaluate the project is reasonable and consistent with the management system of the applicant. (15 points)

The application as a whole clearly demonstrates the applicant's capability to achieve project objectives. (20 points)

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications for Program Announcement No. 13612–771 is July 21, 1977. Applications must be mailed or hand delivered to: Receiving Office; Division of Grants and Contract Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street, S.W.; Washington, D.C. 20201 (Attention: 13612–771). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to have arrived by the closing date if:

1. The application is at the OHD Receiving Office on or before the closing date, or

2. The application is postmarked at least two days prior to the closing date.

H. LATE APPLICATIONS

Late applications will not be accepted and applicants will be notified accordingly.

I. AVAILABILITY OF APPLICATION FORMS

Application Kits which contain the prescribed forms and information for the applicant may be obtained by writing or calling:

Office of Native American Programs, Office of Human Development, DHEW, Room 251 G, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 426–8390. (Attention: 13612–771.)

(Catalog of Federal Domestic Assistance Program Number: 13.612 Native American Programs.)

Dated: May 23, 1977.

DOMINIC J. MASTRAPASQUA,
Acting Director, Office of Native American Programs.

Approved: May 26, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77–15488 Filed 5–31–77;8:45 am]

Office of the Secretary

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acqusition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before July 1, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: May 27, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Directory of Postsecondary Schools With Occupational Programs, 1977–78, and Report on Enrollments and Programs in Postsecondary Schools With Occupational Programs, 1977–78.

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics.

3. AGENCY FORM NUMBER

NCES 2358, 2358–1, 2358–2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

* * * The (National) Center (for Education Statistics) shall * * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *. (Sec. 501(a) of Pub. L. 93–380; 20 U.S.C. 1221e–1)

5. VOLUNTARY/OBLIGATORY NATURE OF THE RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Basic information collected on all schools will be used as the basis for publishing a directory of these schools and will serve as a sampling frame for the collection of data on the schools and on the students enrolled.

Information on student enrollment by sex in each program offering will aid the U.S. Office of Education's mandated research and evaluation study (Title II, Section 523(a) of the Education Amendments of 1976) on the extent of sex discrimination and sex stereotyping in certain occupational training fields.

The scope and role of public and private noncollegiate schools in helping to meet labor demand for specific occupations will be analyzed by State and local education and manpower planners by evaluating the enrollments in training for these occupations. The inclusion of the private sector broadens for educational decision makers the information base from which to plan changes in program offerings at the State and local levels.

Information from the Directory on programs offered and accreditation status of schools will help provide more informed guidance to students planning a career.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall/Winter 1977.
c. Frequency: Biennially.

8. RESPONDENTS

NCES 2358 or 2358–1:
a. Type: Vocational/technical postsecondary schools.
b. Number: 2,200—sample.
c. Estimated average man-hours per respondent: 30 minutes.
NCES 2358–2:
a. Type: Vocational/technical postsecondary schools.
b. Number: 6,300–universe, less sample of 2,200.
c. Estimated average man-hours per respondent: 10 minutes.

9. INFORMATION TO BE COLLECTED

NCES 2358–2:
Name and address of school.
Type of control and ownership.
Programs offered.
Total, full-time, and part-time enrollments, by sex.
NCES 2358 or 2358–1:
In addition to above:
Number of students by sex and race/ethnicity.
Length of program.
Tuition and charges.
Students completing program or leaving with a marketable skill.
Total, full-time, and part-time staff, by sex.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

National Direct Student Loan Program.
Semiannual Defaulted Loan Report.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Student Financial Assistance Division of Student Financial Aid.

3. AGENCY FORM NUMBER

OE 574.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 463. (a) "An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall; provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such fund which are in such default, and made to the Commissioner at least semiannually." (Pub. L. 92–318, Sec. 137(b), 20 U.S.C. 1087cc, as amended under Sec. 130(c), Pub. L. 94–482, Education Amendments of 1976.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to Obtain or Maintain Benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This report is required by law and will serve to provide information about the capability of the institutions to establish and ad-

minister effective collections programs. The data will be used to determine the effectiveness of the loan activities and to signal whether the institutions are following the steps necessary in the performance of due diligence; i.e., (1) compliance with established regulations pertaining to collection practices, such as regular billing and follow-up procedures, and collection activities; (2) institutional administrative capability; and, (3) practices and policies established to carry out due diligence.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Summer (June 30); Winter (December 31) of Each Year.
c. Frequency: Semiannually.

8. RESPONDENTS

a. Type: Colleges and Universities—Vocational/Technical and Proprietary Institutions of Postsecondary Education.
b. Number: 4,000.
c. Estimated average man-hours per respondent: 5.

9. INFORMATION TO BE COLLECTED

(1) Number of Borrowers in Default Status.
(2) Principal Amount Outstanding.
(3) Principal Amount in Default.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Request for Institutional Eligibility for Programs Under the Higher Education Act of 1965, as Amended.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Postsecondary Education/Division of Eligibility and Agency Evaluation.

3. AGENCY FORM NUMBER

OE Form 1059.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The term 'institution of higher education' means an educational institution * * * which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent * * *, (2) is legally authorized * * * to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency * * * or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, * * * that the institution will meet the accreditation standards of such an agency * * * within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, * * *. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation * * * (Pub. L. 89-329; 20 U.S.C. 1141) "Such term also includes a public or nonprofit private educational institution * * * which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendence in the State in which the institution is located and who have the ability to benefit from the training offered by the institution." (Pub. L. 94-482; 20 U.S.C. 1141) Section 1201(a) of the Higher Education Act of 1965, as amended.

" * * *, the term 'proprietary institution of higher education' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of section clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency * * *, and (E) which is accredited by a nationally recog- years." (Pub. L. 90-575; 20 U.S.C. 1088) Section 491(b)(3) of the Higher Education Act of 1965, as amended.

The term 'vocational school' means a * * * school, * * *, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered * * *; (2) is legally authorized to provide, * * * a program of postsecondary * * * education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years * * *; and (4) is (A) accredited by a national recognized accrediting agency * * *, (Pub. L. 94-482; 20 U.S.C. 1085) Section 435(c) of the Higher Education Act of 1965, as amended.

'Vocational school' means a * * * school * * * which * * * (2) is legally authorized to provide, * * *, a program * * * of education which * * *, (ii) provides no less than 300 clock hours of classroom instruction or its equivalent or, in the case of a program offered by correspondence, requires not less than an average of 12 hours of preparation per week over any 12 week period and completion in not less than 6 months, and (iii) in the case of a flight school program, maintains current valid certification by the Federal Aviation Administration * * *." (P.L. 89-329; 20 U.S.C. 1085; 45 CFR 177.1(g)).

The above legislation covers over 95 percent of the institutions which seek eligibility for programs under the Higher Education Act of 1965, as amended. The following sections of the Act contain definitions with essentially the same elements, provide exceptions for specific types of institutions, or concern exclusions for religious activities: Sections 113, 207, 302, 306, 435(a), 443, 497A (d), 508, 526, 609, 781, 782, 903, 923, 945, 964, 981, 1018, 1201(1). In addition, Section 443, in defining an "area vocational school" uses the definition contained in section 108(2) of the Vocational Education Act of 1963, as amended (Pub. L. 90-576; 20 U.S.C. 1248). The following sections of Title 45 of the Code of Federal Regulations contain items which expand briefly on parts of the law mentioned above: Sections 131.2, 144.2, 176.2, 177.1, 190.2. Finally, there is one notice in the FEDERAL REGISTER which expands on the acceptance of credits in lieu of accreditation mentioned in section 1201(a)(5)(B), 35 FR 13324.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

The information collected will be used to determine if an institution meets the conditions contained in the statutes cited above. Depending on the conditions which the institution meets, it will be determined to be eligible to receive funds for itself or its students under one or more of 25 Office of Education programs.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: As needed.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Colleges and Universities, Nonpublic junior colleges, Public junior colleges, Vocational/Technical postsecondary institutions.
b. Number: Universe (1,000 institutions).
c. Estimated average man-hours per respondent: ½ hour.

9. INFORMATION TO BE COLLECTED

The following information will be collected from all respondents: Name, address, employer identification number, civil rights compliances, type of control, legal authorization, accredited status or its alternatives, school officials, pending government legal action, literature, institutional policies, academic calendar, enrollment, list of degrees or programs and their length, telephone number.

The following information will be collected from some respondents: Former name, parent institution if any, religious training, owners of institution, pending private legal action against a proprietary institution.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Cumulative Report and Estimate of Federal Funds Required, U.S. Loan Program for Cuban Students.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Student Financial Assistance/Division of Student Financial Aid.

3. AGENCY FORM NUMBER

OE Form 1141.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 2(b) * * * "(3) for assistance to or in behalf of refugees in the United States whenever the President shall determine that such assistance would be in the interest of the United States: *Provided*, That the term "refugees" herein used means aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion fled from a nation or area of the Western Hemisphere; (B) cannot return thereto because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life; * * * (6) for establishment and maintenance of projects for employment or refresher professional training of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof), and, who, having regard for their income and resources need such employment or need assistance in obtaining such retraining * * *. Sec. 3. (a) In carrying out the purpose of this Act, the President is authorized—(1) to make loans, advances, and grant to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and * * *

Sec. 4. (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act * * *." Pub. L. 87-510.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefit.

6. HOW INFORMATION COLLECTED WILL BE USED

Management of the Cuban Loan Program, and to ensure collection of loaned funds.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Summer.
c. Frequency: One.

8. RESPONDENTS

a. Type: Institutions of Higher Education.
b. Number: 50.
c. Estimated average man-hours per respondent: ½ hour.

9. INFORMATION TO BE COLLECTED

a. Actual and estimated number of borrowers.
b. Amounts of cash involved.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Upward Bound Data Collection.

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Postsecondary Education.

3. AGENCY FORM NUMBER

OE 1196.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 417B. "(a) The Commissioner is authorized * * * to make grants to, and contracts with, institutions of higher education * * * public and private agencies and organizations * * * and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (b) of this section.

(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education, including * * *

(2) Programs, to be known as "Upward Bound", (A) which are designed to generate skills and motivation necessary for success in education beyond high school and (B) in which enrollees from low-income backgrounds and with inadequate secondary-school preparation participate on a substantially full-time basis during all or part of the program;

* * * * *

(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart."

((20 U.S.C. 1070d-1) Enacted June 23, 1972, Pub. L. 92-318, sec. 131(b)(1), 86 Stat. 258, 259, amended August 21, 1974, Pub. L. 93-380, sec. 833, 88 Stat. 603, 604, amended October 12, 1976, Pub. L. 94-482, Sec. 124.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Program Management. The report serves two major functions: (1) The monitoring of a grantee's performance in terms of the law, the regulations, and an individual grant's terms and conditions; and (2) the evaluation of the effectiveness of individual projects as well as the effectiveness of the Upward Bound program as a whole.

Other. Data from these reports also will be used to respond to various ad hoc inquiries concerning the program, its participants, and its achievements.

7. DATA ACQUISITION PLAN

a. Method of collection: By mail.
b. Time of collection: Throughout the year.
c. Frequency: 40 (average number of student reports per year per project).

8. RESPONDENTS

a. Type: Upward Bound Project Directors.
b. Number: 400 Upward Bound Project Directors.
c. Estimated average man-hours per respondent: .20 per submittal.

9. INFORMATION TO BE COLLECTED

a. Demographic information on each participant (sex, age, ethno-racial characteristics, veteran status, enrollment status).
b. Eligibility criteria on each participant (family income, family size, grade point average).
c. Services to be provided to the participant.
d. Educational background.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports for Special Community Service and Continuing Education Projects.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Postsecondary Education, Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 1280-1 and OE 1280-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 106. (a) The Commissioner is authorized to reserve from the sums appropriated pursuant to Sec. 101 for any fiscal year an amount not in excess of 10 percentum of the sums so appropriated for that fiscal year for grants pursuant to subsection (b). (b) (1) From the sums reserved under subsection (a), the Commissioner is authorized to make grants to, and contracts with, institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this title, which are designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution." Pub. L. 89-329.

Sec. 408.(a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law, is, subject to limitations as may be otherwise imposed by law, authorized, (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency of which he is head. Pub. L. 93-380 (General Provisions).

Financial Reporting Requirement:

Each Federal sponsoring agency shall require the recipients to use the standardized Financial Status Report to report the status of funds for all non-construction projects or programs.

Performance Report:

Recipients shall submit a performance report (technical report) for each agreement * * * recipients shall submit the performance or technical reports to Federal sponsoring agencies and the Financial Status Reports covering the same period * * *. Office of Management and Budget Circular No. A-119, FEDERAL REGISTER, Vol. 41, No. 148.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Financial information collected will be used to determine accountability of each grantee in terms of the expenditure of funds. Information collected through the Performance Report will be used to determine whether goals and objectives are achieved. It will also serve as a basis in the evaluation of future application from the grantee.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: 30 days after the mid-point of grant period and 90 days after the end of grant period.
c. Frequency: Semi-annually.

8. RESPONDENT

a. Type: Institutions of Higher Education.
b. Number: 200.
c. Estimated average man-hour per respondent: 10.

9. INFORMATION TO BE COLLECTED

Financial information items are those on the Office of Management and Budget (OMB) standard Financial Status Report Form (OMB Circular No. A-110, Standard Form 269). The Performance Report collects information on (1) the extent of progress made toward the stated goals and objectives and factors that help to achieve or hinder the progress, and (2) the population groups served and factors that assisted or hindered the selection and recruitment.

[FR Doc.77-15476 Filed 5-31-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-485; FDAA-535-DR]

MISSOURI

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the State of Missouri (FDAA-535-DR), dated May 7, 1977.

DATED: May 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202)-634-7825.

SUPPLEMENTARY INFORMATION: The Notice of major disaster declaration for the State of Missouri dated May 7, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 7, 1977:

The Counties of:

Ray Carroll

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15433 Filed 5-31-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

INDIAN TRIBES PERFORMING LAW ENFORCEMENT FUNCTIONS

Determination—Amendment

MAY 16, 1977.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968—Pub. L. 90-351, 42 U.S.C. 3781(d), placed responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to exercise. Determination and certification concerning Indian Tribes not listed are made on an individual basis upon application by such tribes under the provisions of the Safe Streets Act of 1968—Pub. L. 90-351. The Secretary's authority to make such determinations was delegated to the Commissioner of Indian Affairs by 230 DM1.

It has been determined by the Commissioner of Indian Affairs that the Seneca Nation of Indians in New York has responsibility to perform the six functions listed below.

Therefore, the listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758) and last amended at page 43932 of the September 24, 1975 FEDERAL REGISTER (40 FR 43932) is further amended by adding the entry for the Seneca Nation of Indians in the State of New York to read as follows:

rTribal entities ecognized by the Federal Government and listed by State	To employ tribal police	To establish a tribal court	To adopt a tribal law and order code	To undertake correction functions	To undertake programs aimed at preventing adult crimes and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
New York, Seneca.....	X	X	X	X	X	X

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-15429 Filed 5-31-77;8:45 am]

Bureau of Land Management

ARIZONA

[Serial No. A9973]

Proposed Withdrawal and Reservation of Lands For Military Purposes; Correction

In FR Doc. 77-13576 appearing at page 24109 of the FEDERAL REGISTER of May 12, 1977, the following changes are made:

1. The dates in the 15 th and 16th line of the first paragraph are hereby corrected to read:

"* * * Order 8038, of January 25, 1939 and Public Land Order 5493 of March 21, 1975, with * * *"

2. The date in the 11th line of the 5th paragraph is hereby corrected to read:

"* * * 5493 of March 21, 1975 (Cabeza Prieta * * *"

Dated: May 24, 1977.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc.77-15492 Filed 5-31-77;8:45 am]

[NM 30720]

NEW MEXICO

Application

MAY 23, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 32 E.,
Sec. 34, SE¼NW¼ and E½SW¼.
T. 19 S., R. 32 E.,
Sec. 3, N½NW¼, SW¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 1.447 miles of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration whether the application should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15493 Filed 5-31-77;8:45 am]

[OR 8643]

OREGON

Order Providing For Opening of Public Land

MAY 24, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 30 S., R. 23 E.,
sec. 19, lot 8 (formerly lot 3) and NE¼ SW¼.

The area described contains 80.02 acres in Lake County.

2. The subject land is located near Alkali Lake approximately 55 miles north of the town of Lakeview. Elevation averages 4,400 feet above sea level, and the topography is generally flat. Vegetation consists primarily of sagebrush and native grasses. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 29, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.77-15495 Filed 5-31-77;8:45 am]

[OR 7101]

OREGON

Order Providing For Opening of Public Lands

MAY 24, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 8 S., R. 38 E.,
Sec. 5, lots 2 and 3 and SE¼NW¼.
T. 10 S., R. 39 E.,
Sec. 5, lots 3 and 4 and SW¼NW¼;
Sec. 6, SE¼NE¼.
T. 11 S., R. 40 E.,
Sec. 12, SE¼NW¼ and SW¼;
Sec. 13, NE¼NW¼, W½NW¼, NW¼SW¼, and E½SW¼;
Sec. 14, SE¼NE¼ and NE¼SE¼.

The areas described aggregate 796.95 acres in Baker County.

2. The United States did not acquire any oil and gas rights with the lands listed in paragraph 1 hereof.

3. The subject lands are located within a radius of 6 to 14 miles west, southwest, and south of the City of Baker. Elevation ranges from 4,500 to 6,000 feet above sea level, and the topography is generally rough and mountainous. Vegetation consists primarily of pine and fir timber. In the past, the lands have been used for timber production and some parcels also have elk and deer range values. The lands will be managed, together with adjoining national resource lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 29, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2956, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15494 Filed 5-31-77;8:45 am]

[Wyoming 59474]

WYOMING

Application

MAY 23, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Gas Company of Casper, Wyoming filed an application for a right-of-way to construct a 2" lateral pipeline together with the measuring facilities for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 92 W.,
Sec. 4, SE¼SW¼.,
Sec. 9, N½NE¼, NE¼NW¼;
Sec. 10, N½N½.

The pipeline will transport natural gas to the Big Eagle Mine Shop owned and operated by Lucky Mac Uranium Corporation, located in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15496 Filed 5-31-77;8:45 am]

[Wyoming 57619-Amdt.]

WYOMING

Application; Correction

MAY 24, 1977.

In FR Doc. 77-13580 appearing at page 24110 in the FEDERAL REGISTER of May 12, 1977, the first paragraph is corrected in the eighth line by deleting the first two words, "natural gas"; and is further corrected in the ninth line by deleting the second and third words, "natural gas" and adding in their place, "oil and other synthetic liquid fuels."

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15497 Filed 5-31-77;8:45 am]

National Park Service

SNOWMOBILE USE AT PICTURED ROCKS NATIONAL LAKESHORE, MICHIGAN

Environmental Assessment; Negative Declaration

After conducting a review of the environmental assessment of snowmobile use at Pictured Rocks National Lakeshore, Michigan, the National Park Service has decided not to prepare an environmental impact statement.

In the environmental assessment, made available to the public on September 20, 1976, the National Park Service examined the effects of three alternative approaches to snowmobile use at the National Lakeshore. The alternative selected by the National Park Service and the reasons for the selection are announced in the environmental review.

The environmental assessment and environmental review are on file and will be available for inspection upon request at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102; and at Pictured Rocks National Lakshore, P.O. Box 40, Munising, Michigan 49862. Anyone wishing to comment on these documents should submit such comments in writing to the Regional Director at the Omaha address on or before July 1, 1977.

The National Park Service intends to proceed with implementation of the preferred alternative on or before July 1, 1977.

Dated: April 29, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-15460 Filed 5-31-77;8:45 am]

Office of the Secretary

[Int FES 77-16]

CALIFORNIA

Availability of Final Environmental Statement; Proposed Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental statement for a proposed crude oil transportation system from Valdez, Alaska, to Midland, Texas.

The proposal involves tanker shipment of up to 700,000 barrels per day of crude oil from Valdez, Alaska, to Long Beach, California; construction of a marine terminal at the Port of Long Beach for crude oil offloading and storage; construction of new pipeline in California, Arizona and Texas; and, conversion of existing natural gas pipelines in California, Arizona, Texas, and New Mexico to crude oil transportation.

The environmental statement considers the impacts of the proposal, mitigating measuring to reducing adverse impacts, and reasonable and feasible alternatives to the proposal, in addition to all other required analyses.

Copies of the final environmental statement are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, Telephone (202) 343-5717.

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone: (916) 484-4724.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, Telephone: (602) 261-3831.

U.S. Army Corps of Engineers, Los Angeles District Library, Room 6650, 300 N. Los Angeles St., Los Angeles, California 90053, Telephone: (213) 688-5405.

Port of Long Beach, Environmental Affairs Office, 6th Floor, 925 Harbor Plaza, Long Beach, California 90801, Telephone: (213) 437-0041.

New Mexico State Office, Bureau of Land Management, Room 2220, Post Office and Federal Building, Santa Fe, New Mexico 87501, Telephone: (505)988-1316.

Federal Power Commission, Room 1000, 825 N. Capitol St., Washington, D.C. 20426, Telephone: (202) 275-4006.

A limited number of copies are available upon request to the State Director, California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

Dated: May 27, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-15609 Filed 5-31-77;8:45 am]

OUTER CONTINENTAL SHELF ADVISORY BOARD

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Advisory Board will meet during the period 9:00 a.m. to 5 p.m., June 28, 1977 and June 29, 1977, at the Interior South Auditorium, 1951 Constitution Avenue NW., Washington, D.C.

The meeting will cover the following principal subjects:

(1) Opening Statement—Secretary.
(2) OCS Schedule.
(3) Legislation:
OCS Lands Act Amendments. Oil Spill Liability. Tanker Safety.
(4) OCS Clearinghouse—Referral Center.
(5) Coast Guard briefing on conflicts with marine traffic and OCS platforms and tanker regulations.
(6) Consistency provisions of CZA amendments.
(7) Congressional funding of 308 program.
(8) Nearshore-onshore studies.
(9) Pipeline corridor studies.
(10) Reports of regional boards.
(11) Impact of the following on OCS program:
President's energy package. Reorganization of energy functions.
(12) DOI-DOT transportation responsibilities.
(13) Report of Environmental Studies Advisory Committee.
(14) Jamison Resolution.
(15) Impact of Baltimore Canyon sale court decision on other sales.
(16) Termination of leases.
(17) Procedural matters:
Role of Board. Procedures to consider resolutions, etc. Increasing number of private members. Interaction of Board with Environmental Studies Advisory Committee.
(18) Action taken to implement resolutions previously passed by Board.
(19) Argo Merchant oil spill.
(20) Protection of bays from oil spills.
(21) Procedures for activating a second EIS between exploration and development.

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made no later than June 22 to:

Alan Powers, Office of OCS Program Coordination, Department of the Interior, Washington, D.C. 20240 202/343-9311.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th & C Streets, N.W., Washington, D.C.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

MAY 26, 1977.

[FR Doc.77-15503 Filed 5-31-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

CAST-IRON COOKING WARE

Report to the President; Results of Investigation

MAY 24, 1977.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (Trade Act), the United States International Trade Commission herein reports the results of an investigation relating to cast-iron cooking ware.

The investigation (Inv. No. TA-201-21) was undertaken to determine whether cooking ware, wholly or almost wholly of cast iron, provided for in item 653.95 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation, under the authority of section 201(b)(1) of the Trade Act on February 12, 1977, following receipt, on January 21, 1977, of a petition for import relief under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) filed by The Atlanta Stove Works, Inc., General Housewares Corp., and Lodge Manufacturing Co.

The Commission held a public hearing on this matter in Birmingham, Ala., on April 12, 1977.

Notice of the institution of the investigation and hearing was published in the FEDERAL REGISTER of February 22, 1977 (42 FR 10347), and notice of the time and place of the hearings was published in the FEDERAL REGISTER of April 1, 1977 (42 FR 17537).

The information for this report was obtained from field work and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearings, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

Issued: May 25, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

DETERMINATION OF THE COMMISSION

On the basis of the investigation the Commission determines (Chairman Minchew dissenting,[2] Commissioner Leonard not participating) that cooking ware, wholly or almost wholly of cast iron, provided for in item 653.95 of the TSUS, is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

[FR Doc.77-15402 Filed 5-31-77;8:45 am]

[1] Attached to the original report sent to the President, and available for inspection at tht U.S. International Trade Commission, except for material submitted in confidence.

[2] Chairman Minchew determines that cooking ware, wholly or almost wholly of cast-iron, provided for in item 653.95 of the TSUS, is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

DEPARTMENT OF JUSTICE

CITY OF NEW YORK

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on May 11, 1977, a proposed consent decree in *United States* v. *City of New York*, was lodged with the District Court for the Southern District of New York. The proposed decree would require the City of New York to reduce immediately the pollutant emissions by a combination of methods including upgrading of certain of the incinerators, the closing down of other incinerators and portions thereof, and the modification of operating procedures.

The Department of Justice will receive until July 1, 1977, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *City of New York*, D.J. Ref. 90-5-2-1-43.

The proposed consent decree may be examined at the office of the United States Attorney, One St. Andrew's Plaza, New York, New York 10007; at the Region II Office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York 10007; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-15469 Filed 5-31-77; 8:45 am]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Third Circuit Panel

Chairman: John McLean, Jr.

The first meeting of the nominating panel for the Third Circuit of the United States Circuit Judge Nominating Commission will be held on June 14, 1977, at 10 a.m., in the Third Circuit Judicial Council Conference Room, 20th floor,

Room 20321, 6th and Market Streets, Philadelphia, Pennsylvania 19160.

The purpose of the meeting is to provide the panel members with a history of the Circuit Court system; an explanation of the merit selection process; and, the qualifications to be sought in nominating candidates for Circuit Court Judgeships.

This meeting will be open to the public.

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

MAY 26, 1977.

[FR Doc.77-15520 Filed 5-31-77;8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

MINNESOTA COORDINATING COMMITTEE

Minnesota Women's Meeting

In accordance wiwth Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1), announcement is made of the Minnesota Women's Meeting to be held on June 2-5, 1977, in St. Cloud at St. Cloud State University.

The purposes of the meeting are 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 all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) Make nominations for and elect 26 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) 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

(b) 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.

The meeting is scheduled to begin at 6 p.m. on June 2, 1977 and end after 10 a.m. on June 5, 1977.

Workshops and other discussions have been scheduled for:

1:30 to 3:00 p.m., Thursday, June 2, 1977.
3:30 to 5:00 p.m., Thursday, June 2, 1977.
10:30 a.m. to 12 noon, Friday, June 3, 1977.
1:30 to 3 p.m., Friday, June 3, 1977.
3:30 to 5 p.m., Friday, June 3, 1977.

Topics to be discussed during these periods include various matters relating to the health, welfare, employment, education, economics, and legal concerns of women.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations, 8:30 p.m. to 9:30 p.m., Friday, June 3, 1977.

Election of delegates, 1 p.m. to 8 p.m., Saturday, June 4, 1977.

This Meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 12 noon, Saturday, June 4, 1977.

All Communications regarding this Meeting should be addressed to Joan Anderson Growe, Chairperson, International Women's Year Coordinating Committee, Secretary of State, St. Paul, Minnesota, or call (612) 296-3834.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-15531 Filed 5-31-77;8:45 am]

MISSOURI COORDINATING COMMITTEE

Missouri Women's Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1), announcement is made of the Missouri Women's Meeting to be held on June 3-5, 1977 in St. Louis at Washington University.

The purposes of the meeting are 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 all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) Make nominations for and elect 30 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) 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

(b) 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.

This meeting is scheduled to begin at 7 p.m. on June 3, 1977 and end at 12 noon on June 5, 1977.

Workshops and other discussions have been scheduled for

9:00 a.m. to 11:30 a.m., and 7:30 p.m. to 10:00 p.m. Saturday, June 4, 1977.

Topics to be discussed during these periods include among others, women in the arts and humanities, the law and family economics, child care, credit and insurance, female offenders, education, employment, and women's health issues.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations 8 p.m., Friday, June 3, 1977.

Election of delegates 3 p.m. to 6 p.m., Saturday, June 4, 1977.

This meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at education institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 9 a.m., Saturday, June 4, 1977.

All communications regarding this Meeting should be addressed to Jean Berg, Chairperson, International Women's Year Coordinating Committee, Box 1396, St. Charles, Missouri 63301 or call (314) 946-3077.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-15532 Filed 5-31-77;8:45 am]

NEW MEXICO COORDINATING COMMITTEE

New Mexico Women's Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. app. 1), announcement is made of the New Mexico Women's Meeting to be held on June 3-5, 1977 in Albuquerque at Kiva Auditorium, Albuquerque Convention Center.

The purposes of the meeting are 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 all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) Make nominations for and elect 14 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) 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

(b) 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.

The meeting is scheduled to begin at 9:30 a.m. on June 3, 1977 and end at 3 p.m. on June 5, 1977.

Workshops and other discussions have been scheduled for:

3:40 p.m. to 5:40 p.m., Friday, June 3, 1977.

8:30 a.m. to 12:30 p.m. and 2 p.m. to 6 p.m., Saturday, June 4, 1977.

Topics to be discussed during these periods include various issues of concern to women including health, employment, the legal and economic status of women, and the concerns of rural women, older women, and migrant women.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations, 2 p.m., June 3, 1977.

Election of delegates, 8 a.m. to 6 p.m., June 4, 1977.

This Meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 10 a.m., Saturday, June 4, 1977.

All communications regarding this Meeting should be addressed to Elaine Mondragon, Chairperson, International Women's Year Coordinating Committee, P.O. Box 602, Albuquerque, New Mexico, 87103 or call (505) 243-2014.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-15533 Filed 5-31-77;8:45 am]

NORTH DAKOTA COORDINATING COMMITTEE

North Dakota Women's Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1), announcement is made of the North Dakota Women's Meeting to be held on June 3-5, 1977, in Bismarck at Bismarck Junior College.

The purposes of the meeting are 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 all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) Make nominations for and elect 12 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) 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

(b) 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.

The meeting is scheduled to begin at 6 p.m. on June 3, 1977 and end at 2 p.m. on June 5, 1977.

Workshops and other discussions have been scheduled for:

8:30 a.m. to 11 a.m., Saturday, June 4, 1977.

10:30 a.m. to 1 p.m., Saturday, June 4, 1977.

2 p.m. to 4 p.m., Saturday, June 4, 1977.

4 p.m. to 6 p.m., Saturday, June 4, 1977.

Topics to be discussed during these periods include various women's issues including among others women in employment, women in the media, the legal status of homemakers, teenage pregnancy, rape, the creative woman, and Indian women.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations, 8 p.m. to 10 p.m., Friday, June 3, 1977.

Election of delegates, 12 noon to 10 p.m., Saturday, June 4, 1977.

This meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 11 a.m., Saturday, June 4, 1977.

All communications regarding this Meeting should be addressed to Shirley Peterson, Chairperson, International Women's Year Coordinating Committee, 509 South 10th Street Bismarck, North Dakota, 58501.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-15534 Filed 5-31-77;8:45 am]

WISCONSIN COORDINATING COMMITTEE

Wisconsin Women's Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. app. 1), announcement is made of the Wisconsin Women's Meeting to be held on June 3-5, 1977 in Madison at the Madison Area Technical College.

The Purposes of the meeting are 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 all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) Make nominations for and elect 28 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) 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

(b) 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.

The meeting is scheduled to begin at 6 p.m. on June 3, 1977 and end after 12:30 p.m. on June 5, 1977.

Workshops and other discussions have been scheduled for:

2:30 p.m. to 4 p.m., and 4:30 p.m. to 6 p.m., Saturday, June 4, 1977.

Topics to be discussed during these periods include a variety of issues concerning women including their health, education, employment and economic and legal status.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations, 10 a.m. to 10:45 a.m., Saturday, June 4, 1977.

Election of delegates, 2 p.m. to 8 p.m., Saturday, June 4, 1977.

This Meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 2:30 p.m., Saturday, June 4, 1977.

All communications regarding this Meeting should be addressed to Connie Threinen, Chairperson, International Women's Year Coordinating Committee, 30 Mifflin Street, Madison, Wisconsin, 53703 or call 608-266-5572.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-15535 Filed 5-31-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COUNCIL TASK GROUP NO. 1

Meeting

In accordance with the Federal Advisory Committee Act. Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Task Group No. 1 of the NSF Advisory Council.

PLACE: Room 511, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

DATE: June 20-21, 1977.

TIME: 9 a.m. each day.

TYPE OF MEETING: Open.

CONTACT PERSON:

Dr. Laura P. Bautz, Staff Liaison, NSF Advisory Council, National Science Foundation, Room 348, Washington, D.C. 20550, Telephone 202-632-4175.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

AGENDA: To consider the problems or potential problems of the coming decades which may threaten the viability of universities as centers for basic research, and what present NSF programs are likely to have an impact on these problems.

Dated: May 26, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15472 Filed 5-31-77;8:45 am]

ADVISORY COUNCIL TASK GROUP NO. 3

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Task Group No. 3 of the NSF Advisory Council.

PLACE: Room 517, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

DATE: June 20-21, 1977.

TIME: 9 a.m. each day.

TYPE OF MEETING: Open.

CONTACT PERSON:

Mr. T. W. Wirths, Staff Liaison, NSF Advisory Council, National Science Foundation, Room 537, Washington, D.C. 20550, telephone 202-634-4017.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

AGENDA: June 20-21. To evaluate the impact of scientific research, on educational institutions and on industry of an NSF policy to support basic research in small business (commercial) scientific R & D firms.

Dated. June 26, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15471 Filed 5-31-77;8:45 am]

ADVISORY PANEL FOR ECONOMICS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Economic Advisory Panal Meeting.

DATE: June 17-18, 1977.

TIME: 9 a.m. to 6 p.m.

PLACE: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Part Open. Open Portion: June 18—10 a.m. to 12 noon. Closed Portion: June 17—9 a.m. to 6 p.m. June 18—9 a.m. to 10 a.m. and 1 p.m. to 6 p.m.

CONTACT PERSON:

Dr. James H. Blackman, Program Director for Economics, Division of Social Sciences, BBS, telephone 202-632-5968.

SUMMARY MINUTES: (Open Portion) May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 212, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY PANEL: To provide advice and recommendations concerning support for research in Economics.

AGENDA: June 18, 1977—10 a.m. to 12 noon, open. Discussion of research topics to be considered for special emphasis in Fiscal Years 1979 and 1980. June 17, 1977—9 a.m. to 6 p.m., closed. June 18, 1977—9 a.m. to 10 a.m. and 1 p.m. to 6 p.m., closed. To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals and projects being reviewed include information of a proprietary or confidential nature including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552 (b), (c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: The determination made by the Committee Management Officer pursuant to

provisions of Section 10(d) of Public Law 92-463.

Dated: May 26, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15470 Filed 5-31-77;8:45 am]

SCIENCE APPLICATIONS TASK FORCE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Science Applications Task Force.

DATE AND TIME: June 20, 1977, 9 a.m. to 5 p.m. June 21, 1977, 9 a.m. to 4 p.m.

PLACE: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Open.

CONTACT PERSON:

Gilbert B. Devey, Executive Secretary, Science Applications Task Force, National Science Foundation, telephone 202-634-6608. Persons interested in attending the meeting should inform the Executive Secretary before 5 p.m. on June 15, 1977.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY GROUP: The purpose of the NSF Task Force on Science Applications is to provide advice and assessments and make recommendations to the NSF Director on science application programs and related organization and management issues.

AGENDA: June 20, 1977. Discussion of final report. June 21, 1977. Discussion of final report.

Dated: May 26, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15473 Filed 5-31-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/72]

ADVISORY PANEL ON FOLK MUSIC AND JAZZ

Meeting

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Folk Music and Jazz has scheduled a meeting to be held on Friday, June 17, in Room 507 at State Annex 2, Department of State, 515 22nd Street NW., Washington, D.C. The meeting hours will be from 9:45 to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the folk music, jazz and popular music field sponsored by the Department of State;

(3) Evaluation of tapes and records of folk, jazz popular, blues and rock music groups planning tours abroad, and groups in those fields wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before June 15; the telephone number is 202-632-2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: May 11, 1977.

PAUL E. WHEELER,
Director, Office of International Arts Affairs.

[FR Doc.77-15499 Filed 5-31-77;8:45 am]

[Public Notice CM-7/73]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON MARITIME BILLS OF LADING

Meeting

A committee meeting of the Study Group on Maritime Bills of Lading, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10 a.m. on Thursday, June 23, 1977, in room 5519 of the Department of State. Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to consider data relating to the value of United States imports and exports prepared by the Department of Commerce and to formulate recommendations for the United States position concerning limits of liability.

Entrance to the Department of State building is controlled, and members of the general public should use the C Street entrance. Entry will be facilitated if arrangements are made in advance, and it is requested that members of the general public who plan to attend the meeting inform their name, affiliation, and address to Miss Dorothy Fagan, Office of the Legal Adviser, Department of State, prior to June 23, 1977. The telephone number is 202-632-8134.

Dated: May 5, 1977.

RICHARD D. KEARNEY,
Chairman.

[FR Doc.77-15500 Filed 5-31-77;8:45 am]

[Public Notice CM-7/74]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON MARITIME BILLS OF LADING

Meeting

A meeting of the Study Group on Maritime Bills of Lading, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10 a.m. on Friday, June 24, 1977, in room 5519 of the Department of State. Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to review the draft United States Government response to a questionnaire of the United Nations Commission on International Trade Law on the Convention on the Carriage of Goods by Sea.

Entrance to the Department of State building is controlled, and members of the general public should use the C Street entrance. Entry will be facilitated if arrangements are made in advance, and it is requested that members of the general public who plan to attend the meeting inform their name, affiliation, and address to Miss Dorothy Fagan, Office of the Legal Adviser, Department of State, prior to June 24, 1977. The telephone number is 202-632-8134.

Dated: May 17, 1977.

RICHARD D. KEARNEY,
Chairman.

[FR Doc.77-15501 Filed 5-31-77;8:45 am]

[Public Notice CM-7/75]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, June 22, 1977, in Room 8438 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 18th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) scheduled to be held in London September 12-16, 1977. In particular, the working group will discuss the following topics:

Code of safety requirements for mobile offshore drilling units.

Operational standards for shipboard radio equipment.

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft.

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to LT. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director,
Office of Maritime Affairs.

MAY 19, 1977.

[FR Doc.77-15502 Filed 5-31-77;8:45 am]

[Public Notice CM-7/71]

STUDY GROUP 6 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 6 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on June 20-21, 1977 at San Diego, California. The meeting will open on June 20 at 9:00 a.m. in the Cloud Room of Building 33 of the Naval Ocean Systems Center, 271 Catalina Boulevard.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be a final review of work programs in preparation for the international meeting of Study Group 6, Geneva, January 1978.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: May 19, 1977.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

[FR Doc.77-15498 Filed 5-31-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement To Department Circular Public Debt Series—No. 13-77]

TREASURY NOTES OF SERIES J-1981

Interest Rate

MAY 25, 1977.

The Secretary of the Treasury announced on May 24, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 13-77, dated May 18, 1977, will be 6¾ percent per annum. Accordingly, the notes are hereby redesignated 6¾ percent Treasury Notes of Series J-1981. Interest on the notes will be payable at the rate of 6¾ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-15425 Filed 5-31-77; 8:45 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 401]

ASSIGNMENT OF HEARINGS

MAY 26, 1977.

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 142399, Ellerbrock Trucking, Inc., now being assigned July 18, 1977 (1 day), at Omaha, Nebraska, in a hearing room to be later designated. Please disregard previous FEDERAL REGISTER notice setting hearing for September 7, 1977, at Omaha, Nebraska.

MC 114273 (Sub 290), Crst, Inc., now being assigned September 7, 1977 (1 day) at Omaha, Nebr., in a hearing room to be later designated.

MC 111231 (Sub 206), Jones Truck Lines, Inc., application dismissed.

MC 120477 (Sub 2), International Transport, Inc., common carrier application now assigned July 11, 1977, at New York, New York, is cancelled and reassigned for Boston, Massachusetts, on July 11, 1977 (1 week), in a hearing room to be later designated.

MC 42866 (Sub 17), National Van Lines, Inc., application dismissed.

MC 142291, MDI, Inc., now assigned June 7, 1977, at Minneapolis, Minnesota, has been canceled and reassigned June 7, 1977 (1 day), in Court Room 2, Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

MC 127811 (Sub-8), Brynwood Transfer, Inc., now assigned June 8, 1977 (1 day), at Minneapolis, Minnesota, has been canceled and reassigned June 8, 1977 (1 day), in Court Room 2, Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

MC 113855 (Sub-358), International Transport, Inc., now assigned June 9, 1977, at Minneapolis, Minnesota, has been canceled and reassigned June 9, 1977 (2 days), in Court Room 2, Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

MC-C-9394, Tom E. Tucker, Individual—Investigation and Revocation of Certificates now being assigned September 13, 1977 (2 days), at Boise, Idaho, in a hearing room to be later designated.

MC 720 (Sub 19), Bird Trucking, Inc., now being assigned September 13, 1977 (2 days), at Madison, Wisconsin, in a hearing room to be later designated.

No. W-1235 (Sub-No. 2), Security Barge Line, Inc., now being assigned for continued hearing on July 6, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8974, *Mrs. Charles Hodgens, individual, d.b.a. Tour of the Month Club and Greyhound World Tours, Inc. v. S & C Corporation, d.b.a. Piedmont Tours*, complaint dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15516 Filed 5-31-77;8:45 am]

[Notice No. 402]

ASSIGNMENT OF HEARINGS

Correction

MAY 26, 1977.

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 142491 (Sub-No. 1), D & E Transport, Inc., now assigned June 21, 1977, at Omaha, Nebraska, will be held in Room 616 Union Pacific Plaza, 110 North 14th Street, instead of June 23, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15517 Filed 5-31-77;8:45 am]

INFORMAL CONFERENCE ON TRANSPORTATION OF HOUSEHOLD GOODS BY MOTOR COMMON CARRIERS (AGENCY RELATIONSHIPS)

AGENCY: Interstate Commerce Commission.

ACTION: Notice that the Commission intends to conduct an informal conference on agency relationships between or affecting motor common carriers of household goods in interstate or foreign commerce.

SUMMARY: This notice is to inform the public that the Interstate Commerce Commission will conduct an informal conference on the agency relationships of motor common carriers of household goods subject to the jurisdiction of the Commission. The purpose of this conference is to discuss the extent (if any) to which the Commission's regulations governing those agency relationships require modification to make them more meaningful to the Commission and prospective agents while making them less burdensome to principal carriers. This notice lists several items which will be discussed at the informal conference and informs interested persons how they may be included in this conference.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTAL INFORMATION: The Interstate Commerce Commission proposes to conduct an informal conference on the agency relationships of motor common carriers of household goods in intertsate or foreign commerce.

In Ex Parte No. MC 19 (Sub-No. 9), Practices of Motor Common Carriers of Household Goods (Agency Relationships), 115 M.C.C. 628 (1972), the Commission promulgated regulations governing the filing of agency agreements of principal carriers (49 CFR 1056.19) and the responsibilities and liabilities of principal carriers (49 CFR 1056.20). Section 1056.19 requires principal carriers to file copies of their agency agreements with the Commission and to file with those agency agreements a statement containing certain information, including evidence of the financial condition of the carrier's agent and a definite plan of action designed fully to police the acts, policies, procedures, and practices of agents. Under § 1056.20, principal carriers are required to use due diligence and reasonable care in selecting their agents, to disclose to each prospective agent all relevant information relating to the carrier's operations, and to assume absolute liability for the acts and omissions of their agents.

The Commission's Bureau of Operations has encountered several problems in the enforcement of these regulations. Among those problems are (1) the lack of a specific deadline for the filing of agency agreements, which results in carriers' failure to file those agreements promptly; (2) different treatment of agents as between different carriers; (3) lack of certainty as to the contents of the statement required by § 1056.19; (4) differing formats for the presentation of information required by § 1056.19(b), which prevents the Commission from making meaningful comparisons between the data submitted by various carriers; (5) failure of carriers to indicate the manner in which they intend to police their agents, as required by § 1056.19(b); (6) failure of the regulations in § 1056.20 to specify the contents of the disclosure statement which the principal carrier must give to a prospective agent; and (7) the filing of possibly unnecessary documents when an agent authorized by its principal to perform one type of service (e.g., transportation of military shipments) is authorized by the principal to perform other services (*e.g.*, transportation of non-military shipments).

Accordingly, the Commission intends to conduct an informal conference at which the issues raised by its Bureau of Operations will be discussed. The following questions will be among those on the agenda of that informal conference:

(1) What changes should be made to the provisions of 49 CFR 1056.19 to ensure that specific and meaningful information concerning agency agreements is filed with the Commission?

(2) Should principal carriers continue to be required to file copies of agency agreements when those agency agreements merely enlarge or contract the authority which the principal has previously given to the agent?

(3) Should a uniform agency statement form, which all carries would be required to complete, be prescribed?

(4) Should a deadline be established within which the carrier must file copies of its agency agreements with the Commission?

(5) What changes, if any, should be made to the provisions of 49 CFR 1056.19(b)(7) to ensure that principal carriers institute and file copies of meaningful plans of action designed to police the acts and practices of their agents?

(6) Should 49 CFR 1056.20 be modified to require the principal carrier to furnish additional or more complete information to the prospective agent?

(7) Should principal carriers be required to furnish a prospective agent with the information required by section 1056.20 at a specific time prior to the signing of an agency agreement?

Other aspects of agency relationships of household goods carriers will also be discussed at the informal conference if participants wish to do so.

Persons who intend to participate in this conference or who wish to have items relating to agency relationships considered as part of the agenda of this conference should submit their names, addresses, and proposed agenda items (if any) to:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Participants should forward this information on or before June 15, 1977. The conference on agency relationships will be scheduled sometime during the month of July 1977. It will be held at the Commission's offices at 12th and Constitution NW., Washington, D.C. Notice of the exact time and place of the conference, a copy of the conference agenda, and copies of any relevant written materials for use at that conference will be forwarded to those who inform the Commission of their desire to participate in this conference.

This conference will be informal and will be conducted by a member of the Commission's staff and attended by staff persons from the Office of Proceedings and Bureaus of Accounts, Operations and Investigations and Enforcement. No written submissions are required, and no transcript will be kept. All interested persons, including individuals, shippers, consumer groups, other government agencies, carriers, and carrier associations, are invited to participate.

If, as a result of this conference, it is determined that the institution of a rulemaking proceeding directed toward the elimination, modification, or adoption of certain regulations would be advisable, the Commission staff or parties present at the conference might propose the institution of such a rulemaking proceeding. Not all participants will be expected to be of like mind with respect to the effects or the desirability of any such proposals. Therefore, any request for the institution of a rulemaking proceeding as a result of this conference will reflect the diverse viewpoints of the conference participants, and the formal request for that rulemaking proceeding should discuss briefly the issues raised by all of the conference participants. The informal conference will not involve sworn testimony, cross examination, or evidentiary rulings. Matters discussed at this conference will not be binding upon the Commission, and may not later be relied upon by a party to an adversary or other formal proceeding as "proof". The Commission reserves to itself the right to deny any request for the institution of a rulemaking proceeding.

We hope that this conference will lead to more meaningful regulations governing agency relationships and will aid us in our attempt to ensure that principal carriers disclose fully to their agents the nature of their operations, to ensure that principal carriers furnish to the Commission meaningful information on the basis of which to analyze agency relationships, and to ensure that principal carriers adequately police the activities of their agents.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-15519 Filed 5-31-77;8:45 am]

[Notice No. 173]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 1, 1977.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 21, 1977. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75620, by order of May 25, 1977, the Motor Carrier Board approved the transfer of C & F Trucking, Inc., Garfield, New Jersey, of Certificate No. MC 59463 Sub-No. 1), issued September 30, 1964, to Towers Transportation, Inc., Elizabeth, New Jersey, authorizing the transportation of general commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, New York, on the one hand, and, on the other, points in New Jersey within 40 miles of New York. Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, New Jersey 08904, Attorney for Transferee. Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005, Attorney for Transferor.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11518 Filed 5-31-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
Federal Election Commission	2
Federal Maritime Commission	3
Federal Reserve System	4
Foreign Claims Settlement Commission	5
Renegotiation Board	6
U.S. Parole Commission	7

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Wednesday, June 1, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Petition against tariff revisions reducing some charges for AT&T's Series 2000 and Series 3000 private line services (Docket No. 20814).

Common Carrier—2—Petitions against AT&T's proposed tariff revisions which terminate Telpak.

Common Carrier—3—Reconsideration and Clarification of Final Decision in Docket No. 18128.

Common Carrier—4—Notice of Inquiry and Proposed Rulemaking regarding the Commission's jurisdiction over switches and switching services.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: May 25, 1977.

[S-518-77 Filed 5-26-77;2:22 pm]

2

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Thursday, June 2, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions: AOR 1977-2, AO 1977-18, AO 1977-19, AO 1977-20.
IV. Proposal for rulemaking hearings on sponsorship and funding of candidate debates.
V. Appropriations and Budget. OMB request for zero-base budget status report, budget execution report.
VI. Agency job classification actions.
VII. Pending legislation.
VIII. Liaison with other Federal agencies.
IX. Report on pending litigation.
X. Routine administrative matters.

PORTIONS CLOSED TO THE PUBLIC

XI. Executive session, personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-519-77 Filed 5-26-77;2:25 pm]

3

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 20, 1977, 42 FR 25950.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 25, 1977.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

2. Civil Penalty Compromise Guidelines.

[S-516-77 Filed 5-26-77;12:02 pm]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM: The Board of Governors has previously announced a meeting to be held on Friday, June 3, 1977, which will be closed to public observation under exemption(s) of the Government in the Sunshine Act (5 U.S.C. 552 (b) (c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such item, postponed from May 18, 1977, will be considered at this meeting:

Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.

The previously announced closed item for the June 3, 1977 meeting is:

Draft testimony to be presented before the Senate Committee on Banking, Housing and Urban Affairs, regarding H.R. 5675, a bill to authorize the Secretary of the Treasury to invest operating cash in (1) obligations of depositories maintaining tax and loan accounts and (2) obligations of the United States and United States agencies.

The meeting will be held at 11 a.m. in the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System.

Dated: May 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-521-77 Filed 5-26-77;4:33 pm]

5

[F.C.S.C. Meeting Notice No. 8-77]

AGENCY HOLDING THE MEETING: Foreign Claims Settlement Commission.

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS: The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date and Time, and Subject Matter

Thursday, June 2, 1977, at 10:30 a.m., routine business.
Wednesday, June 8, 1977, at 10:30 a.m., routine business.
Wednesday, June 15, 1977, at 10:30 a.m., routine business.
Wednesday, June 22, 1977, at 10:30 a.m., routine business.
Wednesday, June 29, 1977, at 10:30 a.m., routine business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, telephone 202-653-6156.

Dated at Washington, D.C., on May 25, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[S-517-77 Filed 5-26-77;2:09 pm]

6

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Tuesday, June 7, 1977, at 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 11 will be open to public; Matter 12 will be closed to public; Matters 13 and 14 are not applicable.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held May 31, 1977, and other board meetings, if any.
2. Recommended clearances without assignment (list No. 1874):
a. Brandel-Stephens & Co., Inc., fiscal year ended Dec. 31, 1975.
b. Cooney's Pipe and Copper Works, Inc., fiscal year ended Dec. 28, 1975.
c. Stanley Supply Inc., fiscal year ended Dec. 28, 1975.
d. Ball Corp., fiscal year ended Dec. 31, 1975.
e. Ball Brothers Research Corp., fiscal year ended Dec. 31, 1975.
f. Hoffman Electronics Corp., fiscal year ended Dec. 31, 1975.
g. Information Identification Co., fiscal year ended Dec. 31, 1975.
h. M. M. Sundt Construction Co., fiscal year ended Sept. 30, 1975.
3. Recommended clearances without assignment (list No. 1875):
a. WEMS, Inc., fiscal year ended Dec. 27, 1975.
b. Vacuum Atmospheres Co., fiscal year ended Dec. 27, 1975.
c. McGraw-Hill Inc., fiscal year ended Dec. 31, 1975.
d. McGraw-Hill Continuing Education Center, Inc., fiscal year ended Dec. 31, 1975.
e. Burtek, Inc., fiscal year ended Dec. 31, 1975.
f. International Nickel Co., Inc., fiscal years ended Dec. 31, 1974 and 1975.
g. ESB Inc., fiscal years ended Dec. 31, 1974 and 1975.
h. Universal Electric Co., fiscal years ended Dec. 31, 1974 and 1975.
i. International Nickel Co., fiscal year ended Dec. 31, 1975.
j. ESB Brands, Inc., fiscal year ended Dec. 31, 1974.
k. Circuit Technology Inc., fiscal year ended Sept. 30, 1974.
4. Recommended clearances without assignment (list No. 1876):
a. Studebaker-Worthington, Inc., fiscal years ended Dec. 31, 1973 and 1974.
b. R & D Associates, fiscal year ended Dec. 31, 1975.
c. Sybron Corp., fiscal year ended Dec. 31, 1975.
d. A. Di Paola Co., Inc., fiscal year ended July 31, 1974.
e. Dynell Electronics Corp., fiscal year ended Sept. 30, 1975.
5. Recommended finding or determination of excessive profits and clearances:
a. LaPointe Industries, Inc., fiscal years ended June 30, 1969 and 1970.
b. LaPointe Industries, Inc. SII: Northeastern Engineering, Inc., fiscal year ended June 30, 1969.
c. ASC Systems Corp., fiscal years ended June 30, 1969 and 1970.
6. Request for permission to make untimely filing of application for commercial exemption: HTL Industries, Inc., LPI No. 97214, fiscal year ended September 30, 1976.
7. Exemption recommendations—ACE list No. 2992.
a. Andrew California Corp., fiscal year ended Sept. 30, 1976.
b. Burlington Industries, Inc., fiscal year ended Oct. 2, 1976.
c. DeLaval Turbine, Inc., fiscal year ended Dec. 31, 1975.
d. Emerson & Cuming, Inc., fiscal year ended Aug. 31, 1976.
e. J. G. Furniture Co., Inc., fiscal year ended Oct. 2, 1976.
f. J. G. Furniture Co., Inc., fiscal year ended Jan. 1, 1977.
g. Rosemount Inc., fiscal year ended Aug. 6, 1976.
h. Rosemount Inc., fiscal year ended Sept. 24, 1976.
8. Exemption recommendations—ACE list No. 2993.
a. Air Products and Chemicals, fiscal year ended Sept. 30, 1976.
b. Air Space Devices, Inc., fiscal year ended Dec. 31, 1975.
c. Allen-Bradley Co., fiscal year ended Nov. 30, 1976.
d. Andrew Corp., fiscal year ended Sept. 30, 1976.
e. Cabot Corp., fiscal year ended Sept. 30, 1976.
f. Lindberg Corp., fiscal year ended Dec. 31, 1976.
g. Sigma Sales Corp. of California, fiscal year ended Dec. 31, 1975.
h. Veeco Instruments, Inc., fiscal year ended Sept. 30, 1976.
i. Xerox Corp., fiscal year ended Dec. 31, 1976.
9. Recommended finding or determination of excessive profits: Pembroke, Inc., fiscal year ended Oct. 31, 1974.
10. Proposed Special Accounting Agreement: Black Crow & Eidsness, Inc., fiscal year ending on or after Dec. 31, 1972.
11. Report of the chairman concerning:
a. Budget.
b. Personnel actions.
c. Reorganization of the staff.
d. Rulemaking and regulations.
12. Recommended finding or determination of excessive profits:
a. American Manufacturing Co. of Texas, fiscal years ended December 31, 1966–1970.
b. General Industrial Corp., fiscal years ended Feb. 29, 1968, Feb. 28, 1969 and Mar. 31, 1969–1972.
c. Industrial Park Supply Co., fiscal years ended June 30, 1968–1972.
13. Approval of agenda for meeting to be held June 21, 1977.
14. Approval of agenda for other meetings.

Dated: May 26, 1977.

GOODWIN CHASE,
Chairman.

[S-520-77 Filed 5-26-77;3:57 pm]

7

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 17, 1977, 42 FR 25406.

CHANGES IN THE MEETING: The closed business meeting scheduled for 10:15 a.m. on Friday, May 27, 1977, will commence at 3:30 p.m. on Thursday, May 26, 1977, and will then continue on May 27, at 11:30 a.m.

AUTHORITY FOR THE CHANGE: Order of Curtis C. Crawford, Acting Chairman, United States Parole Commission.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb, Washington, D.C., 202-724-3117. Helen Moniz, Burlingame, Calif., 415-347-4737.

[S-525-77 Filed 5-27-77;10:52 am]

federal register

WEDNESDAY, JUNE 1, 1977

PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Captive, Self-Sustaining Populations

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, EXPORTATION AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Final Determination of Captive, Self-Sustaining Populations for 3 Large Cats, 2 Primates and 6 Pheasants; Related Permit Requirements, and the Definition of "Enhancing the Survival of the Species"

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rule.

SUMMARY: This rule contains the determination of captive, self-sustaining populations in the United States for 3 species of large cats, 2 primates, and 6 pheasants. It determines these populations to be Threatened species, and makes permits available for activities such as interstate commerce, which cannot be permitted for other populations of these animals that are Endangered species. It also amends the permit requirements to buy, sell, import, export, or otherwise deal with such wildlife. This rule defines the phrase "enhancing the survival of the species" as it relates to Endangered and Threatened species, in order to clarify the purposes for which permits may be issued.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (202–634–1496.)

SUPPLEMENTARY INFORMATION: The Director, U.S. Fish and Wildlife Service, hereby issues a rule pursuant to Sections 4(a) and 4(c) of the Endangered Species Act of 1973 (the "Act," 16 U.S.C. 1531–1543; 87 Stat. 884) determining that Captive, Self-sustaining Populations ("CSSP's") of the following Endangered species exist in the United States:

1. Brown-eared pheasant, *Crossoptilon mantchuricum.*
2. Edward's pheasant, *Lophura edwardsi.*
3. Bar-tailed pheasant, *Syrmaticus humiae.*
4. Mikado pheasant, *Syrmaticus mikado.*
5. Palawan peacock pheasant, *Polyplectron emphanum.*
6. Swinhoe's pheasant, *Lophura swinhoii.*
7. Tiger, *Panthera tigris.*
8. Leopard, *Panthera pardus.*
9. Jaguar, *Panthera onca.*
10. Ring-tailed lemur, *Lemur catta.*
11. Black lemur, *Lemur macaco.*

This rule, pursuant to Sections 4(d) and 10(a) of the Act, also amends permit regulations for captive, self-sustaining populations (CSSP's) and defines "enhancing the survival of the species."

BACKGROUND

Section 9 of the Act sets forth prohibitions that apply to any Endangered species of fish or wildlife listed pursuant to Section 4 of the Act. With some exceptions, these prohibitions apply to individual animals of such species whether in captivity or in the wild.

The primary purpose of the Act is the conservation and continued existence of wild populations of fauna and flora which are endangered or threatened, and the ecosystems on which they depend. The Service recognizes that the survival of Endangered species of animals in captivity is to some extent related to this purpose. The captive individuals provide gene pools that deserve continued preservation, and such individuals make it possible to re-establish or rejuvinate wild populations. For these reasons, the Service will continue to enforce the stringent prohibitions of the Act as they relate to captive individuals of a species that is Endangered in the wild, and for which procedures to develop CSSP's have not been perfected.

However, there are other species that while Endangered in the wild, are being bred in captivity in such numbers that CSSP's have been established. The successful maintenance of such populations usually depends on the ability of zoos or other propagators to transfer breeding stock and progeny in an efficient and expeditious manner.

The Service recognizes that successful propagation is expensive and requires considerable investment in facilities, food, personnel and other items. It often depends on the propagator's ability to recoup his expenses through the sale of surplus animals.

In order to enhance the ability of propagators to breed animals in captivity in such numbers that a self-sustaining population is maintained, the Service has established certain rules. Rules in § 17.7 establish the basis for treating CSSP's of otherwise Endangered species as Threatened. The determination of whether any species is so treated is made pursuant to Section 4(a)(5) of the Act, which states that "other natural or manmade factors affecting its continued existence" are among the factors that can lead to the determination of Endangered or Threatened status. In the case of CSSP's, successful propagation is the "manmade factor" that leads to their treatment as Threatened.

Justification for treating CSSP's as Threatened while wild populations of the same species are Endangered was given in the proposed rule in the May 5, 1976, FEDERAL REGISTER (41 FR 18619):

> The Act contains sufficient flexibility to recognize these situations and provides for the recognition of two degrees of threat. It provides for the determination of Endangered Species, i.e., those threatened with extinction, and for Threatened Species, i.e., those threatened with becoming Endangered. The statute itself limits the uses that can be made of any "Endangered Species." However, with regard to a "Threatened Species" the Act authorizes the Secretary to "* * * issue such regulations as he deems necessary and advisable to provide for the conservation of such species * * *."
>
> In addition, the Act mandates consideration not only of species and subspecies but also of "* * * any other group of fish or wildlife of the same species * * * in common spatial arrangement that interbreed when mature * * *."

One might consider a situation in which a species is critically endangered in the wild but for which a self-perpetuating "population" has been established among zoos, game breeders, aviculturists or others in this country. This captive population is being husbanded wisely and is, in fact, a population separate, apart and not contributing to or drawing on, the wild populations of that same species.

Such a CSSP fits the criteria of an "* * * other group of fish or wildlife of the same species * * * in common spatial arrangement that interbreed when mature * * *" and may be considered a "species" pursuant to Section 3(11) of the Act. Therefore the status of such a captive, Endangered Species can be reviewed to determine whether it would be classified as a "Threatened" rather than an "Endangered" species.

The proposed rule presented data on each of the 16 species that had been proposed for CSSP status:

Section 17.7 of Part 17 of Title 50 of the Code of Federal Regulations sets forth 8 criteria which must be considered in determining whether a CSSP of an Endangered Species has been attained. These are paraphrased below:

1. The approximate number of living specimens of that species that exist in captivity in the United States;
2. The age and sex ratios of such captive specimens;
3. The number of persons who have successfully propagated the species in captivity;
4. The number of generations of the species that have been successfully produced in captivity;
5. The likelihood that persons owning or controlling such captive specimens will cooperate in insuring the continued existence of the reproduction among such specimens;
6. The number of requests to take or import wild specimens of the same species during the 24 months immediately prior to the date consideration of the species was undertaken;
7. The ratio of wild born versus captive born specimens of the species in captivity in the United States; and
8. Such other factors as the Director deems appropriate.

Data relative to these criteria, as they apply to each of the species under consideration are set forth below. To conserve space, the criteria themselves are not repeated for each species, instead the numbered comments following the name of the species relate to the criteria enumerated above. Thus, comments adjacent to the numeral "4" following the name of the "tiger," would relate to the number of generations of tigers known to have been produced in captivity (criterion number "4" above).

A. Brown eared pheasant, *Crossoptilon mantchuricum*

1. over 452
2. age ratio—the 452 documented birds are breeding age
   sex ratio—approximately 1:1

3. about 80
4. at least 5
5. high
6. none
7. all captive born

B. Edward's pheasant, *Lophura edwardsi*

1. over 305
2. age ratio—the 305 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 36
4. at least 5
5. high
6. none
7. all captive born

C. Bar-tailed pheasant, *Syrmaticus humiae*

1. over 445
2. age ratio—the 445 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 54
4. at least 5
5. high
6. none
7. all captive born

D. Mikado pheasant, *Syrmaticus mikado*

1. over 430
2. age ratio—the 430 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 56
4. at least 5
5. high
6. none
7. all captive born

E. Palawan peacock pheasant, *Polyplectron emphanum*

1. over 175
2. age ratio—the 175 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 17
4. at least 5
5. high
6. none
7. all or nearly all captive born

F. Swinhoe pheasant, *Lophura swinhoii*

1. over 1,628
2. age ratio—the 1,628 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 140
4. at least 5
5. high
6. none
7. all captive born

G. White-eared pheasant, *Crossoptilon crossoptilon*

1. over 48
2. age ratio—the 48 documented birds are breeding age
   sex ratio—approximately 1:1
3. about 2
4. at least 5
5. high
6. none
7. all captive born
8. the apparent low number of this species in captivity and the few individuals who apparently have propagated them give cause for concern as to whether a C.S.S.P., for this bird has been established. However, since it is felt that other birds of this species are being propagated by persons whose data are not represented in the above, this species is being proposed. These factors will be given serious consideration in reviewing data submitted in response to this proposal.

H. Nene goose, *Branta sandvicensis*

1. 102
2. age ratio—the 102 documented birds are breeding age
   sex ratio—approximately 1:1
3. over 9
4. at least 5
5. high
6. none
7. all captive born
8. see comments at the end of the data summary

I. Hawaiian duck, *Anas wyvilliana*

1. 101
2. age ratio—the 101 documented birds are breeding age
   sex ratio—approximately 1:1
3. over 14
4. at least 5
5. high
6. none
7. all captive born
8. see comments at the end of the data summary

J. Laysan teal, *Anas laysanensis*

1. approximately 283
2. age ratio—the 283 documented birds are breeding age
   sex ratio—at least 128 males, 172 females and 42 of unknown sex
3. over 13
4. at least 5
5. high
6. none
7. all captive born
8. available information indicates this is a difficult species to breed consistently in captivity. This factor, as well as the additional comments at the end of the data summary will be given careful consideration.

K. Masked bobwhite quail, *Colinus virginianus ridgwayi*

1. more than 96
2. age ratio—the 96 documented birds are breeding age
   sex ratio—approximately 1:1
3. over 9
4. at least 5
5. high
6. none
7. all captive born
8. see comments at the end of the data summary

L. Tiger, *Panthera tigris*

1. at least 289
2. approximate age breakdowns: 103—1 yr., 36—2 yr., 16—3 yr., 17—4 yr., 54—10 yr., 28—15 yr., 15—20 yr., and 5—greater than 20 yr.
   sex ratio—1:1.3
3. over 25
4. at least 4
5. high
6. none
7. 1:67

M. Leopard, *Panthera pardus*

1. at least 217
2. approximate age breakdown: 52—1 yr., 13—2 yr., 16—4 yr., 20—5 yr., 70—10 yr., 19—15 yr., 8—20 yr., 6—greater than 20 yr.
   sex ratio—1:1.1
3. over 18
4. at least 4
5. high
6. no more than 1
7. 1:13

N. Jaguar, *Panthera onca*

1. at least 141
2. approximate age breakdown: 31—1 yr., 18—2 yr., 9—3 yr., 12—4 yr., 13—5 yr., 33—10 yr., 17—15 yr., 5—20 yr., and 3 greater than 20 yr.
   sex ratio—1:1
3. over 12
4. at least 4
5. high
6. no more than 1
7. 1:43

O. Ring-tailed lemur, *Lemur catta*

1. at least 169
2. age breakdown: 24—1 yr., 13—2 yr., 18—3 yr., 15—4 yr., 16—5 yr., 55—10 yr., 18—15 yr., 3—20 yr., 2—greater than 20 yr.
   sex ratio—1:1.4
3. at least 10
4. at least 3
5. high
6. none
7. approximately 1:10

P. Black lemur, *Lemur macaco*

1. at least 146
2. at age breakdown: 21—1yr., 11—2 yr., 17—3 yr., 18—4 yr., 19—5 yr., 29—10 yr., 21—15 yr., 1—20 yr., and 9—greater than 20 yr.
   sex ratio—1:1.1
3. at least 2
4. at least 5
5. high
6. none
7. approximately 1:4

The proposed rule, in addition to determining CSSP's, contained proposed amendments to §§ 17.7 and 17.33. These amendments would have made permits available pursuant to § 17.32 or 17.33 for CSSP's. They would have provided § 17.32 permits to authorize taking, importation or exportation. Permits would have been available pursuant to § 17.33 "for a single transaction, a series of transactions, or activities over a specified period of time."

The proposal would have amended the issuance criteria for permits in § 17.33 to include consideration of the opinions or views of scientists or other persons or organizations. Applications for permits to authorize an unlimited number of transactions over a specified period of time, and such others as the Director deems appropriate, would be published in the FEDERAL REGISTER.

The permit conditions in § 17.33 would have been amended by the proposal to require the permittee to transfer ownership of wildlife held under the permit only to another holder of a § 17.32 or § 17.33 permit. It also would have required the permittee to keep records and file reports of his activities, and may have required him to mark wildlife for identification purposes. The duration of permits in § 17.33 would have been limited to a period not longer than two years.

Another subject covered in the proposed rule was the definition of "enhancing the survival of endangered wildlife." Section 10(a) of the Act states that any otherwise prohibited activity may be submitted "to enhance the propagation or survival of the affected species." The proposal would have defined "enhancing the survival" by stating that it included conservation exhibition, euthanasia and surplus pools. Such a definition would make permits available for activities that frequently

arise in the normal course of maintaining captive animals, and for which permits are currently unavailable. It would apply to activities involving Endangered species in captivity, even though they are not treated as CSSP's.

PUBLIC COMMENTS

Public comments were received from 52 individuals, organizations and State governments in response to the proposed rule (41 FR 18618). Their origins were as follows:

Zoos and zoological societies	17
State governments	10
Bird breeders	9
Conservation organizations	6
Circuses and related organizations	4
Private individuals	4
Animal dealer	1
Falconry club	1

The comments are summarized below, with a response to each by the Service.

1. *Comment.* CSSP's should not be regulated by the Service. Overly restrictive regulations are counter to the purpose of the Act. Captive populations of exotic species should not be regulated in the United States. CSSP Regulations are not needed because there is already a surplus of animals in zoos.

Response. The Service recognizes that overly restrictive regulations hamper the transfer of breeding stock and progeny among animals breeders. In this way they interfere with the development of large populations of captive animals. The reason why the Service continues to regulate captive populations of exotic animals that are Endangered in the wild is that they constitute important gene pools and can be used to rejuvinate or re-introduce wild populations. The justification for the CSSP rules is that they will reduce the degree of regulation by the Service to facilitate the transfer of breeding stock and progeny, while still providing some control of activities involving such animals. These more lenient rules will help to alleviate the problem of transferring surplus animals. Previous rules have hindered this transfer and have led to the development of localized surpluses.

2. *Comment.* Import and export restrictions should not be weakened by the CSSP rules. There should/should not be any import or export of CSSP's. Occasional infusion of wild blood might be desirable. Import and export should only by allowed if individual animals are accounted for.

Response. The Service feels that import and export must be strictly regulated so that wild populations of exotic species are not exploited for purposes of captivity, and so that captive populations in the United States are not dispersed to other countries for purposes that would not benefit the species. The Service recognizes that import and export of CSSP's is occasionally justified to enhance propagation, but that it must be much more stringently controlled than transfer from one propagator to another within this country. The rules make permits available for import and export pursuant to § 17.33. However, animals originating outside this country are excluded from treatment as CSSP's.

3. *Comment.* The purchasing or selling of CSSP's should/should not be allowed. Exploitation of CSSP's by roadside zoos should be prohibited. Private zoos and propagators should be allowed to obtain permits. Dealers should be allowed to transfer animals between zoos.

Response. The Service recognizes, as mentioned earlier, that propagation of CSSP's is expensive and often depends on the propagator's ability to recoup his expenses through the sale of surplus animals. This is not the major reason for the CSSP rules, although commerce is often important to the propagators. The Service is not concerned about the profit involved in the transfer of CSSP's, but it is concerned about the continuation of the CSSP's themselves. For this reason, § 17.33 provides, in part, for permits to allow commercial activities with CSSP's to the extent that the activities enhance the propagation or survival of the species.

4. *Comment.* Criteria need to be established for individuals or institutions who may obtain a CSSP permit. A list of approved zoos should be developed. Qualified institutions or individuals can be defined by criteria of the American Association of Zoological Parks and Aquariums, of the American Game Bird Breeders Association or of other organizations. They can also be defined by licensing in cooperation with the U.S. Department of Agriculture.

Response. The Service has developed issuance criteria for CSSP permits, which are stated in § 17.33. The proposed rules would have added, as a further criterion, that the opinions or views of scientists or other persons or organizations be considered. Any opinions or views expressed by the organizations mentioned above or by anyone else, would be considered by the Director in deciding whether or not a permit should be issued. The proposal also would have established that any application for a CSSP permit, to allow an unlimited number of transactions over a specified period of time would be published routinely in the FEDERAL REGISTER with a request for comments.

5. *Comment.* Circuses should/should not be allowed to obtain CSSP permits. Circuses should be allowed to import and export animals if they are individually accounted for. The prohibitions regarding "commercial activities" should not apply to circuses.

Response. Permits to conduct otherwise prohibited activities with CSSP's are available to any person who meets the requirements of the Service, as specified in § 17.33. Circuses will receive consideration equal to that afforded all other organizations or individuals who apply for permits. The prohibitions of the Act concerning interstate and foreign commerce "in the course of a commercial activity" likewise will be enforced for all organizations and individuals, including circuses. Importation and exportation of CSSP's may be allowed if the Service is satisfied that the animals originated in captivity in the United States and that they are not being exported for purposes that are inconsistent with the purposes of the Act. The availability of the requirement of uniquely marking or otherwise identifying individual animals will aid in this respect.

6. *Comment.* The proposed CSSP permit system is too burdensome and complicated. The Service does not need to know about the construction details of all shipping containers, the care of animals during transportation, the occurrence of mortalities in the past, the facilities in which animals are kept, or how animals will be disposed at the end of the activity. Permits should be issued for a period longer than two years. Permit applications should not be published in the FEDERAL REGISTER. All transfers of animals should be published in the FEDERAL REGISTER.

Response. The basic reason for creating the CSSP permit system is to reduce the paperwork to the minimum needed to ensure that CSSP's are successfully maintained and that animals are not used for purposes that are inconsistent with the purposes of the Act. The application requirements for a CSSP permit are the minimum needed to determine if a person is qualified to engage in activities involving such animals. The Service would like to know about the care, housing, transportation and disposition of animals to the extent a person is able to describe these items at the time he applies for a permit. Obviously, changes may occur in the course of the activities. In this case, they must be reported when renewal of the permit is sought.

The Service will provide simple threeply forms to each CSSP permittee, on which he is to record all transfers of animals to other holders of CSSP permits. The first copy of each form is to be retained by the seller, the second is to be retained by the buyer, and the third is to be sent to the Service for analysis. The data from these forms will be used to determine the distribution and current status of CSSP's.

By issuing CSSP permits valid for a period of two years, the Service will be able to obtain reasonably current information about the facilities and other items described in the permit application. A longer period might see too many unfavorable changes. A shorter period might place a burdensome requirement on the permittee.

The Service intends to publish in the FEDERAL REGISTER all applications for CSSP permits to conduct an unlimited number of transactions over a specified period of time. This will allow an opportunity for outside comment on the qualifications of the applicant. Publication of each transfer of an animal would be unnecessary, since transfers could only occur between permittees.

7. *Comment.* The genetic quality of CSSP's needs to be maintained. Genetic changes can occur in isolated captive populations. Birth rates may decline over successive generations. Continuity of a captive population cannot be as-

sured without long-term binding agreements.

Response. The Service recognizes the importance of maintaining genetic quality in CSSP's, and of assuring that they continue to exist. However, scientific management of breeding programs involving CSSP's is currently beyond the scope of the Service. Federal regulation to the extent necessary to manage genetic quality is not practical at this time and might not be desirable at any time.

8. *Comment.* The care of animals should not be considered as a criterion in issuing CSSP permits. The Service should not assume responsibilities of the U.S. Department of Agriculture under the Animal Welfare Act of 1972. The Service should cooperate with the U.S. Department of Agriculture in inspecting the facilities of applicants.

Response. The Service needs to know about the care, housing, transportation and disposition of animals, as mentioned above, in order to decide if an applicant is qualfied to undertake otherwise prohibited activities. The Service is clearly responsible for seeing that CSSP's are properly cared for, in that CSSP's have some relationship to Endangered species in the wild. Views expressed by the U.S. Department of Agriculture would be considered in evaluating the qualifications of permit applicants, as would the views of other persons or organizations commenting on applications published in the FEDERAL REGISTER.

9. *Comment.* Marking or banding of CSSP animals should be mandatory.

Response. The Service recognizes the need to identify individual animals of CSSP's, and to distinguish them from animals caught in the wild. However, such identification does not always require marking or banding if the animal has unique color patterns or other distinguishing features. Where it is appropriate, the Service will require that animals be marked.

10. *Comment.* The following species should be determined to be CSSP's: Bengal tiger, Siberian tiger, leopard, jaguar, Asian elephant, Bactrian camel, Darwin's rhea, Hawaiian goose, Hawaiian duck, Laysan duck, Swinhoe's pheasant, Mikado pheasant, Turquoise parakeet, and Rothschild's starling. The numbers of birds in captivity are greatly underestimated for the species of pheasants listed in the proposed rules. No species should be treated as a CSSP if it is native to the United States.

Response. The Service will continue to review the status of captive populations of Endangered species. Requests to determine CSSP status, along with supporting data, should be sent to the Director. The Service recognizes the potential hazard to wild populations which is especially great for species native to this country. Import restrictions will help protect animals of exotic species that might be taken from the wild.

11. *Comment.* Permits authorizing conservation exhibition of Endangered species should not be limited to surplus animals, but should include animals being used in scientific or breeding programs. The use of captive-bred peregrine falcons in falconry should be allowed under permits for conservation exhibition.

Response. The Service recognizes that situations may arise where animals involved in a scientific or breeding program could also be used for conservation exhibition. In such cases, permits are available for the former activities and need not be sought for conservation exhibition. The falconry rules in § 21.28, Part 21 of Title 50, Code of Federal Regulations, prohibit the use of species listed as Endangered in § 17.11. Thus, even if a permit were to be issued for conservation exhibition of peregrine falcons, their use in falconry would still be prohibited.

12. *Comment.* The definition of euthanasia should include the condition that the animal can no longer reproduce.

Response. The Service intended the term "senile" as used in defining euthanasia to mean that the animal is infirm due to old age. Lack of reproductive ability is only one of several factors which can be used in determining that an animal is infirm due to old age.

CONCLUSION

The Service has decided to revise the proposed rules by removing the white eared pheasant, *Crossoptilon crossoptilon*, from the list of CSSP's. The proposed rules stated that there were apparently few captive individuals of this species. No additional data have been presented to indicate that more than 48 individuals are in captivity, but the status of the species will be reconsidered if additional data are submitted.

The Service has also decided not to include as a CSSP any Endangered species that is native to the United States. Such treatment would seriously weaken the protection afforded to such species, since animals unlawfully captured in the wild might be falsely described as belonging to a CSSP.

Based on comments received, the Service is revising the proposed rules concerning permits for CSSP's. It is expanding the provisions of § 17.33 to cover import and export instead of using permits under § 17.32 (for Threatened wildlife) to cover such activities. Permits will become available for scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or special purposes consistent with the purposes of the Act. The expanded provisions of § 17.33 will cover all of the otherwise prohibited activities that are normally involved in managing CSSP's.

Permits are available pursuant to § 17.33 for a single transaction, a series of transactions, or activities over a specific period of time. However, where animals are taken or exported from the United States, permits will only be available for a single transaction or a series of transactions. The purpose of this is to avoid an unrestricted drain of animals from the CSSP's. Such permits may authorize the return of the same individual animals to this country. Where other animals are imported, whether or not they are from captive populations outside the United States, a § 17.22 (Endangered species) permit is required. This is necessary because the treatment of CSSP's as Threatened only applies to animals in the United States.

The Service has decided to retain the proposed amendments to § 17.33 that would (a) include consideration of the opinions or views of scientists or other persons or organizations having relevant expertise in the issuance criteria for permits; (b) make permits available for a single transaction, a series of transactions or activities over a specified period of time when they do not involve exportation or taking; (c) make permits available for groups of similar species; and (d) establish as permit conditions that permittees may be required to mark animals, and that transactions must be reported on forms provided by the Service.

The Service recognizes that the definition of "enhancing the survival of endangered wildlife" is also applicable to Threatened species. The definition has been modified to apply to both Endangered and Threatened species, including CSSP's. It has also been changed, in response to comments, to indicate that euthanasia may be permitted for animals that are infirm due to old age or genetic defects.

The Service intends to review and, if necessary, revise these rules in the future. Comments on them are welcome and should be sent to the Director. Petitions to determine that captive populations of certain exotic species are CSSP's are also invited, and should be accompanied by data supporting the criteria given in § 17.7.

The following rules take effect June 1, 1977. They relieve a restriction and, therefore, do not require a delayed effective date pursuant to 5 U.S.C. 553(d). Please note that application requirements for permits to engage in interstate commerce in CSSP's remain the same as in the proposed rules. As a result, applications that were submitted under the proposed rules need not be amended to meet application requirements of the final rules.

This regulation was originated by Arthur W. Lazarowitz and Richard L. Jachowski of the Federal Wildlife Permit Office.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 18, 1977.

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

Accordingly, Part 17, Subchapter B, Chapter I of Title 50, Code of Federal Regulations, is amended as follows:

1. In § 17.3, insert the following material between the end of the sentence that defines "Endangered" and the beginning of the sentence that defines "Harass":

§ 17.3 Definitions.

* * * * *

"Enhance the survival," Enhancing the survival," or "Enhancement of survival" includes, among other things, the following activities, when it can be shown that such activities would not be detrimental to the continued survival of either the wild or captive populations of the species in question, and only when the animals involved are already in captivity at the time an application is submitted.

(a) *Conservation exhibition.* The live exhibition of animals in a manner designed to educate the public to the ecological role and conservation needs of the species, when such animals are not then needed in any known scientific or propagative program due to surpluses of certain age or sex groups, lack of compatible mates, immaturity or other reasons, and when such exhibition does not impair the future use of the exhibited animals for scientific or propagative purposes;

(b) *Euthanasia.* When applied to an animal that is terminally ill, critically injured or infirm due to old age or genetic defects and when carried out under the order and supervision of a qualified veterinarian; and

(c) *Surplus pools.* The accumulation and holding for future propagation or scientific purposes of animals that are either not immediately needed or suitable for propagation or scientific purposes, and that should be relocated to relieve crowding or other problems hindering the scientific or propagative program at the location from which the animal would be removed.

2. In § 17.7, paragraph (d) the first sentence is revised to read as follows:

* * * * *

§ 17.7 Captive, self-sustaining populations.

* * * * *

(d) Permits shall be available only pursuant to § 17.33 for persons who wish to engage in otherwise prohibited activities with specimens of wildlife listed as threatened under this section.

* * * * *

3. In § 17.11(i), add the following in alphabetical order:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(i) * * *

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
MAMMALS							
Jaguar	*Panthera onca*	In captivity in the United States	N/A	Entire	T(C/P)		N/A
Lemur, black	*Lemur macaco*	do	N/A	do	T(C/P)		N/A
Lemur, ring-tailed	*Lemur catta*	do	N/A	do	T(C/P)		N/A
Leopard	*Panthera pardus*	do	N/A	do	T(C/P)		N/A
Tiger	*Panthera tigris*	do	N/A	do	T(C/P)		N/A
BIRDS							
Pheasant, brown-eared	*Crossoptilon manchuricum*	In captivity in the United States	N/A	Entire	T(C/P)		N/A
Pheasant, Edward's	*Lophura edwardsi*	do	N/A	do	T(C/P)		N/A
Pheasant, bar-tailed	*Syrmaticus humiae*	do	N/A	do	T(C/P)		N/A
Pheasant, Mikado	*Syrmaticus mikado*	do	N/A	do	T(C/P)		N/A
Pheasant, Palawan peacock	*Polyplectron emphanum*	do	N/A	do	T(C/P)		N/A
Pheasant, Swinhoe's	*Lophura swinhoii*	do	N/A	do	T(C/P)		N/A

4. Amend § 17.33 by:

a. Revising the first paragraph of the introductory language;

b. Adding a sentence to the end of the paragraph titled "Example";

c. Amending paragraph (a), and revising paragraph (a)(1);

d. Redesignating existing paragraphs (b)(5) and (b)(6) as paragraphs (b)(6) and (b)(7) respectively, and adding a new paragraph (b)(5), and revising the new (b)(6);

e. Revising paragraph (c) *Permit conditions;* and

f. Amending paragraph (d), *Duration of permits.* As amended, § 17.33 reads as follows:

§ 17.33 Permits—captive, self-sustaining populations.

Upon receipt of a complete application, the Director may, for any purpose specified in the first paragraph of § 17.32 issue a permit for any activity otherwise prohibited with regard to threatened wildlife for specimens of a captive, self-sustaining population (see § 17.7). Such species are listed in § 17.11 with the notation "T(C/P)" in the current status column. Permits may authorize a single transaction, a series of transactions or activities over a specific period of time. However, in the case of transactions involving exportation or taking, permits may authorize only a single transaction or a series of transactions.

Example: A breeder of exotic endangered pheasants wants to buy and sell captive-reared endangered birds for the purpose of propagation. The species he has have all been determined to have captive, self-sustaining populations pursuant to § 17.7, and such captive populations have been listed as threatened [T (C/P)]. He now may apply for a permit to authorize the interstate sale under this § 17.33. If his permit is issued, and is valid for 2 years, it would cover all transactions of the type for which it was issued (such as sales in interstate commerce) for that period. A separate permit and application fee is not required for each transaction. Individual transactions are accounted for by the reporting and recordkeeping requirements in the regulations, and those specified on the face of the permit. At the end of the 2-year period, the permit may be renewed by following the renewal procedures in Part 13 (General Permit Procedures), § 13.24 (Renewal). In this instance, application for renewal should be made 60 days before the current permit expires, to allow for administrative handling and publication in the FEDERAL REGISTER.

(a) *Application requirements.* Applications for permits under this section shall be submitted to the Director by the intended recipient of the wildlife. Each such application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, the following information for each group of similar species:

(1) The common and scientific names of the species sought to be covered by the permit, the activity sought to be authorized (such as selling in interstate commerce) and whether such authorization is required for a single transaction, a series of transactions or activities over a specific period of time.

* * * * *

(b) * * *

(5) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application that have been received (publication of the complete application in the FEDERAL REGISTER requesting public review and comment for a 30-day period shall be routine for all requests for permits to authorize activities over a specific period of time and others may be published as the Director deems appropriate);

(6) Whether the proposed use of the wildlife adequatly fulfills one of the purposes for which permits may be issued;

* * * * *

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) Unless otherwise authorized by the permit, the permittee may not transfer the ownership of any animal obtained or held under the permit except to a holder of a valid permit issued under this section that authorizes such transfers with regard to the species involved.

(2) Permittee must keep complete and accurate records of all activities conducted under the permit. Reports of such activities, including individual transactions, must be made by the permittee on forms provided by the Service, or in accordance with instructions from the Service.

(3) Permittee may be required to band, tattoo, mark or otherwise permanently identify wildlife held under authority of such permit.

(d) *Duration of permits.* The duration of permits issued under this section shall be designated on the face of the permit, but in no case shall any such permit be valid for longer than 2 years.

(Secs. 4, 10, Pub. L. 93-205, 87 Stat. 886, 896, (16 U.S.C. 1533, 1539).)

[FR Doc.77-15300 Filed 5-31-77;8:45 am]

federal register

WEDNESDAY, JUNE 1, 1977
PART III

CONSUMER PRODUCT SAFETY COMMISSION

■

TRIS AND FABRIC, YARN, OR FIBER CONTAINING TRIS

Additional Interpretations as Banned Hazardous Substances

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINSTRATION AND ENFORCEMENT REGULATIONS

TRIS and Fabric, Yarn, or Fiber Containing TRIS; Additional Interpretations as Banned Hazardous Substances

AGENCY: Consumer Product Safety Commission.

ACTION: Additional banning interpretations of a statutory provision.

SUMMARY: On April 8, 1977, the Commission banned certain children's wearing apparel containing the chemical flame retardant TRIS and certain uncut fabric containing TRIS which is intended for sale to consumers for use in children's wearing apparel. On May 5, 1977, pursuant to an order of a Federal district court judge, the Commission also banned certain fabric, yarn, and fiber containing TRIS and TRIS itself which is used in or intended for use in children's wearing apparel. In this document the Commission is reissuing, under its own statutory authority rather than pursuant to the court order, its expanded ban of May 5, 1977.

DATES: The new banning interpretations are effective on June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207 (202–634–7770).

SUPPLEMENTARY INFORMATION: On April 7, 1977, the Commission granted a petition from the Environmental Defense Fund concerning wearing apparel containing the chemical flame retardant Tris (2,3-dibromopropyl) phosphate ("TRIS"). The Commission published in the FEDERAL REGISTER on April 8 (42 FR 18850–54) an interpretation that certain TRIS-treated children's wearing apparel and certain TRIS-treated uncut fabric intended for sale to consumers for use in such apparel were banned hazardous substances under section 2(q)(1)(A) of the Federal Hazardous Substances Act (FHSA).

The apparel and fabric that was in interstate commerce on April 8 or introduced after that date was banned. In addition, such TRIS-treated apparel and fabric sold to consumers before April 8 but not yet washed was also banned.

On April 20, 1977, the American Apparel Manufacturing Association (AAMA) filed an action against the Commission in U.S. District Court for the District of Columbia. (The Commission had met with representatives of AAMA on March 31, 1977, to discuss economic and other factors relating to potential Commission action on TRIS). AAMA was seeking an order that would ban TRIS-treated fabric, fiber, and yarn that is already incorporated or intended to be incorporated into children's wearing apparel. A ban defined in this manner would require manufacturers of such TRIS-treated fabric, fiber, and yarn to repurchase the items from their customers under section 15 to the FHSA.

On April 22, 1977, representatives of the Independent Cutters and Sewers of Children's Sleepwear met with the Commission and submitted a petition to reconsider the form of the Commission's April 8 ban. The Commission believes that the ban issued below constitutes a granting of that petition. In addition, the EDF made a similar request in an April 26 letter to the Commission.

U.S. District Judge George L. Hart, on May 3, 1977, entered an order finding that the Commission acted arbitrarily and capriciously in limiting its April 8 band such that the full economic burden of the ban fell only on retailers and garment manufacturers. The court enjoined the Commission from enforcing the FHSA repurchase provisions against products banned on April 8 unless it expanded the scope of that ban within 10 days. Pursuant to Judge Hart's order, the Commission published in the FEDERAL REGISTER of May 5 (42 FR 22878–79) a ban which added to its ban of April 8.

The May 5 ban classified two additional categories of TRIS products as banned hazardous substances: (a) TRIS-treated fabric, yarn, and fiber which is used or intended for use in children's wearing apparel and (b) TRIS used or intended for use in children's wearing apparel. In both cases, those products sold before April 8 and already washed (or contained in wearing apparel that has already been washed) were not within the scope of the ban.

The additional categories of TRIS products did not ban any additional product sold to consumers. Rather, the expanded ban required additional manufacturers to repurchase the TRIS-treated wearing apparel and fabric that were banned on April 8.

On May 12 the U.S. Court of Appeals for the District of Columbia stayed Judge Hart's order and the Commission's May 5 ban. On May 19 the Court of Appeals lifted the stay and vacated Judge Hart's order upon the representation of the Commission that it would take prompt and decisive action in the matter. The Commission had indicated to the Court that it would expand the ban pursuant to its own authority rather than pursuant to Judge Hart's May 3 order, as the Commission did on May 5. The ban issued below constitutes the action that the Commission indicated it would take.

On May 23, in an action filed in the U.S. District Court for South Carolina by Springs Mills, a textile manufacturer, Judge Robert F. Chapman entered a preliminary injunction. The injunction restrains the Commission from applying or enforcing its TRIS regulations against Springs Mills, Inc., or aganist any TRIS-treated fabrics, yarns, or fibers manufactured by Springs Mills.

HAZARD

A. BACKGROUND

In March 1976 the Environmental Defense Fund (EDF), a health-oriented public interest organization, petitioned the Commission to require cautionary labeling for wearing apparel containing TRIS in surface concentrations in excess of 100 parts per million (ppm). This petition (HP 76–10) was based on data that showed that TRIS was capable of inducing mutations in Salmonella typhimurium when tested in both the presence and absence of metabolic activating systems (*1, 2, 3*).[1] The petition asserted at page 10 that this test has been shown to be a "highly reliable predictor" of carcinogenicity.

The Commission conducted a search of the existing literature in April 1976, and initiated a biological testing program in its own laboratories in June 1976 to evaluate the scientific issues raised in the petition. In addition, the Commission asked the National Cancer Institute (NCI) to expedite its rat and mouse carcinogenicity feeding studies involving TRIS that were already underway (*4*). The NCI agreed to provide the Commission with preliminary results from these studies as they became available (*5*).

On February 4, 1977 the Commission obtained the preliminary NCI test data (*6*). Within two weeks, the Commission's Bureau of Biomedical Science (BBS) provided a statistical analysis of the NCI rat and mouse bioassay study (*7*).

Based on its analysis of the same NCI preliminary test results, EDF petitioned the Commission on February 8, 1977 (HP 77–8), to ban the sale of wearing apparel containing TRIS (*8*). The Commission's technical staff met with Dr. Robert Harris, Dr. Joseph Highland, and Mr. Robert Rauch of EDF on February 18 to discuss this petition.

On March 2, the Commission met with Dr. Marvin Schneiderman, an Associate Director of the National Cancer Institute, and on March 8 the Commission met with the same EDF representatives that had met with the staff. All of these meetings were open to the public and transcripts are available (*9, 10, 11*).

Ms. Joanne Siegel and Dr. Reuben Epstein also petitioned the Commission, on February 1, 1977, to address the risk presented by wearing apparel containing TRIS (*12*). This petition (FP 77–1) requests the Commission to amend or revoke its flammability standard for children's sleepwear sizes 0–6X (16 CFR Part 1615), issued under the Flammable Fabrics Act, which has encouraged the use by manufacturers of TRIS as a flame retardant (although this standard imposes performance requirements concerning flame resistance, it neither prohibits nor requires the use of TRIS or any other chemical flame retardant).

On March 16, 1977, an updated draft of the TRIS bioassay results was released by NCI for the March 25 meetings of the

[1] The documents cited by parenthetical numbers correspond to the documents listed in the section on "References," below.

Data Evaluation and Risk Assessment Subgroups of the Clearinghouse on Environmental Carcinogens (*13*). These two subgroups act as statutory advisory groups to the NCI's Division of Cancer Cause and Prevention. At its March 25 meeting, the Data Evaluation Subgroup reviewed and approved the NCI bioassay results for TRIS (*14*).

Early in April 1977, the Commission completed its final report (*15*) on its subchronic dermal and oral ingestion studies along with radioactive ^{14}C–TRIS tracer studies and human lifetime risk estimates of cancer in the human population. These will be discussed in more detail in the section below.

B. CARCINOGENICITY

The Commission has carefully reviewed the preliminary data from the National Cancer Institute on the carcinogenicity of TRIS (*6*). Under the NCI testing program, begun early in 1974, rats and mice were fed TRIS daily at two dose levels. Weanling animals of both sexes were placed on diets containing 50 (low dose) or 100 (high dose) ppm TRIS in the case of rats; 500 (low dose) or 1000 (high dose) ppm TRIS in the case of mice; or no TRIS (control animals). After two years the surviving animals were sacrificed and examined for pathological changes.

The test mice that were fed TRIS developed tumors in the liver, the kidney, the lung, and the stomach and the test rats developed tumors in the kidneys (preliminary Table II in (*6*)). These test data establish TRIS as an animal carcinogen in two species and at multiple sites.

The Commission has no conclusive data that establish that TRIS has caused cancer in humans. Since cancers develop over many years and cannot be easily linked to particular causes, this is not unexpected. The Commission's Office of the Medical Director (OMD) believes that once a substance is established as an animal carcinogen it can never be assured as a safe substance for human exposure (*16*). In addition, OMD believes that all known human carcinogens have been shown to be carcinogenic in laboratory animals (*16, 17*).

Dr. Marvin Schneiderman of NCI has told the Commission that he knows of no chemicals that provide a high risk to animals but no risk to humans (pp. 43–44 of (*10*)). The February 1977 EDF petition asserts that TRIS is as potent or more potent in animals than a number of known human carcinogens (pp. 13–13a of (*8*)). Research Associate N. Kim Hooper and Professor Bruce N. Ames of the University of California, Berkeley's Department of Biochemistry, have stated in a March 21, 1977, letter to Chairman Byington (*18*) that TRIS is a more potent carcinogen than the human carcinogen benzidine or B–naphthylamine (p. 3 of (*18*)).

In a June 2, 1976, report, (*19*), the National Cancer Advisory Board states: "A major source of data on carcinogenicity comes from bioassays in experimental animals. Experience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as carcinogens in experimental animals were later found to cause human cancer. Demonstration that a compound is carcinogenic in animals should, therefore, be considered evidence that it is likely to be carcinogenic in humans, unless there is strong evidence in humans to the contrary." (See also p. 11 of (*8*).)

C. MUTAGENICITY

The Commission has received several reports on the mutagenic potential of TRIS. Hooper and Ames (pp. 1 and 3 of (*18*)) focus on bacterial systems utilizing various grades of TRIS and TRIS-treated cloth. They also point out that TRIS is a potent mutagen in Drosophila, causing large numbers of recessive lethal mutations in offspring. Moreover, they assert that TRIS is capable of causing damage to DNA synthesis in human cells in tissue culture.

The general assertion of Hooper and Ames is that TRIS is mutagenic and "likely to cause genetic birth defects in the offspring of children exposed to it" (p. 1 of (*18*)). They base this conclusion on their belief that TRIS can be absorbed through the scrotum and could effect spermatogenesis.

Dr. M. Prival, in an article entitled, "Tris (2, 3-Dibromopropyl) Phosphate: Mutagenicity of a Widely Used Flame Retardant" (*20*), has found TRIS to be mutagenic in histidine-requiring strains of Salmonella typhimurium (although he does not believe his results conclusively demonstrate that TRIS is a carcinogen).

It must be noted that the BBS analysis of bone marrow chromosomes obtained from rats which received either a single or multiple daily oral dose of TRIS five days per week for 13 weeks did not demonstrate any chromosome aberrations (*15*).

D. EXPOSURE

TRIS is incorporated into some wearing apparel in at least two ways, according to information obtained by the Commission's Bureau of Engineering Sciences (*21*). Certain wearing apparel is manufactured from fabric knitted or woven from fibers that contain TRIS. Other apparel is manufactured from fabric that has been topically treated with TRIS. In both cases, some TRIS that is not tightly bound or contained within the fibers can be removed from the garment by the sucking, or "mouthing," of an infant on the sleeve or other portion of the garment. The TRIS that infants can ingest in this manner is a source of exposure of infants to TRIS. Another source of exposure is absorption through the skin.

The Commission has reviewed various estimates of the amount of TRIS to which a child may be exposed. These estimates come from a March 16, 1977, report prepared by the Bureau of Biomedical Science (*22*); from a March 8, 1977, report by Robert H. Harris, Ph. D., of EDF, entitled Estimating the Cancer Hazard to Children from Tris-treated Sleepwear (*23*); and from the March 21 Hooper and Ames letter (*18*). The general assumptions underlying all of these estimates are (a) that a child mouths the garment and ingests available TRIS; (b) that there is absorption through the skin; and (c) that the child wears numerous garments over a period of time containing various amounts of available TRIS.

(1) *Bureau of Biomedical Science.* BBS has prepared a range of estimates on the amount of TRIS to which a child could be exposed over a 6-year period, both from skin absorption and from mouthing. Their estimates of total TRIS absorbed range from 2.5 to 77.4 mg/kg, depending upon the body area exposed to TRIS-treated garments.

In the Commission's subchronic toxicity and dermal penetration studies, the groups of rats which received daily doses of TRIS by the oral route (25 mg/kg and 250 mg/kg) demonstrated renal nephrosis following a 13 week period. The weekly dermal application of 1 ml/kg of undiluted TRIS to clipped rabbits produced renal nephrosis and testicular atrophy also at the end of a 13 week period. These data correlate well with NCI's finding of renal carcinoma in rats and mice at a 2-year period.

The degree of penetration of TRIS in rabbit and rat of both sexes was determined following dermal application of ^{14}C-TRIS at 0.9 ml/kg and at 0.05 ml/kg. Radiolabeled TRIS from TRIS-treated cloth was also shown to penetrate the skins of rabbits. Penetration was enhanced by the presence of urine on the cloth. The kidney was found to be the organ of highest specific radioactivity in all cases. Most of the absorbed radiolabeled TRIS was excreted in the urine (for more detail see (*15*)).

(2) *Environmental Defense Fund.* EDF estimates of the total lifetime exposure for a child range between 0.085 mg/kg to 85 mg/kg (p. 15 of (*23*)) and are based primarily upon dermal absorption for a 10 or 20 kg child exposed to one, ten, or 20 pairs of TRIS treated sleepwear.

(3) *Hooper and Ames.* Based on one year of exposure of a 7 kg. child, Ames and Hooper estimate that the exposure due to dermal absorption would be 70 mg/kg/year and the dose a child receives by sucking is estimated as one percent of that obtained through skin absorption (*18*).

E. RISK ASSESSMENT

The Commission has considered risk assessments that are based on the estimates of exposure cited in Section D, above. The methods used to prepare the estimates are described in a March 1977 paper entitled, Estimates of Human Lifetime Carcinogenic Risk from Exposure to TRIS, prepared by Drs. Charles Brown, Marvin Schneiderman, and Kenneth Chu of the National Cancer Institute (*24*). The statistical extrapolations are based on the use of two mathematical models: the single-hit model (linear no threshold) and the log-probit model (Mantel-Bryan). The use of these

mathematical models and the extrapolations from animals to man rest on the following assumptions: (a) the animal dose can be converted to an "equivalent" human exposure level; (b) mouse and man, and rat and man, have equal sensitivities to TRIS; (c) infants and children are no more, or less, sensitive to TRIS than are adults; and (d) the dose given to an animal during its entire life can be converted to an equivalent daily dose during a specific period of time which is less than a lifetime.

(1) *Bureau of Biomedical Science.* BBS has projected cancer incidence rates based on its exposure estimates and on data from the NCI study. These projected rates show the kidney to be the primary target organ. The best estimate of BBS (*25*) is approximately 300 kidney cancers per million male population. For females the projected rate is about one-fifth that of males.

Based on the single hit model the BBS estimates for lifetime risk of cancer of the kidney is between 60 and 1,800 cases per million male population. For the log probit model the estimates range from 25 to 5,100 cases per million males. All of these estimates are lifetime risk or lifetime incidence estimates.

(2) *Environmental Defense Fund.* EDF also provided its estimates on human exposure to NCI which used the same models, and these data provided estimates of a lifetime incidence of cancer of as high as 6,000 per million male population, based on maximum exposure, the rat kidney and the log probit model.

(3) *Hooper and Ames.* Hooper and Ames estimate that for one year of exposure, 1.7 percent of the children would develop cancer (17,000 cases/million). An exposure throughout childhood would give a higher risk (p. 8 of (*18*)).

F. EFFECT OF WASHING

There is evidence both from the March 1976 EDF petition (*1*) and from reports of the Commission's Bureau of Engineering Sciences (*21*) that the amount of TRIS that can be easily removed from a garment is appreciably reduced by repeated washings. The March 1976 petition states at page 5 that "* * * most of the surface TRIS could be washed out of the fabrics, which implies that laundering in use will reduce exposure to TRIS. For example, two samples of different polyester fabric had 70,000 ppm and 37,500 ppm of surface TRIS before, and 35 ppm and 100 ppm of surface TRIS after washing, respectively. It would appear from these studies that during the first three washings of polyester fabrics, surface TRIS can be reduced by greater than 95 percent, while the total amount in the fabric will be reduced by only about 12 percent." (The fabric containing 70,000 ppm had been specifically treated for test purposes and has not been commercially marketed.)

According to the BBS review of literature data, acetate fabrics contain 65–600 ppm "surface TRIS" [1] (more uniform and lower concentrations that polyester) and polyester fabrics contain 260–37,500 ppm surface TRIS. Although BES stresses the limited reliability of these figures, estimates from the studies show that washing removes up to 85 percent of surface concentration in acetate fabrics and from 21 to 82 percent in polyester fabrics.

G. EFFECT ON FLAMMABILITY INJURIES

Much of the use of TRIS in wearing apparel is to meet the Commission's flammability standards for children's sleepwear (16 CFR Parts 1615 and 1616). The Commission's Bureau of Epidemiology (BEP) believes, based on an analysis of injury information and on an article on children treated by physicians that children who are burned while wearing flame-resistant sleepwear tend to sustain less extensive burns than children who are burned while wearing non-flame-resistant sleepwear (*26*). Date indicate that the number of deaths to children ages 1–4 due to clothing ignition decreased following the effective date of the standard for children's sleepwear in sizes 0–6X.

Because the Commission's flammability standards for children's sleepwear are performance standards, the Commission assumes that manufacturers can and will comply with the standard without using TRIS or any other chemical which presents a hazard to the consumer. There are fabrics which meet the standard without using any chemical flame retardants (*27*).

MARKETING FACTORS

Garments treated with TRIS are made of either 100 percent polyester or acetate and triacetate blends. There is no certain way to distinguish among 100 percent polyester fabrics that are untreated, treated with TRIS, or treated with another flame retardant. The Commission understands, however, that all acetate and triacetate fibers used in children's sleepwear fabrics contain TRIS.

The Commission has found that flame resistant garments currently on the market are: (a) children's sleepwear, sizes 0–14, for which the flame resistant requirement is mandatory, and (b) those which resulted from voluntary programs undertaken by a few major retailers. The Commission believes that there is no significant inventory of flame-resistant garments resulting from voluntary programs at this time (p. 4 of (*27*)).

The Commission's Bureau of Economic Analysis (BEA), in a March 21, 1977 report (*28*) has estimated that 18 million garments, over one-third of the spring 1977 production of children's sleepwear, contain TRIS. With inventories taken into account, the portion of TRIS-treated merchandise was estimated in April 1977 to be over 40 percent of all children's sleepwear in the retail pipeline, or about 20 million garments. About 10–20 percent of this had already been sold to consumers. In addition, BEA estimated that about 7 million square yards of TRIS-treated fabric was then in inventory with fabric and garment producers.

BEA believes that a small number of national retail chain outlets and very large discount stores account for more than 55 percent of children's sleepwear sales, while department stores account for 20 percent, and specialty and variety stores account for less than ten percent of annual sales.

ENVIRONMENTAL IMPACT

The Commission has considered the environmental impact of its ban. A preliminary environmental assessment was available when the April 8 ban was published (*29*). A final assessment is now available (*30*), and it primarily addresses the questions of a) disposal of TRIS-treated garments, fabrics, fibers, and yarns and b) the use of substitute chemical flame-retardants and substitute end-use products. The Commission has begun work on an environmental impact statement.

Because of the emergency circumstances of the ban of TRIS products, the Commission has been in contact with the Council on Environmental Quality (CEQ) concerning alternative arrangements for complying with the CEQ guidelines on the National Environmental Policy Act. A Commission letter to CEQ on this subject and a response indicating CEQ's concurrence are available (*31, 32*).

REFERENCES

The parenthetical numbers used in the above portion of the preamble refer to the following documents, studies, and other materials:

(*1*) March 24, 1976, petition (HP 76-10) from the Environmental Defense Fund.

(*2*) Letter from Glenn E. Schweitzer, Director, Office of Toxic Substances, EPA to Stanley R. Parent, Executive Director, CPSC, October 29, 1975, and a similar letter to Dr. David Rall, Director, NIEHS, on the same date.

(*3*) Ames, B., in a letter to Dr. B. L. Van Duuren, New York University Medical Center, January 28, 1976.

(*4*) November 8, 1976, letter from Chairman S. John Byington to Frank J. Rauscher, Ph. D., Director of the National Cancer Program of NIH.

(*5*) December 3, 1976, letter from Robert A. Squire, D.V.M., Ph. D., Acting Chief of the Carcinogen Bioassay and Program Resources Branch at NIH, to Chairman Byington.

(*6*) Preliminary NCI data on TRIS bioassay feeding studies.

[1] The term "surface TRIS" is merely one of convenience. Whether or not the easily removable TRIS is literally on the surface of the fibers is unknown. The more fundamental distinction would appear to be between that amount of TRIS that is loosely bound to fibers and that which is more tightly bound, wherever it may be.

(7) Memo from R. M. Hehir to Don Clay on February 16, 1977, entitled "BBS Statistical Analysis of NCI Cancer Bioassay Report on TRIS (2,3-dibromopropyl) phosphate, with attachments.

(8) February 8, 1977, petition (HP 77-8) from the Environmental Defense Fund.

(9) Transcript of February 18, 1977, meeting between Commission staff and EDF representatives.

(10) Transcript of March 2, 1977, Commission meeting with Dr. Schneiderman, NCI.

(11) Transcript of March 8, 1977, Commission meeting with EDF representatives.

(12) February 1, 1977, petition (FP 77-1) from Ms. Joanne Seigel and Dr. Reuben Epstein.

(13) March 16, 1977, NCI draft Bioassay of TRIS (2,3-dibromopropyl) phosphate for possible carcinogenicity.

(14) March 26, 1977, memorandum from R. M. Hehir to Michael Brown and attached meeting log.

(15) Final report—Subchronic and Radioactive ^{14}C Tracer Studies of TRIS (2,3-dibromopropyl) phosphate in Laboratory Rodents, prepared by Bureau of Biomedical Science/CPSC, April 1, 1977.

(16) February 15, 1977, memorandum from Albert F. Esch, Medical Director, on extrapolation of risk from animals to humans.

(17) February 18, 1977, memorandum from Rita A. Orzel, Ph. D., of the Commission's Division of Human Toxicology and Pharmacology in OMD, same subject as 16 above.

(18) March 21, 1977, letter from Hooper and Ames on hazards of carcinogenicity and mutagenicity to humans through dermal absorption and ingestion of TRIS.

(19) June 2, 1976, National Cancer Advisory Board report.

(20) "TRIS (2,3-dibromopropyl) phosphate: Mutagenicity of a Widely Used Flame Retardant," Vol. 195, (pp. 76-78) Jan. 7, 1977, by Drs. Michael J. Prival, Elena C. McCoy, Bezalel Gutter, and Herbert S. Rosenkranz.

(21) March 15, 1977, memorandum from Margaret Neily, BES entitled "Review of Literature on Availability of TBPP from Treated Fabrics."

(22) March 16, 1977, memo from BBS entitled "Chemical Availability of TRIS (2,3-dibromopropyl) phosphate (TBPP) and Dermal and Oral Absorption Models for Three Possible Use Patterns".

(23) March 8, 1977, Harris report entitled "Estimating the Cancer Hazard To Children from Tris-treated Sleepwear."

(24) March 1977 Brown, Schneiderman, Chu paper entitled "Estimates of Human Lifetime Carcinogenic Risk from Exposure to Tris."

(25) March 17, 1977, Bayard to Hehir memo entitled "Preliminary Analysis of Tris Induced Human Lifetime Risk to Cancer."

(26) June 1976 BEP report on sleepwear entitled "Tris and Children's Sleepwear."

(27) February 25, 1977, memorandum of James Sharman, OEX, with attached marketing study.

(28) March 21, 1977, BEA report entitled "Availability of Garments Treated with TBPP."

(29) Preliminary environmental assessment of a TRIS ban.

(30) Final environmental assessment of a TRIS ban.

(31) April 5, 1977, letter to CEQ Acting General Counsel David Tunderman.

(32) April 22, 1977, CEQ response to Commission's letter.

Statutory Findings

Section 2(f)(1)(A) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(1)(A)) defines "hazardous substance" as "any substance or mixture of substances which is toxic * * * if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." Section 2(g) of the FHSA (15 U.S.C. 1261(g)) states that "[t]he term 'toxic' shall apply to any substance * * * which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." Section 2(q)(1)(A) of the FHSA (15 U.S.C. 1261(q)(1)(A)) defines "banned hazardous substance" as "any toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted."

Section 15 of the FHSA (15 U.S.C. 1274) concerns the repurchase of banned hazardous substances by manufacturers and others in the chain of distribution. The Commission's ban of TRIS products involves more than one type of manufacturer, including manufacturers of the affected chemical, fiber, fabric, yarn and garments. Because such a multiple manufacturer situation exists, the Commission must clarify a number of questions concerning repurchase that have been raised. The Commission expects to issue such a clarification, probably by publication in the Federal Register, as soon as possible.

The Commission has already found that TRIS-treated children's wearing apparel and TRIS-treated uncut fabric intended for sale to consumers for use in such apparel are banned hazardous substances if they were in interstate commerce on April 8, 1977, were or are introduced into interstate commerce after that date, or were sold to consumers before that date but are not yet washed (42 FR 18853). The Commission found that such items are "toxic" within the meaning of section 2(g) of the FHSA and that they may cause substantial illness as a result of their exposure to children within the meaning of section 2(f)(1)(A) of the FHSA.

The Commission's expanded ban, issued below, does not ban any products sold at retail that were not already banned on April 8. Rather, it bans certain components of the products banned on April 8. Therefore, the statutory findings as to the risk presented are identical.

The Commission decided that the only products sold to consumers before April 8 that were banned were those products not yet washed by consumers. There were a number of reasons why the Commission framed its ban in this manner.

Evidence before the Commission indicated that washing removes much of the TRIS in clothing and fabric that might otherwise be available for absorption and ingestion. The Commission believes that most of the clothing and fabric that consumers bought before April 8 has been washed one or more times. The Commission did not find that TRIS-treated clothing and fabric bought before April 8, and already washed by consumers, is necessarily "safe."

It should also be noted that the Commission believes that TRIS-treated clothing, fabric, yarn, and fiber not yet sold by April 8, even if washed during one or more stages of the manufacturing processes, will cause substantial illness. The Commission's test data and other evaluations of the risk of TRIS products were based for the most part on garments already manufactured and ready for retail sale.

There were other important reasons, besides washing by consumers, why the Commission framed its ban in the manner it did. These include the massive marketplace disruption that such a ban would undoubtedly involve; the increased and needless anguish that parents of children who have been exposed to the washed clothing and fabric would feel; and the practical difficulties associated with tracing and repurchasing approximately 120 million items that are years old and often lacking identifying labels.

As already mentioned, sections 2(f)(1)(A) and 2(g) of the FHSA define the terms "hazardous substance" and "toxic." The Commission believes that the TRIS products it has banned, on April 8 and in the order issued below, fall clearly within both of those definitons. Since they are also intended for use by children, they are banned by section 2(q)(1)(A) which defines the term "banned hazardous substance." As the legislative history states, "[t]oys or other articles intended for use by children which bear or contain a hazardous substance are banned by the language of the bill itself * * *" (Senate Report No. 1551, 89th Cong., 2d Sess., page 2).

The Commission has the discretion, under section 3(a) of the FHSA, to conduct a rulemaking proceeding before it declares a substance to be a hazardous substance. This provision is available for use "[w]henever in the judgment of the [Commission] such action will promote the objectives of this Act by avoiding or resolving uncertainty as to its application * * *".

If the Commission had any uncertainty about whether the TRIS products were hazardous substances, it would have conducted a rule-making proceeding according to the procedures prescribed in sections 701 (e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act, as required by section 3(a)(2) of the FHSA.

The Commission found, however, that the evidence supporting the risk of illness presented by the TRIS products is overwhelming. The two-year NCI feeding study shows the potency of TRIS as a carcinogen in animals. The strong link between animal carcinogens and human carcinogens is supported by numerous authorities. The available tests concerning absorption of TRIS through the skin are persuasive and the resulting risk assessments performed by NCI have enormous implications for the health of children who would continue to wear

TRIS-treated clothing. The fact that the cases of cancer will not appear immediately does not minimize the seriousness of the present risk.

Separate from the question of a proceeding under section 3(a) of the FHSA, there is the consideration that the Administrative Procedure Act imposes requirements on agencies for notice of proposed rulemaking, opportunity for public participation, and a delayed effective date (5 U.S.C. 553). However, these requirements are not applicable to interpretive rules or general statements of policy and are therefore not applicable to the interpretation announced in this document. Even if the rules were to be considered general rulemaking, the Commission for good cause finds that notice and public comment and a delayed effective date are contrary to the public interest because the statutory intent and structure of the FHSA is that children's articles that may cause substantial illness based on their toxicity must be banned without any delay.

Although codification in the Code of Federal Regulations is not required in this instance, the Commission believes that a precise articulation of what products are banned hazardous substances is necessary and appropriate. Consumers and the affected industries will be best informed of their repurchase rights and obligations by this method. As was done on April 8, the Commission is therefore listing the banned TRIS products along with other children's products previously banned.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sections 2 (f)(1)(A), (g), (q)(1)(A) and 10(a), 74 Stat. 372, 374, as amended 80 Stat. 1305; 15 U.S.C. 1261 (f)(1)(A), (g), (q)(1)(A), 1269(a)) and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (section 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1500.18(d) by adding the following:

§ 1500.18 Banned toys and other banned articles intended for use by children.

* * * * *

(c) [Reserved]

(d) *Toys and other children's articles presenting toxicity hazards.* Under the authority of Section 2(f)(1)(A), 2(g), 2(q)(1)(A), and 10(a) of the act, the Commission has declared that the following articles are banned hazardous substances because they are toys or other articles intended for use by children that are hazardous substances, or bear or contain hazardous substances in such manner as to be susceptible of access by a child to whom they are entrusted, based on the fact that they may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children, because of their toxicity:

* * * * *

(3) All fabric, yarn, or fiber which contains TRIS (2,3-dibromopropyl) phosphate and which is used or intended for use in children's wearing apparel (whether the fabric, yarn, or fiber is cut, uncut, or already incorporated in children's wearing apparel) and which is interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date, or which has not yet been washed (even if it has been sold before that date);

(4) All TRIS (2, 3-dibromopropyl) phosphate which is used or intended for use in children's wearing apparel and which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date, or which is in such apparel which is unwashed and is in the hands of consumers.

If any provision of the April 8, 1977, order or this addition, or the application of such provision to any person or circumstance, shall be held invalid, no other provision of the April 8, 1977, order, or this addition thereto, shall be affected thereby.

Dated: May 27, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-15619 Filed 5-31-77;8:45 am]

federal register

WEDNESDAY, JUNE 1, 1977

PART IV

INTERSTATE COMMERCE COMMISSION

■

RAILROAD LINES

System Diagram Maps

INTERSTATE COMMERCE COMMISSION

[AB 145 (SDM)]

CARROLLTON RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Carrollton Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 145 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 145 (SDM).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15380 Filed 5-31-77;8:45 am]

[AB 135 (SDM)]

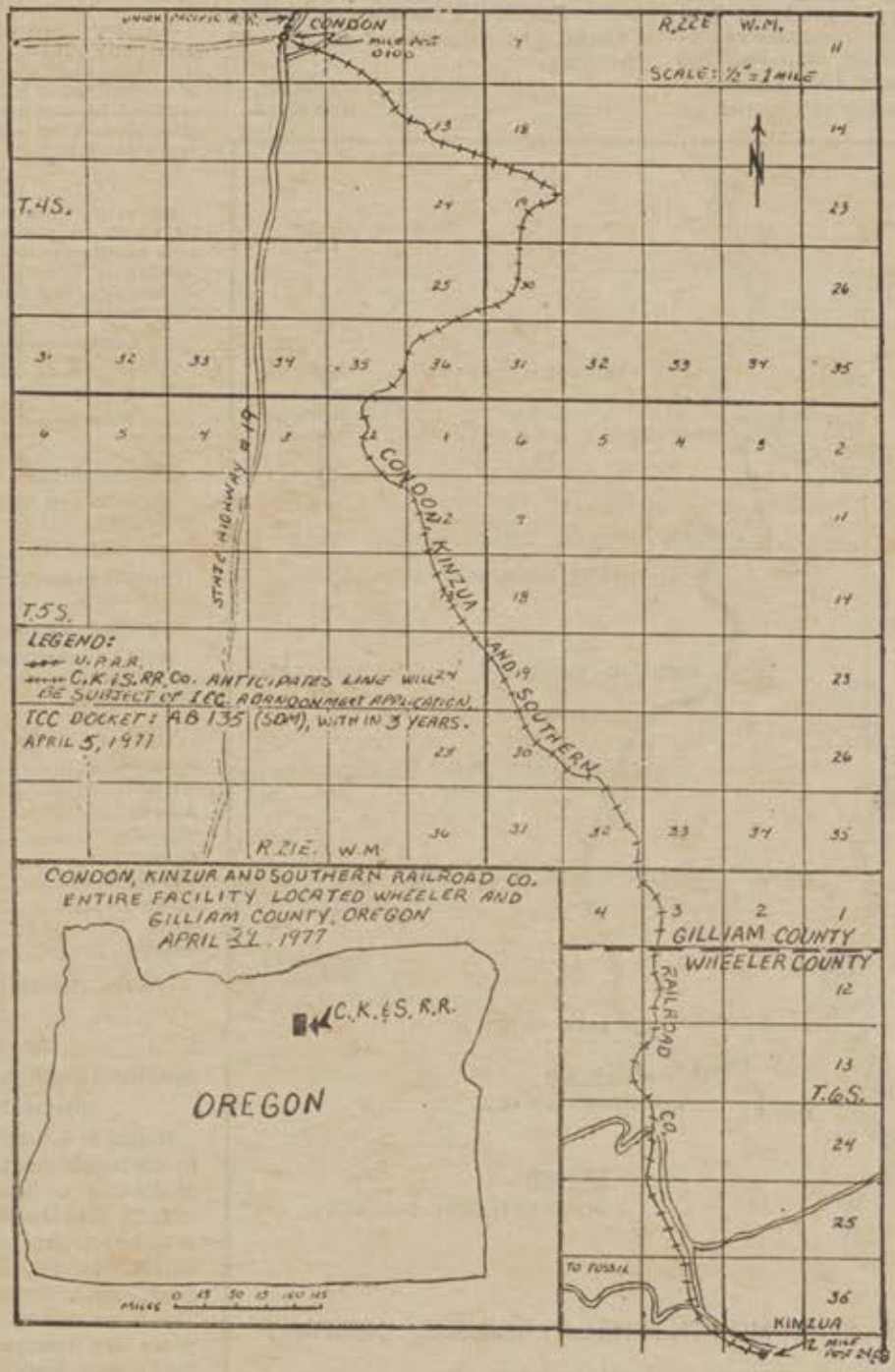
CONDON, KINQUA & SOUTHERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Condon, Kinqua & Southern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 135 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 12, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 135 (SDM).

ROBERT L. OSWALD,
Secretary.



AB 135 (SDM)

[FR Doc.77-15381 Filed 5-31-77;8:45 am]

[AB 189 (SDM)]

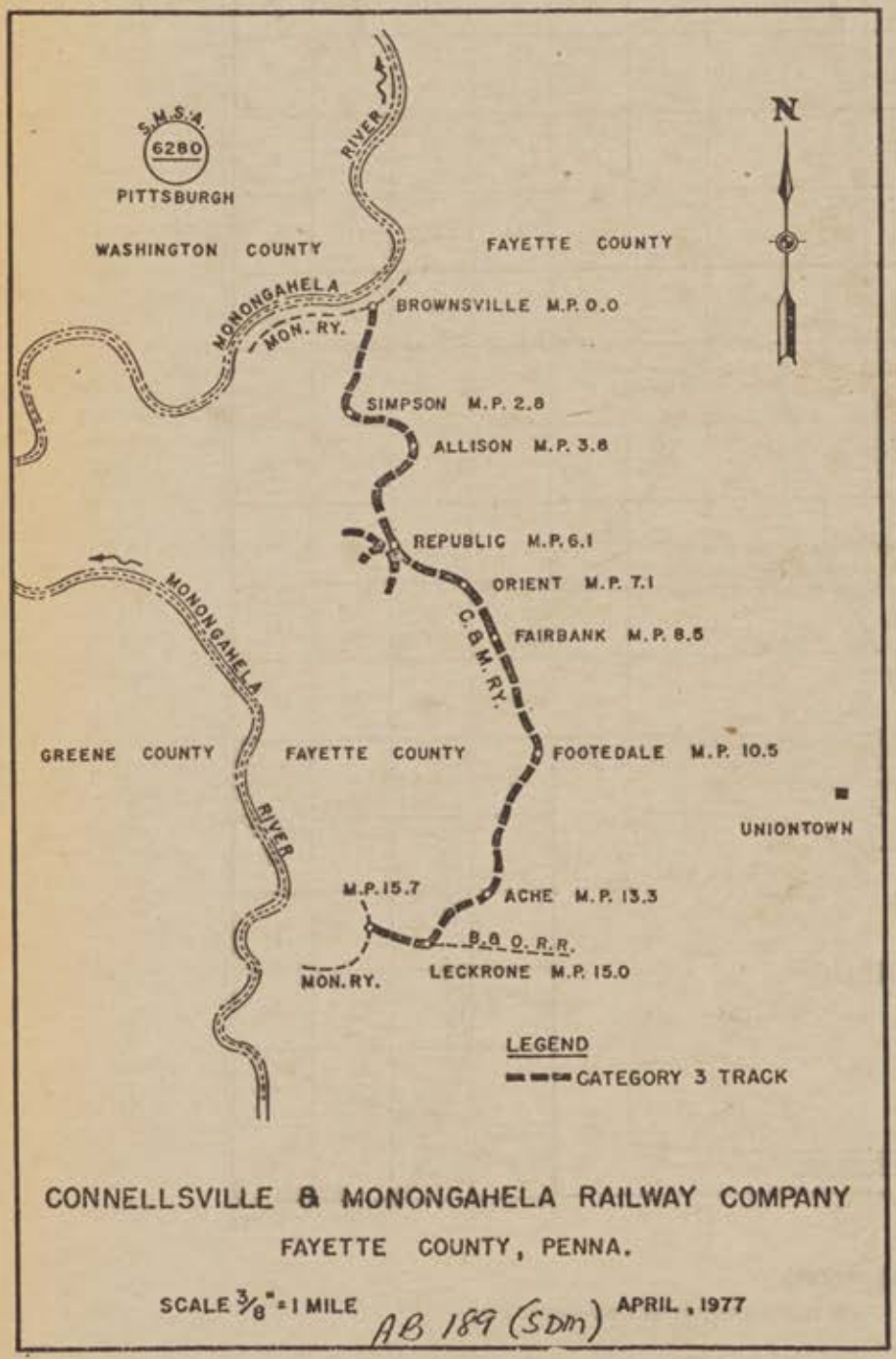
CONNELLSVILLE & MONONGAHELA RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Connellsville & Monongahela Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 189 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 189 (SDM).

ROBERT L. OSWALD,
Secretary.



[AB 189 (SDM)]

CONNELLSVILLE & MONONGAHELA RAILWAY CO. DESCRIPTION OF LINES TO ACCOMPANY THE SYSTEM DIAGRAM MAP

Category 1—All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

None.

Category 2—All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

None.

Category 3—All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission.

(a) Carrier's designation for each line.

Entire line of Connellsville & Monongahela Railway Company.

(b) State or states in which each line is located.

Pennsylvania.

(c) County or counties in which each line is located.

Fayette County.

(d) Mileposts delineating each line or portion of line.

MP 0.00 to MP 15.0

(e) Agency or terminal stations located on each line or portion of line with milepost designations.

Stations	*Milepost Designations*
Brownsville	0
Simpson	2.8
Allison	3.8
Republic	6.1
Orient	7.1
Fairbank	8.5
Footedale	10.5
Ache	13.3
Leckrone	15.0

[FR Doc.77-15379 Filed 5-31-77;8:45 am]

[AB 102 (SDM)]

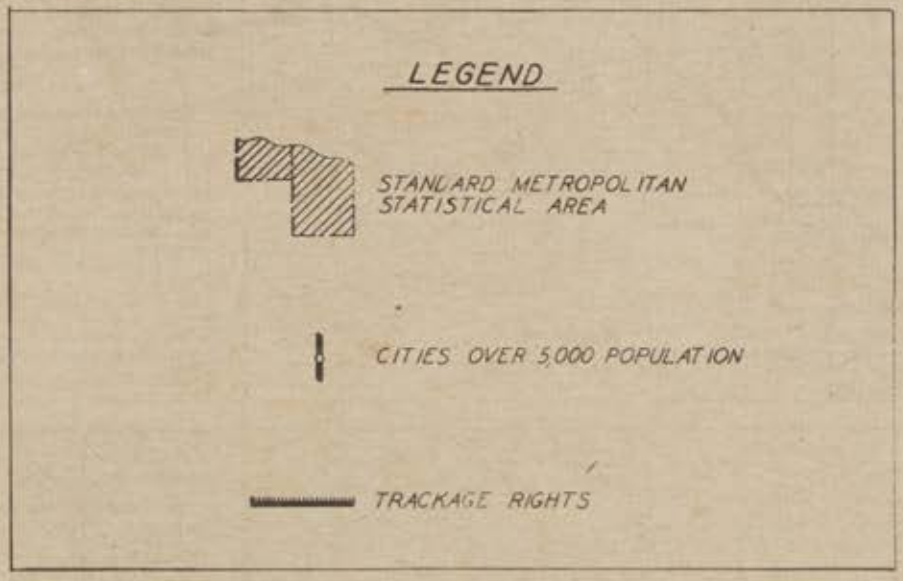
MISSOURI-KANSAS-TEXAS RAILROAD CO.

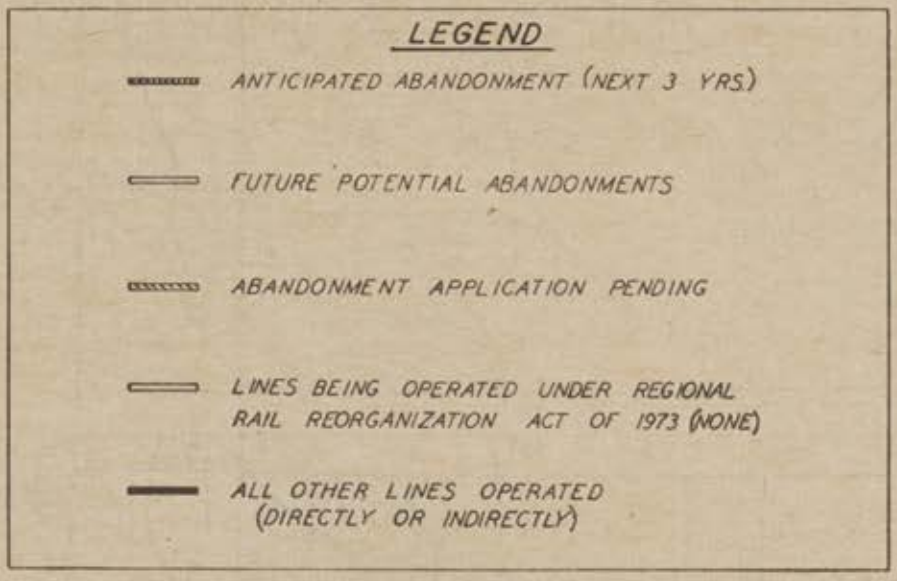
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Missouri-Kansas-Texas Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 102 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

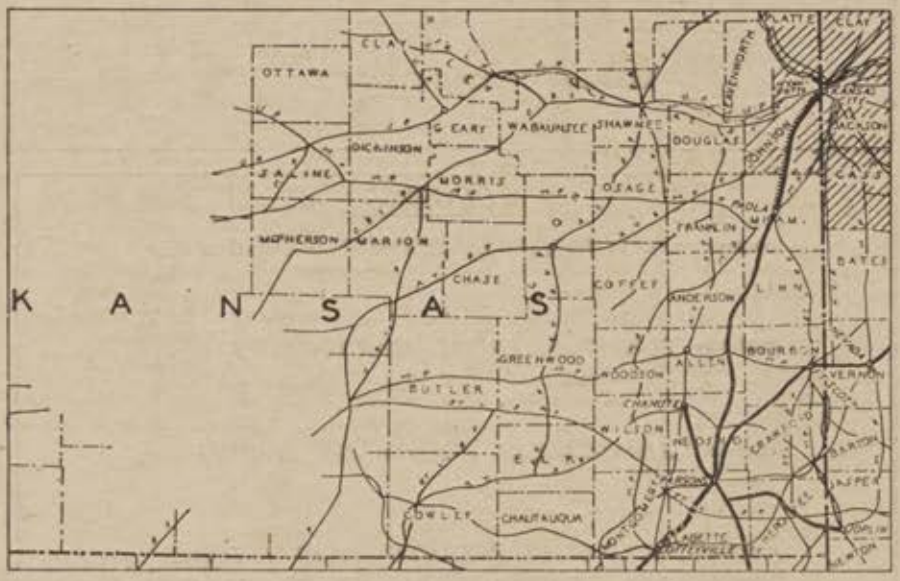
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 102 (SDM).

ROBERT L. OSWALD,
Secretary.

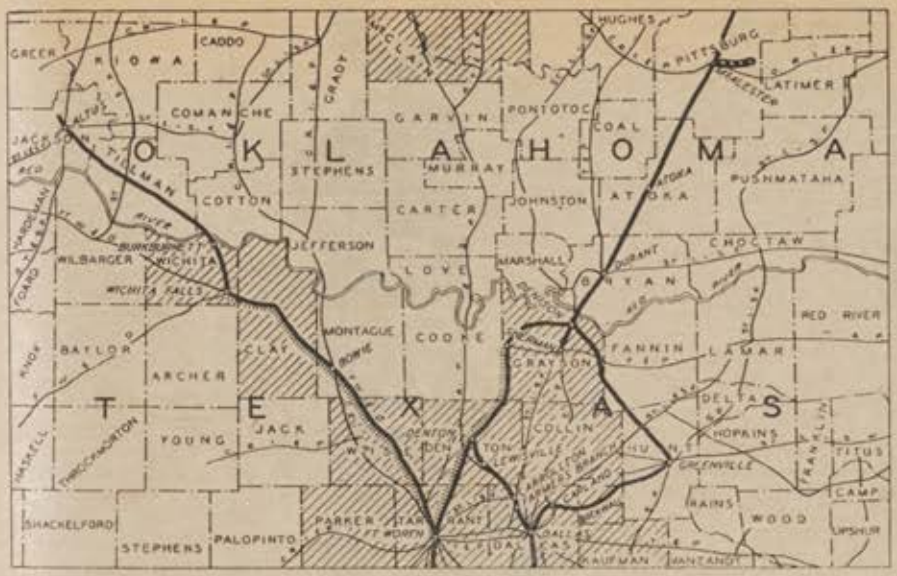




PLATTE
CLAY
RAY
CARROLL
CHARITON
LINN
SALINE
LAFAYETTE
JACKSON
JOHNSON
CASS
HENRY
BATES
SHELBY
MONITEAU
COOPER
BOONE
COLUMBIA
CALLAWAY
MONTGOMERY
WARREN
ST CHARLES
ST LOUIS
ST LOUIS
OSAGE
GASCONADE
FRANKLIN
MORAN
BENTON
MILLER
MARIES
CAMDEN
HICKORY
ST CLAIR
BARTON
CEDAR
POLK
DALLAS
DADE
JASPER
LAWRENCE
GREENE
MISSOURI


KANSAS
OTTAWA
CLAY
WABAUNSEE
SHAWNEE
DOUGLAS
JOHNSON
MORRIS
OSAGE
MIAMI
MCPHERSON
MARION
CHASE
COFFEY
ANDERSON
LINN
BATES
GREENWOOD
WOODSON
BUTLER
CHAUTAUQUA
COWLEY
MONTGOMERY
LABETTE
CHEROKEE
VERNON
JASPER

KANSAS
WOODS
ALFALFA
GRANT
KAY
OSAGE
WASHINGTON
NOWATA
CRAIG
OTTAWA
MO.
WOODWARD
MAJOR
GARFIELD
NOBLE
PAWNEE
ROGERS
MAYES
OKLAHOMA
DEWEY
BLAINE
KINGFISHER
LOGAN
PAYNE
CREEK
CUSHING
WAGONER
CHEROKEE
ADAIR
ARK.
CUSTER
CANADIAN
OKLAHOMA CITY
LINCOLN
OKMULGEE
MUSKOGEE
SEQUOYAH
WASHITA
CADDO
OKFUSKEE
MCINTOSH
HASKELL
HUGHES
KIOWA
COMANCHE
GARVIN
PONTOTOC
LATIMER
LEFLORE
MCCURTAIN



1. LINE DESCRIPTION

(a) Fayette Branch.
(b) State of Missouri.
(c) County of Howard.
(d) MP 0–105.1 at Franklin, Mo. to MP 0–94.32 at Fayette, Mo.
(e) None.

2. LINE DESCRIPTION

(a) Columbia Branch.
(b) State of Missouri.
(c) County of Boone.
(d) MP V–169.5 at McBaine, Mo. to MP V–178.3 at Columbia, Mo.
(e) None.

3. LINE DESCRIPTION

(a) Portion of Oklahoma Subdivision.
(b) State of Kansas.
(c) Counties of Labette and Montgomery.
(d) MP A–139.08 at Parsons, Ks. to MP A–166.0 at Coffeyville, Ks.
(e) None.

4. LINE DESCRIPTION

(a) Portion of Oklahoma City Subdivision.
(b) State of Oklahoma.
(c) Counties of Washington, Osage, Pawnee, Payne, Lincoln, Logan and Oklahoma.
(d) MP A–200 at Bartlesville, Ok. to MP A–336 at Oklahoma City, Ok.
(e) Hominy, Ok., MP A–236.0, Cleveland, Ok., MP A–248.2 and Cushing, Ok., MP 280.2.

5. LINE DESCRIPTION

(a) Portion of Wilburton Branch.
(b) State of Oklahoma.
(c) County of Pittsburg.
(d) MP R–1.34 at McAlester, Ok. to MP R–11.0.
(e) None.

[FR Doc.77–15382 Filed 5–31–77;8:45 am]

federal register

WEDNESDAY, JUNE 1, 1977

PART V

DEPARTMENT OF STATE

■

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off Coasts of U.S.

DEPARTMENT OF STATE

[Public Notice 546]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off Coasts of United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of Japan and the Union of Soviet Socialist Republics and are published herewith.

Dated: May 23, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

ADDITIONAL (Change of area operation)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: May-Dec. Application No. For Use of Issuing Office: UR-77-0026

State: USSR

1. Name of Vessel: ARKHIVA
2. Vessel No./ Hull No.: PB-0194 Registration No.: 646
3. Name and Address of Owner: Name: Bakhodkinskaia Baza Aktivnogo Morskogo Rybolovstva; Address: 5, Makarova str., Nakhodka, USSR; Cable Address: Nakhodka Baza Aktivnogo Morskogo Rybolovstva. Name and Address of Charterer:
4. Homeport and State of Registry: Nakhodka, USSR
5. Type of Vessel: Freezing Stern Trawler
6. Tonnage (Gross): 2853.56 (Net): 1114.97
7. Length: 82.03 m. 8. Breadth: 13.63m. 9. Draft: 5.9m.
10. Horsepower: 3320 shp. 11. Maximum Speed: 12.6 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ), Other:
12. Date Built: 1970
14. Number and Nationality of Personnel: 81 USSR; Officers: 23 Crew: 57 Other (Specify): 1 Flag Offic
15. Communications: VHF-FM (2), AM/SSB, Voice (1), Telegraphy ( ). Other:
International Radio Call Sign: R V Q 9
Radio Frequencies Monitored: 500 kcs, 156.8 mcs
Other Working Frequencies: 454,480,2115,3023.5,4200 and 6321 kcs, 156.3 mcs
Schedule: H+16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (2), Fathometer ( ). Other: 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompas
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name:

Salted Fish		Freezer	2 Frozen Fish
Fresh Fish	550	Dry Hold	1 Fishmeal
Frozen Fish		Tanks	1 Fish Oil
Fish Meal	90	Other	
Other	Fish Oil 30		

19. Processing Equipment (Indicate daily capacity MT):

Freezer	2 pcs	45 MT
Fishmeal Plant	1 pc	6 MT

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea	May-Dec.	Pollock Flatfish Rockfish Yellow fish Cod Herring Other		Midwater trawl Bottom trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) — From reserve

Permit Period Applied For: May-Oct.1977 Application No. For Use of Issuing Office: UR-77-0027

State: USSR

1. Name of Vessel: INTIOLOG
2. Vessel No./ Hull No.: YB-1279 Registration No.: 1019
3. Name and Address of Owner: Name: Kolkhoz imeni V.I.Lenina; Address: 40,Kosmonavtov str., Petropavlovsk-Kamchatskiy, USSR; Cable Address: Petropavlovsk Kolkhoz imeni V.I.Lenina. Name and Address of Charterer:
4. Homeport and State of Registry: Petropavlovsk-Kamchatskiy, USSR
5. Type of Vessel: Large Fishing Stern Trawler
6. Tonnage (Gross): 2609.0 (Net): 925.5
7. Length: 94.55 m. 8. Breadth: 14.02m. 9. Draft: 5.6 m.
10. Horsepower: 2000 shp. 11. Maximum Speed: 12.0 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ), Other:
13. Date Built: 1968
14. Number and Nationality of Personnel: 102 USSR; Officers: 18 Crew: 84 Other (Specify):
15. Communications: VHF-FM (1), AM/SSB, Voice ( ), Telegraphy ( ), Other:
International Radio Call Sign: U S O Y
Radio Frequencies Monitored: 500 kcs, 156.8 mcs
Other Working Frequencies: 454,480,2115,3023.5,4200,6321 kcs, 156.3 mcs
Schedule: H+16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (2), Fathometer (2). Other: 1 Direction Finder, 1 Autopilot, 1 Sonar, 1 Gyrocompass
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name:

Salted Fish		Freezer	2 Frozen Fish
Fresh Fish		Dry Hold	1 Fish Meal
Frozen Fish	650	Tanks	1 Fish Oil
Fish Meal	120	Other	1 Canned Fish
Other	Fish Oil 16 Canned Fish 20		

19. Processing Equipment (Indicate daily capacity MT):

Tunnel Freezer	2	30 MT
Fish Meal Plant	1	5 MT
Fish Canning Line	1	1000 cans

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Gulf of Alaska	May-Oct.	Pollock Yellow fish Rockfish Flatfish Macrurides Black Cod Other		Bottom trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ADDITIONAL (Change of area operation)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: May-Dec, 1977 — Application No. (In-77-0158) For Use of Issuing Office

State: USSR

1. Name of Vessel ARDATOV
2. Vessel No.: Hull No. PB 0195 Registration No. 863
3. Name and Address of Owner: Name Nakhodkinskaia Baza Aktivnogo Morskogo Rybolovstva; Address 5, Makarova str., Nakhodka, USSR; Cable Address Nakhodka Baza Aktivnogo Morskogo Rybolovstva
   Name and Address of Charterer:
4. Homeport and State of Registry: Nakhodka, USSR
5. Type of Vessel Freezing Stern Trawler
6. Tonnage (Gross) 2653.56 (Net) 1114,97
7. Length 82.01 M. 8. Breadth 13.6 M. 9. Draft 5.9 M.
10. Horsepower 2320 shp. 11. Maximum Speed 14,25 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1970
14. Number and Nationality of Personnel 91 USSR
    Officers 23 Crew 57 Other (Specify) 1 Flag Offic
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), Other
    International Radio Call Sign U P O H
    Radio Frequencies Monitored 500 kcs, 156.8 mcs
    Other Working Frequencies 454,480,2115,3023.5,4200 and 6321 kcs, 156.3 mcs
    Schedule H-16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2), Other 1 Direction Finder, 1 Sonar, 1 Autopilot, and 1 Gyrocompass
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	2 Frozen Fish
Fresh Fish		Dry Hold	1 Fishmeal
Frozen Fish	550	Tanks	1 Fish Oil
Fish Meal	50	Other	
Other	Fish Oil 30		

19. Processing Equipment (Indicate daily capacity, MT)

Freezer	2 pcs	45 MT
Fishmeal Plant	1 pc	6 MT

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea	May-Dec.	Pollock Flatfish Rockfish Yellow fish Cod Herring Other		Midwater trawl Bottom trawl

Name and Address of Agent appointed to receive any legal process issued in the United States:

ADDITIONAL (Change of area operation)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Oct-Dec,1977 — Application No. (IN-77-0177) For Use of Issuing Office

State: USSR

1. Name of Vessel MYS BARANOVA
2. Vessel No.: Hull No. PB 0350 Registration No. 774
3. Name and Address of Owner: Name Nakhodkinskaia Baza Aktivnogo Morskogo Rybolovstva; Address 5, Makarova str., Nakhodka, USSR; Cable Address Nakhodka Baza Aktivnogo Morskogo Rybolovstva
   Name and Address of Charterer:
4. Homeport and State of Registry: Nakhodka, USSR
5. Type of Vessel Large Freezing Stern Trawler
6. Tonnage (Gross) 2581.01 (Net) 882.16
7. Length 83.9m M. 8. Breadth 14m M. 9. Draft 5,8m M.
10. Horsepower 2000 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (1), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1973
14. Number and Nationality of Personnel 93 USSR
    Officers 23 Crew 69 Other (Specify) 1 Inspector
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (3), Other
    International Radio Call Sign U P O F
    Radio Frequencies Monitored 500 kcs, 156.8 mcs
    Other Working Frequencies 454,480,2115,3023.5,4200 and 6321 kcs,156.3 mcs
    Schedule H-16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2), Other 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompass
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	2 Frozen Fish
Fresh Fish		Dry Hold	1 Fishmeal
Frozen Fish	650	Tanks	1 Fish Oil
Fish Meal	60	Other	
Other	Fish Oil 30		

19. Processing Equipment (Indicate daily capacity, MT)

Freezer	2 pcs	45 MT
Fishmeal Plant	1 pc	6 MT
Filleting Machine	1 pc	5 MT

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Gulf of Alaska	Oct-Dec.	Pollock Yellow fish Rockfish Flatfish Pacruridae Black Cod Other		Bottom trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ADDITIONAL (Change of area operation)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Sept-Dec.1977 — Application No. UA-77-0206 For Use of Issuing Office

State: USSR

1. Name of Vessel: BARABINSK
2. Vessel No.: Hull No. FR-0036 — Registration No. 267
3. Name and Address of Owner: Nakhodinskaia Baza Aktivnogo Morskogo Rybolovstva; 5,Makarova str., Nakhodka, USSR; Cable Address: Nakhodka Baza Aktivnogo Morskogo Rybolovstva — Name and Address of Charterer:
4. Homeport and State of Registry: Nakhodka, USSR
5. Type of Vessel: Large Freezing Stern Trawler
6. Tonnage (Gross) 3170.0 (Net) 1225.0
7. Length 84.7m M. B. Breadth 14.02m M. M. Draft 5.9m M.
10. Horsepower: 2000 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (2), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1961
14. Number and Nationality of Personnel: 93 USSR; Officers 23 Crew 69 Other (Specify)
15. Communications: VHF-FM (2), AM/SSB, Voice (1), Telegraphy (2); Other
Internatioanal Radio Call Sign: U S H F
Radio Frequencies Monitored: 500 Kcs, 156.8 mcs
Other Working Frequencies: 454,480,2115,3023,5,4200 and 6321 Kcs, 156.3 mcs
Schedule: M-16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (2), Fathometer (2), Other: 1 Direction Finder, 1 Sonar, 1 Autopilot and 1 Gyrocompas
17. Cargo Capacity (MT)
Salted Fish
Fresh Fish
Frozen Fish 650
Fish Meal 90
Other Fish Oil 30
18. Cargo Space: Number / Use
Freezer 3 Frozen Fish
Dry Hold 1 Fishmeal
Tanks 1 Fish Oil
Other
19. Processing Equipment (Indicate daily capacity, MT)
Freezer 2 pcs 30 mt
Fishmeal Plant 1 pc 3 mt
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservistated Catch (MT)	Gear to be Used
Bering Sea	Sept-Dec.	Pollock Flatfish Rockfish Yellow fish Cod Herring Other		Midwater trawl Bottom trawl

Name and Address of Agent appointed to receive any legal process issued in the United States:

ADDITIONAL (Change of area operation)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Sept-Dec. — Application No. UA-77-0216 For Use of Issuing Office

State: USSR

1. Name of Vessel: VULKAN
2. Vessel No.: Hull No. KH-0270 — Registration No. 36
3. Name and Address of Owner: Sovgavanskaia Baza Okeanicheskogo Rybolovstva; 1, Rostovskaia st., Sovetskaia Gavan,USSR; Cable Address: Sovgavan — Name and Address of Charterer:
4. Homeport and State of Registry: Nago, USSR
5. Type of Vessel: Large Freezing Stern Trawler
6. Tonnage (Gross) 3,015.3 (Net) 1,053.9
7. Length 83.25 M. B. Breadth 14.0 M. M. Draft 5.55 M.
10. Horsepower 3,000 shp. 11. Maximum Speed 14.0 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1973
14. Number and Nationality of Personnel: 99 USSR; Officers 23 Crew 74 Other (Specify) 2 Flag Off
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), Other
International Radio Call Sign: U K F P
Radio Frequencies Monitored: 500 Kcs, 156.8 mcs
Other Working Frequencies: 454,480,2115,3028,5,4200 and 6321 Kcs,156.3 mcs
Schedule: M - 16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ), Other: 1 Direction Finder, 1 Sonar, 1 Autopilot, 1 Gyrocompass
17. Cargo Capacity (MT)
Salted Fish
Fresh Fish
Frozen Fish 405
Fish Meal 140
Other Fish Oil 17
18. Cargo Space: Number / Use
Freezer 2 Frozen Fish
Dry Hold 1 Fishmeal
Tank 2 Fish Oil
Other
19. Processing Equipment (Indicate daily capacity, MT)
Tunnel Freezer 2 pcs 30 MT
Fishmeal Plant 2 pcs 10 MT
Fillet Line 1 pc 2,5 MT
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Conservistated Catch (MT)	Gear to be Used
Bering Sea	Sept-Dec.	Pollock Flatfish Rockfish Yellow fish Cod Herring Other		Midwater trawl Bottom trawl

1. Name and address of Agent appointed to receive any legal process in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: I-XII,1977

Application No. For Use of Issuing Office: UR-77-0414

State: USSR

1. Name of Vessel: STREMITELNY
2. Vessel No.: Hull No. KCR-0606 Registration No. 804
3. Name and Address of Owner: Name: Kaliningradskaja Baza Rafrizhoratornogo Flota; Address: 5 Prichalnaja,1, Kaliningrad,USSR; Cable Address: ____
   Name and Address of Charterer: ____
4. Homeport and State of Registry: Kaliningrad, USSR
5. Type of Vessel: Sea Salvage Tug and support
6. Tonnage (Gross) 1631 (Net) ____
7. Length 61.4m M. B. Breadth 11.9m M. D. Draft 4.5m M.
10. Horsepower 1700 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ), Other ____
13. Date Built: 1957
14. Number and Nationality of Personnel: 30, USSR; Officers 15 Crew 23 Other (Specify) ____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), Other F 4; International Radio Call Sign UTWB; Radio Frequencies Monitored 500 KHz, 2182 KHz, 156.8 MHz; Other Working Frequencies According to licence of ship station; Schedule H-24
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other ____
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name: Salted Fish ____ Freezer; Fresh Fish ____ Dry Hold; Frozen Fish ____ Tanks; Fish Meal ____ Other; Other ____
19. Processing Equipment (Indicate daily capacity.MT): No equipment
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5,6	I-XII	Sea Salvage Tug and support		

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: I-XII,1977

Application No. For Use of Issuing Office: UR-77-0415

State: USSR

1. Name of Vessel: SKIMNIY
2. Vessel No.: Hull No. KCR-0050 Registration No. 932
3. Name and Address of Owner: Name: Kaliningradskaja Baza Rafrizhoratornogo Flota; Address: Pl.Pobedi,1, Kaliningrad, USSR; Cable Address: ____
   Name and Address of Charterer: ____
4. Homeport and State of Registry: Kaliningrad,USSR
5. Type of Vessel: Patrol Ship and support
6. Tonnage (Gross) 843,7 (Net) 239
7. Length 51.99m M. B. Breadth 9.5m M. D. Draft 3.90m M.
10. Horsepower 4000 shp. 11. Maximum Speed 17.5 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric (4), Other ____
13. Date Built: 1960
14. Number and Nationality of Personnel: 32 USSR; Officers 16 Crew 16 Other (Specify) ____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), Other ____; International Radio Call Sign UBMI; Radio Frequencies Monitored 500 KHz,2182 KHz,156.8 MHz; Other Working Frequencies According to licence of ship station; Schedule H-16
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other Depth Sounder,Gyrocompass,Direction Finder
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name: Salted Fish ____ Freezer; Fresh Fish ____ Dry Hold; Frozen Fish ____ Tanks; Fish Meal ____ Other; Other ____
19. Processing Equipment (Indicate daily capacity.MT): No equipment
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5,6	I-XII	patrol and support		

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ____

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: May 30-Dec 31, 1977
Application No. For Use of Issuing Office: UR-77-0239
State: USSR

1. Name of Vessel: AKSAI
2. Vessel No.: Hull No. _____ Registration No. 116
3. Name and Address of Owner: Name: GEORGIA MORFLOT; Address: Batumi, Gogebashvili str, 60.; Cable Address: Batumi MORFLOT
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Batumi, USSR
5. Type of Vessel: TANKER
6. Tonnage (Gross): 3142,35 (Net): 1544,15
7. Length: 105,4 M. 8. Breadth: 14,78 M. 9. Draft: 6,21 M.
10. Horsepower: 2900 shp. 11. Maximum Speed: 14,2 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ).DM 550
    Other: _____
13. Date Built: 1961
14. Number and Nationality of Personnel: 36, USSR
    Officers: 14 Crew: 22 Other (Specify): _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other: _____
    International Radio Call Sign: UGBX
    Radio Frequencies Monitored: 500 kcs
    Other Working Frequencies: 425,454,468,490, kcs
    Schedule: H-16

UR-77-0239

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar ( ), Fathometer ( ),
    Other: _____
17. Cargo Capacity (MT) / 18. Cargo Space (Number / Name)

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish		Tanks	12 Fuel Oil
Fish Meal		Other	Fuel Oil Tanks

Other: _____

19. Processing Equipment (indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Atlantic 5-6	V-XII			Transportation of fuel oil supplies to the soviet fishing vessels

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 477
Application No: UR-77-0240
For Use of Issuing Office:
State: USSR

1. Name of Vessel: DAINAVA
2. Vessel No: Hull No: UR-0557 Registration No: B-91496
3. Name and Address of Owner: Name: Klaipedskaye Sasa tralovogo flota
   Address: 235806, Nemuno str.52, Klaipeda, USSR
   Name and Address of Charterer: —
4. Homeport and State of Registry: Klaipeda, USSR
5. Type of Vessel: Large Distant Steam Freezer Trawler
6. Tonnage (Gross): 2548 Net: 888,2
7. Length: 82,9 8. Breadth: 14,02 9. Draught: 5,7
10. Horsepower: 2000 shp 11. Maximum Speed: 10 kt
12. Propulsion: Diesel (+) Steam ( ) Diesel/electric ( )
    Other: _____
13. Date Built: 1970
14. Number and Nationality of Personnel: 92, USSR
    Officers: 23 Crew: 69 Other (Specify): _____

2.

15. Communications: VHF-HF (+), AM/SSB, Voice (+)
    Telegraphy (+) Other: _____
    International Radio Call Sign: EVKV
    Radio Frequencies Monitored: 500, 2182 kHz, 156,8 MHz
    Other Working Frequencies: 2575 kHz
    Schedule: H-8
16. Navigation Equipment: Loran C (+) Loran A (+)
    Omega (-) Decca (-) Navaid (-)
    Radar (2) Fathometer ( )
    Other: Autopilot 1
    Radio direction finder 1
    Sonar 1
17. Cargo Capacity (MT)
    Salted Fish: _____ Fresh Fish: _____
    Frozen Fish: 600 Fish Meal: 120
    Other: _____
18. Cargo Space
    Number: _____ Name: _____
    Dry Hold: 3
    Tanks: _____
    Other: 1 canned fish hold
    1 fish meal hold

3.

UR-77-0241 2.

19. Processing Equipment (indicate daily capacity, MT)

Freezers	35 t/24h
Fish meal plant	30t/24h (raw materi/
Fat meltere	500kg/24h
2 Autoclaves	350 cans
Semiautomatic can closing machine	90 cans/min.

20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	24.04-30.06.77	hake	1615	BT,MT
5 Ze	-"-	burbot	1635	MT,MT
5 Ze	-"-	other species	958	BT,MT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

UNKTB IV "Zapadie" 980 900

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

UR-77-0241 3.

Permit Period Applied For 1977

Application No UR-77-0241

For Use of Issuing Office

State USSR

1. Name of Vessel APHANASIY NIKITIN
2. Vessel No: Hull No RB-0394 Registration No 3196
3. Name and Address of Owner
   Name Rizhskaya Base traleovogo flota
   Address Riga
   Lenina str.,32
   Name and Address of Charterer
4. Homeport and State of Registry Riga,USSR
5. Type of Vessel Large Distant Steam Freezer Trawler
6. Tonnage (Gross) 3178 Net 1225
7. Length 84,7 8. Breadth 14,0 9. Draught 5,5
10. Horsepower 2000 shp 11. Maximum Speed 12,0 kt
12. Propulsion: Diesel (+) Steam (-) Diesel/electric (-)
    Other
13. Date Built 1964
14. Number and Nationality of Personnel 92, USSR
    Officers 22 Crew 69 Other (Specify) 1 doctor

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
    Telegraphy (+) Other -
    International Radio Call Sign UBSB
    Radio Frequencies Monitored 500, 2182 kHz,channel 16
    Other Working Frequencies
    Schedule A-1;A-2;A-3;A-4;A-5-H;F-1;F-3;A-2-H
16. Navigation Equipment: Loran C (+) Loran A (+)
    Omega (-) Decca (+) Sarsat (-)
    Radar (+) Fathometer (-)
    Other Radio direction finder KRP-5
    Sonar /
17. Cargo Capacity (MT)
    Salted Fish - Fresh Fish $\frac{1663}{m^3}$ -
    Frozen Fish 600 Fish Meal 98
    Other fish oil - 27 ?
18. Cargo Space
    Number Name
    Dry Hold 125 m^3
    Tanks fish oil - 35,7 m^3
    Other -

19. Processing Equipment (indicate daily capacity, MT)

2 Tunnel freezers	30 t
Vacuum drum drier meal plant	20t/24h(raw material)
2 Fat meltery ITK	0,5t
2 Autoclaves Ø 600	0,4t
Can closing machines IZ-CSKN	0,4t

20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	24.04-30.06.77	hake	2100	BT,MT
5Ze	-"-	burbot	440	BT
5 Ze	-"-	other species	260	BT,MT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

UNKTB IV "Zapadie" 980 900

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

UR-77-0242 1.

Permit Period Applied For 1977
Application No UR-77-0242
For Use of Issuing Office
State USSR

1. Name of Vessel TURAS LIIV
2. Vessel No: Hull No SB-0489 Registration No M-29904
3. Name and Address of Owner
Name Estonian Production Association of Fishing Industry
Address 200025
Paljassaare tr.26, Tallinn, USSR
Name and Address of Charterer
4. Homeport and State of Registry Tallinn, USSR
5. Type of Vessel stern trawler
6. Tonnage (Gross) 2690 Net 925,56
7. Length 75,0m 8. Breadth 14,02m 9. Draught 5,6m
10. Horsepower 2000hp shp 11. Maximum Speed 12 kt
12. Propulsion: Diesel (1) Steam (-) Diesel/electric (-)
Other
13. Date Built 1968
14. Number and Nationality of Personnel 94 men USSR
Officers 24 Crew 70 Other (Specify)

19. Processing Equipment (indicate daily capacity, MT)

Refrigerator apparatus	2 (15 tons a day)
Fish flour equipment	1 (30 tons stuff a day)
Cod-liver oil boilers	2 (400-500 kg a day)
Autoclave ø 600	2 (capacity is 350 cans)
Bend rolling semi-automat	1 (10cans a minute)

20. Fisheries for which Permit is Requested

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
3 So	20.04-30.06	silver hake	1850	bottom type, of various depth type
3 So		Red hake	500	-"-
3 + 6		additional catch	250	-"-
		other finfish		-"-

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

[illegible] IV "Leipalda" 960 200

UR-77-0242 2.

15. Communications: VHF-MF (*), AM/SSB, Voice (*)
Telegraphy (*) Other
International Radio Call Sign ES B T
Radio Frequencies Monitored 500 KHZ, 2182 KHZ, 156,8 MHZ
Other Working Frequencies 2575 KHZ
Schedule B- 16
16. Navigation Equipment: Loran C (1) Loran A (1)
Omega (-) Decca (-) Navaid (-)
Radar (2) Fathometer (2)
Other Autopilot 1
radio direction finder 1
hydrolocator 1
17. Cargo Capacity (MT)
Salted Fish Fresh Fish
Frozen Fish 610 Fish Meal 80
Other
18. Cargo Space
Number Name
Dry Hold 3
Tanks 2
Other tin hold 1
fish flower hold 1

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For 1977
Application No UR-77-0243
For Use of Issuing Office
State USSR

1. Name of Vessel GUBERTAS SONIBA
2. Vessel No: Hull No LB-0233 Registration No M-27361
3. Name and Address of Owner
Name Klaipedskaya Baza tralovogo flota
Address 235806, Nemuno str.32
Klaipeda, USSR
Name and Address of Charterer
4. Homeport and State of Registry Klaipeda, USSR
5. Type of Vessel Large Distant Stern Freezer Trawler
6. Tonnage (Gross) 3168 Net 1307
7. Length 84,70 8. Breadth 14,02 9. Draught 5,7
10. Horsepower 2000 shp 11. Maximum Speed 10 kt
12. Propulsion: Diesel (1) Steam (-) Diesel/electric (-)
Other
13. Date Built 1965
14. Number and Nationality of Personnel 92, USSR
Officers 23 Crew 69 Other (Specify)

UR-77-0243 2.

15. Communications: VHF-MF (*), AM/SSB, Voice (*)
Telegraphy (*) Other
International Radio Call Sign UBSP
Radio Frequencies Monitored 500,2182 kHz,156,8MHz
Other Working Frequencies 2575 kHz

Schedule

16. Navigation Equipment: Loran C (1) Loran A (1)
Omega (_) Decca (_) Navaid (_)
Radar (2) Fathometer ( )
Other Autopilot 1
Radio direction finder 1
Sonar 1

17. Cargo Capacity (MT)
Salted Fish Fresh Fish
Frozen Fish 610 Fish Meal 80
Other

18. Cargo Space
Number Name
Dry Hold 3
Tanks 2

Other canned fish hold 1
fish meal hold 1

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For 5 / 10 - 5 / 30 / 1977
Application No UR-77-0244
For Use of Issuing Office
State USSR

1. Name of Vessel KRASNYUKI
2. Vessel No: Hull No Registration No 8-25482
3. Name and Address of Owner
Name Latvian Steamship
Address 226047
blv.Padomju,2 Riga-47
Name and Address of Charterer Zilshakays Base of Trawling Fleet
226020
Atlantijas str.7 Riga-20
4. Homeport and State of Registry Riga, USSR
5. Type of Vessel tanker
6. Tonnage (Gross) 7948 Net 3928
7. Length 154,39 8. Breadth 10,4 9. Draught 8,5
10. Horsepower 2,00 shp 11. Maximum Speed 12,9 kt
12. Propulsion: Diesel (*) Steam ( ) Diesel/electric ( )
Other
13. Date Built 1959
14. Number and Nationality of Personnel 37 men, USSR
Officers 10 Crew 27 Other (Specify)

UR-77-0243 3.

19. Processing Equipment (indicate daily capacity, MT)

2 Freezers	15t/24h
Fish meal plant	30t/24h (raw material)
2 Fat melters	400-500 kg/24h
2 Autoclaves Ø 600	350 cans
Semiautomatic can closing machine	40 cans /min

20. Fisheries for which Permit is Requested

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	10.09-10.06.77	Hake	1026	BT,MT
5 Ze	-"-	Burbot	1064	BT,MT
5 Ze	-"-	other species	968	BT,MT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

UR-77-0244 2.

15. Communications: VHF-MF ( ), AM/SSB, Voice (*)
Telegraphy ( ) Other radio
International Radio Call Sign UZYI
Radio Frequencies Monitored 500 kHz,156,8 MHz
Other Working Frequencies 12671,5/12509, 17181/16842, 6341,5/6308,25

Schedule B-8

16. Navigation Equipment: Loran C ( ) Loran A (*)
Omega ( ) Decca ( ) Navaid ( )
Radar (*) Fathometer ( )
Other radio direction finder

17. Cargo Capacity (MT) 10500
Salted Fish Fresh Fish
Frozen Fish Fish Meal
Other

18. Cargo Space
Number 8 x 2 Name oil tanks
Dry Hold
Tanks 14562 m³

Other

UR-77-0244 3.

19. Processing Equipment (indicate daily capacity, MT)

20. Fisheries for which Permit is Requested

Ocean Area	Period (From-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 - 6	10.05-30.05			

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

UR-77-0245 2.

10. Horsepower 2500 shp. 11. Maximum Speed 12,9 kt.

12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

Other

13. Date Built 1960

14. Number and Nationality of Personnel 37, USSR

Officers 14 Crew 23 Other(Specify)

15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Reid, Korvet radio

Telegraphy ( ), Other

International Radio Call Sign UGFI

Radio Frequencies Monitored 500 kc, 156,8 mc/s

Other Working Frequencies 12621,5/12609 17181/16682 6341,5/6308,25

Schedule B-8

16. Navigation Equipment: Loran C ( ), Loran A (1),

Omega ( ), Decca ( ), Navaid ( ), Radar (2),

Fathometer (1), Other radio direction finder

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

UR-77-0245 3.

Permit Period Applied For: 1977

Application No. UR-77-0245

For Use of Issuing Office

State: USSR

1. Name of Vessel "Liepaya"

2. Vessel No.: Hull No. Registration No. B-26117

3. Name and Address of Owner

Name Latvian Steamship Company

Address USSR, Riga, 226047 Padomju avenue 2, Latvian Steamship Company

Cable Address USSR Riga-47 Padomju avenue 2, Latvian Steamship Company

Name and Address of Charterer

"Sevrybholodflot"

USSR, Murmansk 183001, the Board of "Sevrybholodflot"

USSR, Murmansk-1, "Sevrybholodflot"

4. Homeport and State of Registry: Ventspils, USSR

5. Type of Vessel tanker

6. Tonnage (Gross) 7949 (Net) 3928

7. Length 145,5 8. Breadth 16,4 9. Draft 8,5 M.

17. Cargo Capacity (MT)

Salted Fish

Fresh Fish

Frozen Fish

Fish Meal

Other

18. Cargo Space

Number	Name
Freezer	
Dry Hold	
Tanks	24 / 14260 m3
Other	

19. Processing Equipment (Indicate daily capacity, MT)

UR-77-0275 4.

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

Transport and fuel provision of fishing vessels.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

UR-77-0272 2.

10. Horsepower 2500 shp. 11. Maximum Speed 12,9 kt.

12. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ), Other

13. Date Built 1959

14. Number and Nationality of Personnel 37, USSR

Officers 14 Crew 23 Other(Specify)

15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), radio Reid, Ilmen M I
Telegraphy ( ), Other

International Radio Call Sign UJIX

Radio Frequencies Monitored 500 kc, 156,8 mc/s

Other Working Frequencies 12671,5/12609 17181/16842 6341,5/6308,25

Schedule B-8

16. Navigation Equipment: Loran C ( ), Loran A ( ),
Omega ( ), Decca ( ), Navaid ( ), Radar (2),
Fathometer (1), Other radio direction finder

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

UR-77-0272 3.

Permit Period Applied For: 1977

Application No. UR-77-0272.

For Use of Issuing Office

State: USSR

1. Name of Vessel "Kinya"

2. Vessel No.: Hull No. Registration No. M-25185

3. Name and Address of Owner

Name Latvian Steamship Company
Address USSR, Riga, 226047 Padomju avenue 2,
Latvian Steamship Company
Cable Address USSR
Riga-47, Padomju avenue 2,
Latvian Steamship Company

Name and Address of Charterer

"Sevrybholodflot"
USSR, Murmansk,183001
the Board of "Sevrybholodflot"
—
USSR
Murmansk-1, "Sevrybholodflot"

4. Homeport and State of Registry: Ventspils, USSR

5. Type of Vessel tanker

6. Tonnage (Gross) 7948 (Net) 3928

7. Length 145,34 8. Breadth 20,44 M.D. Draft 8,5 M.

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	
Fish Meal	
Other	

18. Cargo Space

Number	Name
Freezer	
Dry Hold	
Tanks	24/14562 m3
Other	

19. Processing Equipment (Indicate daily capacity, MT)

UR-77-0372

4.

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

Transport and fuel provision of fishing vessels.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

UR-77-0369

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 5/1 - 9/30/77 Application No. For Use of Issuing Office UR-77-0369

State: USSR

1. Name of Vessel BMRT NTR DALNY
2. Vessel No.: Hull No. ПБ-4416 Registration No. 1163
3. Name and Address of Owner: Name TURNIF; Address 51, Leninskaia st., Vladivostok, USSR; Cable Address TURNIF VLADIVOSTOK, USSR
   Name and Address of Charterer:
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel large freezing stern trawler
6. Tonnage (Gross) 2526.0 (Net) 841.9
7. Length 83.9 m. 8. Breadth 14.0 m. 9. Draft 5.7 m.
10. Horsepower 2000 shp. 11. Maximum Speed 12.6 kt.
12. Propulsion: Diesel (I), Steam (-), Diesel/Electric (-), Other No
13. Date Built 1977
14. Number and Nationality of Personnel 80 USSR
    Officers 20 Crew 45 Other (Specify) 15 Scientists
15. Communications: VHF-FM (I), AM/SSB, Voice (I), Telegraphy (I), Other No
    International Radio Call Sign UWEO
    Radio Frequencies Monitored 500 Kcs, 156.8 Mcs 156.3 Mcs
    Other Working Frequencies 454,480,2115,3023.5,4200,6321Kcs
    Schedule H - H6

16. Navigation Equipment: Loran C (I), Loran A (I), Omega (-), Decca (-), Navsat (-), Radar (2), Pathfinder (I), Other Direction Finder, Gyrocompass, Sonar, Autopilot
17. Cargo Capacity (MT)

Salted Fish	No	Freezer	2
Fresh Fish	No	Dry Hold	1
Frozen Fish	600	Tanks	2
Fish Meal	70	Other	No
Other 50 Fish oil			

18. Cargo Space Number / Name

Frozen fish	
Fish meal	
Fish oil	

19. Processing Equipment (Indicate daily capacity, MT)
    Freezer - 2 pcs - 44 MT
    Fish meal plant - 1 pc - 25 MT
20. Fisheries for which Permit is Requested:

	Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
1.	Washington-California Area	06.01-07.15/1977	Hake	200	Midwater trawl
2.	Gulf of Alaska	07.15/09.30/1977	Yellowfish Flatfish Pollock	100 100 100	Bottom and Midwater trawls

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

UR-77-0370

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 Application No. For Use of Issuing Office UR-77-0370

State: U S S R

1. Name of Vessel SRTM 2 VRBDA RYBAKA
2. Vessel No.: Hull No. PL-0260 Registration No. 518
3. Name and Address of Owner: Name Nakhodkinskaya Base Aktivnogo Morskogo Rybolovstva; Address Makarova, 5 USSR NAKHODKA; Cable Address Base Aktivnogo Morskogo Rybolovstva Nakhodka
   Name and Address of Charterer:
4. Homeport and State of Registry: U S S R Nakhodka
5. Type of Vessel patrol vessel midsize trawler
6. Tonnage (Gross) 576 (Net) 150
7. Length 54.2 m. 8. Breadth 9.3 m. 9. Draft 4.3 m.
10. Horsepower 800 shp. 11. Maximum Speed 12 kt.
12. Propulsion: Diesel (I), Steam (-), Diesel/Electric (-), Other nill
13. Date Built 1967
14. Number and Nationality of Personnel 31 U S S R
    Officers 11 Crew 19 Other (Specify) 1 inspector
15. Communications: VHF-FM (-), AM/SSB, Voice (I), Telegraphy (I), Other nill
    International Radio Call Sign U D U W
    Radio Frequencies Monitored 500 khz 156.8 mhz
    Other Working Frequencies 454 khz 480 khz 2115 khz 3023.5 khz 4200 khz 6321 khz 156.3 mhz
    Schedule H- 6

UR-77-0370

16. Navigation Equipment: Loran C (-), Loran A (1), Omega (-), Decca (-), Sonar (-), Radar (1), Fathometer (2), Other 1 sonar, radio direction finder 1, gyrocompass 1.

17. Cargo Capacity (MT)

Salted Fish	nill	Freezer	2 Frozen holds
Fresh Fish	nill	Dry Hold	nill
Frozen Fish	146	Tanks	nill
Fish Meal	nill	Other	nill
Other	nill		

18. Cargo Space Number / Name

19. Processing Equipment (Indicate daily capacity, MT)

Freezer	2	5

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Washington- California area	01.06-31-10 /1977			
Bering sea 1 Aleution islands	01.04- 31.12/1977			
Food and Store Supply, Patrol				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

UR-77-0459

16. Navigation Equipment: Loran C (-), Loran A (1), Omega (-), Decca (-), Navaid (-), Radar (1), Fathometer (1), Other 1 sonar, 1 radio direction finder, 1gyrocompass

17. Cargo Capacity (MT)

Salted Fish	nill	Freezer	2 Frozen holds
Fresh Fish	nill	Dry Hold	nill
Frozen Fish	110	Tanks	nill
Fish Meal	nill	Other	nill
Other	nill		

18. Cargo Space Number / Name

19. Processing Equipment (Indicate daily capacity, MT)

Freezer	1	4

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
1 Bering sea 1 Aleution islands	01.04-31.12/ 1977			
2 Washington-California area	01.06-31.10/1977			
3. Food and Store Supply, Patrol				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office UR-77-0459

State: U S S R

1. Name of Vessel TS N A R V A L
2. Vessel No.: Hull No. FL-0604 Registration No. 474
3. Name and Address of Owner: Name Nakhodkinskaya Baza Aktivnogo Morskogo Rybolovstva Address Makarova,5 USSR Nakhodka — Name and Address of Charterer
   Cable Address Baza Aktivnogo Morskogo Rybolovstva Nakhodka
4. Homeport and State of Registry: U S S R Nakhodka
5. Type of Vessel patrol vessel
6. Tonnage (Gross) 638 (Net) 176,5
7. Length 54,2 M. 8. Breadth 9,3 M. 9. Draft 3,93 M.
10. Horsepower 800 shp. 11. Maximum Speed 11,8 kt.
12. Propulsion: Diesel (1), Steam (-), Diesel/Electric (-), Other nill
13. Date Built 1966
14. Number and Nationality of Personnel 31 U S S R
    Officers 11 Crew 19 Other (Specify) 1 inspector
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (1), Other nill
    International Radio Call Sign U U Q B
    Radio Frequencies Monitored 500 khs 156,8 mhs
    Other Working Frequencies 454 khs 490 khs 2115 khs 3023,5 khs 4200 khs 6321 khs 156,3 mhs
    Schedule H- 8

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office UR-77-0460

State: U S S R

1. Name of Vessel TS N E R E I D A
2. Vessel No.: Hull No. FL-0601 Registration No. 460
3. Name and Address of Owner: Name Nakhodkinskaya Baza Aktivnogo Morskogo Rybolovstva Address Makarova,5 USSR Nakhodka — Name and Address of Charterer
   Cable Address Baza Aktivnogo Morskogo Rybolovstva Nakhodka
4. Homeport and State of Registry: U S S R Nakhodka
5. Type of Vessel patrol vessel
6. Tonnage (Gross) 638 (Net) 176,5
7. Length 54,2 M. 8. Breadth 9,3 M. 9. Draft 3,93M.
10. Horsepower 800 shp. 11. Maximum Speed 11,8 kt.
12. Propulsion: Diesel (1), Steam (-), Diesel/Electric (-), Other nill
13. Date Built 1964
14. Number and Nationality of Personnel 31 U S S R
    Officers 11 Crew 19 Other (Specify) 1 inspector
15. Communications: VHF-FM (1), AM/SSB, Voice (1), Telegraphy (1), Other nill
    International Radio Call Sign U S I V
    Radio Frequencies Monitored 500 khs 156,8 mhs
    Other Working Frequencies 454 khs 2115 khs 4200 khs 6312 khs 156,6
    Schedule H-8

UR-77-0460

16. Navigation Equipment: Loran C (-), Loran A (-), Omega (-), Decca (-), Navsat (-), Radar (-), Fathometer (-), Other radio direction finder, gyrocompass

17. Cargo Capacity (MT) 18. Cargo Space Number Name

Salted Fish	mill	Freezer	2 Frozen holds
Fresh Fish	mill	Dry Hold	mill
Frozen Fish	440	Tanks	mill
Fish Meal	mill	Other	mill
Other	mill		

19. Processing Equipment (Indicate daily capacity,MT)

Freezer 1 A

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Washington, California area				1.6 - 31.10.77.

Food and Store Supply, Patrol.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

UR-77-0497

16. Navigation Equipment: Loran C (1), Loran A (2), Omega (-), Decca (-), Navsat (-), Radar (2), Fathometer (1), Other Direction finder, Gyrocompass, Sonar

17. Cargo Capacity (MT) 18. Cargo Space Number Name

Salted Fish	No	Freezer	No
Fresh Fish	No	Dry Hold	I Cargo
Frozen Fish	No	Tanks	No
Fish Meal	No	Other	No
Other	120 Cargo		

19. Processing Equipment (Indicate daily capacity,MT)

No

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea	04.25-09.30/1977	Crab, shrimp, black cod, rockfish, yellowfish, pollock	For research purposes only	Bottom and Midwater trawls

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 4/28 - 9/30/77 Application No. UR-77-0497 For Use of Issuing Office

State: USSR

1. Name of Vessel RT ADLER Research vessel
2. Vessel No.: Hull No. III-4052 Registration No. 567
3. Name and Address of Owner / Name and Address of Charterer
   Name: TURNTP
   Address: 51, Leninskaia st., Vladivostok, USSR
   Cable address: TURNTP Vladivostok USSR
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Fishing trawler of side trawling
6. Tonnage (Gross) 685.0 (Net) 225.0
7. Length 57.8 M. 8. Breadth 9.8 M. 9. Draft 4.5 M.
10. Horsepower 1100 shp. 11. Maximum Speed 12.8 kn.
12. Propulsion: Diesel (1), Steam (-), Diesel/Electric (-), Other No
13. Date Built 1956
14. Number and Nationality of Personnel 34 USSR
    Officers 14 Crew 15 Other (Specify) 5 Scientists
15. Communications: VHF-FM (1), AM/SSB, Voice ( ), Telegraphy (2), Other No
    International Radio Call Sign UJOS
    Radio Frequencies Monitored 500 Kcs, 156.8 Mcs 156.3 Mcs
    Other Working Frequencies 458,480,2715,3023.5, 4200, 6521 Kcs
    Schedule H - 8

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MAY 1, 1977- Application No. IA 77-0803
Applied For: DECEMBER 31,1977 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KUROSHIO MARU, NO.27
2. Vessel No.: Hull No. [illegible] (CRAB 73) (SNAIL 116) Registration No. KN1-197
3. Name and Address of Owner / Name and Address of Charterer
   Name: NICHIRO GYOGYO KABUSHIKI KAISHA, KAITO GYOGYO KABUSHIKI KAISHA
   Address: SHINYURAKUCHO BLDG. 1-1-18, MINATO-CHO, ISHINOMAKI, 1-12-1, FURAKU-CHO, CHIYODA, TOKYO, JAPAN. MIYAGI-KEN, JAPAN.
   Cable Address: NICHIROGYO TOKYO -
4. Homeport and State of Registry: YOKOHAMA, JAPAN
5. Type of Vessel POT VESSEL (CRAB, SEA SNAIL), INDEPENDENT
6. Tonnage (Gross) 499.53 M.T (Net) -
7. Length 51.00 M. 8. Breadth 8.80 M. 9. Draft 4.10 M.
10. Horsepower 1,250 shp. 11. Maximum Speed 11.0 kt.
11. Propulsion: Diesel (g), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built SEP.14.1967
14. Number and Nationality of Personnel 29, JAPAN
    Officers 8 Crew 21 Other (Specify) -
15. Communications: VHF-FM ( ), AM/SSB, Voice (g), Telegraphy (g), Other -
    International Radio Call Sign JPJS
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies All 2073 KHZ
    Schedule WATCH TIME(G.M.T) 05:30 TO 06:30, 22:00 TO 23:00

JA-77-0803

16. Navigation Equipment: Loran C (O), Loran A ( ), Omega ( ), Decca ( ), Navsat.( ), Radar (O), Fathometer (O), Other _____

17. Cargo Capacity (MT)

Salted Fish	_____
Fresh Fish	_____
Frozen Fish	80 M.T(CRAB) 118 M.T(SNAIL)
Fish Meal	_____
Other	_____

18. Cargo Space

Number	Name
Freezer 1	SEE ATTACHED 1
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)

(1) CRAB

FREEZER 2SETS 6M.T/DAY (COMBINED)

(2) SNAIL

FREEZER 2SETS 12M.T/DAY (COMBINED)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
SEE ATTACHED I				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

SEE ATTACHED II

JA-77-0803

ATTACHED I

FISHERIES FOR WHICH PERMIT IS REQUESTED

OCEAN AREA : BERING SEA AND ALEUTIAN

PERIOD : MAY - DECEMBER

(1) SPECIES : TANNER CRAB

CONTEMPLATED CATCH : THIS VESSEL APPLIES FOR FISHING A PORTION OF THE ALLOCATION TO THE JAPANESE INDEPENDENT CRAB FISHERY (28,727 TONS IN THE AREA LOCATED TO THE NORTH AND WEST OF STRAIGHT LINES DRAWN BETWEEN THE FOLLOWING COORDINATES: 62°00'N.LAT. — 173°00'W. LONG.; 58°00'N. LAT. — 173°00'W. LONG.; 58°00'N. LAT. — 160°00'W. LONG.;)

GEAR TO BE USED : CRAB POTS

(2) SPECIES : SNAIL

CONTEMPLATED CATCH :

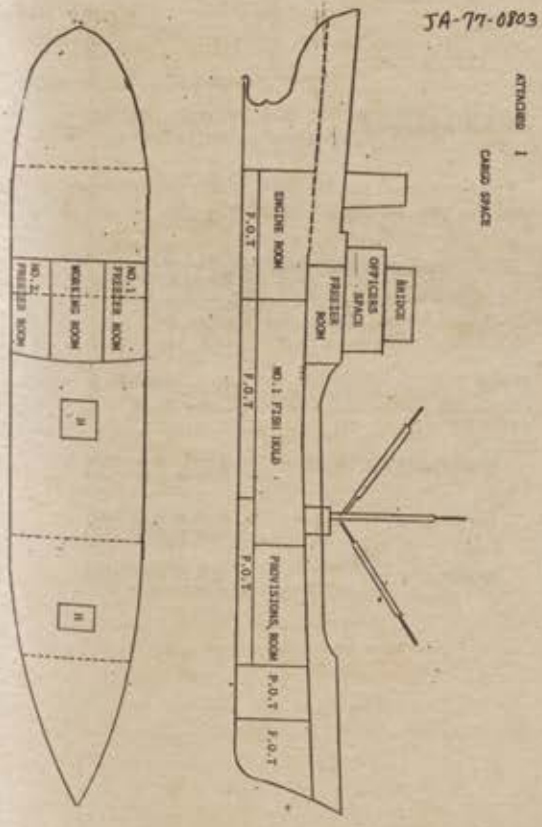
THIS VESSEL APPLIES FOR FISHING

A PORTION OF THE ALLOCATION OF

2,700 METRIC TONS (EDIBLE MEAT)

GEAR TO BE USED : SNAIL POT

JA-77-0803



ATTACHED 1
CARGO SPACE

JA-77-0803

ATTACHED II

NAME	ADRESS
Ichiro Nakamura	Holiday Inn, Wellington, Room 506 2505 Wisconsin Ave. N.W. Washington D.C. 20007 U.S.A. Tel (202)337-7400 EXT 5114 5132
Sadayuki Kashiwagi	Suite 34, Post Office Hall 333 West 4th Anchorage, Alaska, U.S.A.

JA-77-0883

ATTACHED I

NAME	ADDRESS
Ichiro Nakamura	Holiday Inn, Wellington, Room 506 2505 Wisconsin Ave. N.W. Washington D.C. 20007 U.S.A. Tel (202)337-7400 EXT 5114 5132
Sadayuki Kashiwagi	Suite 34, Post Office Hall333, West, 4th Anchorage, Alaska, U.S.A.

JA-77-1066

14. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other ———

17. Cargo Capacity (MT)

Salted Fish ———
Fresh Fish ———
Frozen Fish 298 M.T
Fish Meal ———
Other ———

18. Cargo Space Number Name

Freezer SEE THE ATTACHED PAPER II I, II, III FROZEN FISH HOLD
Dry Hold
Tanks
Other

19. Processing Equipment (Indicate daily capacity,MT)

———
———
———
———

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

———
see attached paper
———

1066

JA-77-1066

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JINYO MARU

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31, 1977

Application No. JA-77-1066 For Use of Issuing Office

State: ———

1. Name of Vessel JINYO MARU
2. Vessel No.: Hull No. ——— Registration No. S 03-703
3. Name and Address of Owner: Name TOSEN KAIUN, ODAJIMA KAIUN; Address 2-1, ASAHI-CHO, SHIMIZU-SHI, SHIZUOKA-KEN, JAPAN 424; Cable Address ———
   Name and Address of Charterer: ———
4. Homeport and State of Registry: SHIMIZU, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 492.42 (Net) 336.79
7. Length 47.50 M. 8. Breadth 8.5 M. 9. Draft 4.25 M.
10. Horsepower 1150 shp. 11. Maximum Speed 10.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built JUNE, 1956
14. Number and Nationality of Personnel 30 JAPAN
    Officers 7 Crew 3 Other (Specify) ———
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ) Other ———
    International Radio Call Sign JGDB
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

PAPER I

OTHER WORKING FREQUENCIES

A1

A2 410, 425, 468, 500 KHZ

A3 4202, 6303, 8404, 12606, 16808, 4 182.2, 6273.3, 8364.4, 12505.6, 4186.6, 6279.9, 8373.2, 12559.8, 16746.4, 4210.5, 6315.75, 8421, 12631.5, 16847

SCHEDULE

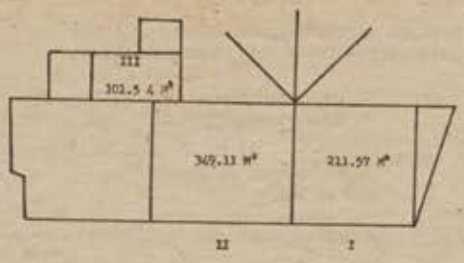
WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00 (GMT) 20.00 TO 23.00 (GMT)
GULF OF ALASKA	16.00 TO 21.00 (GMT) 23.00 TO 02.00 (GMT)
ATLANTIC	12.00 TO 15.00 (GMT) 17.00 TO 20.00 (GMT)

JA-77-1066

PAPER II

JINYO MARU



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

No. 1067

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31,1977

Application No. For Use of Issuing Office: JA-77-1067

State: JAPAN

1. Name of Vessel SHINYO MARU
2. Vessel No.: Hull No. — Registration No. TEI-641
3. Name and Address of Owner / Name and Address of Charterer
   Name: TAIYO GYOGYO KAISHA, LTD.
   Address: 4-1, MARUNOUCHI, 2 CHOME, CHIYODA-KU, 100, JAPAN
   Cable Address: TAIYO GYOGYO TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3,403.34 (Net) 1,785.00
7. Length 111.10 M. 8. Breadth 16.20 M. 9. Draft 8.50 M.
10. Horsepower 6,000 shp. 11. Maximum Speed 16.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built: DECEMBER,1967
14. Number and Nationality of Personnel 26,JAPAN
    Officers 10 Crew 16 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other —
    International Radio Call Sign JSBH
    Radio Frequencies Monitored A1 A2 500 KHZ
    Other Working Frequencies A1 A2 425 KHZ 458 KHZ
    Schedule SEE THE ATTACHED PAPER-I

JA-77-1066

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Johiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1067

16. Navigation Equipment: Loran C (*), Loran A (*), Omega (*), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other —
17. Cargo Capacity (MT)
18. Cargo Space Number / Name

Salted Fish	—	Freezer		
Fresh Fish	—	Dry Hold		
Frozen Fish	2,300M.T.	Tanks	SEE THE ATTACHED PAPER-II	
Fish Meal	—	Other		
Other	—			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
see attached paper

JA-77-1067

JA-77-1067

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME Mr Ichiro NAKAMURA
Mr Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

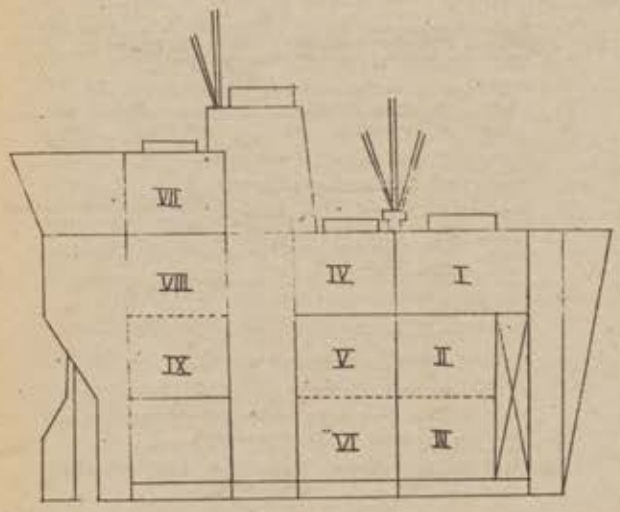
TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

ATTACHED PAPER II

JA-77-1067



CARGO SPACE NUMBER	NAME
FREEZER I II III IV V VI VII VIII IX	FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. 1068

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1068
For Use of Issuing Office

State: JAPAN

1. Name of Vessel JUYO MARU
2. Vessel No.: Hull No. ——— Registration No. TKI-602
3. Name and Address of Owner Name and Address of Charterer
   Name TAIYO SHOSEN KAISHA,LTD.
   Address 4-1, MARUNOUCHI,2 CHOME
   CHIYODA-KU,TOKYO,100,JAPAN
   Cable Address TAIYO SHOSEN TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3,411.08 (Net) 1,800.72
7. Length 111.10 M. 8. Breadth 16.20 M. 9. Draft 8.50 M.
10. Horsepower 6,000 shp. 11. Maximum Speed 16.0 kts.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
13. Date Built NOVEMBER,1968
14. Number and Nationality of Personnel 26, JAPAN
    Officers 10 Crew 16 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*)
    Other ———
    International Radio Call Sign JJNX
    Radio Frequencies Monitored A1 A2 500 KHZ
    Other Working Frequencies A1 A2 425 KHZ, 458 KHZ
    Schedule SEE THE ATTACHED PAPER-I

JA-77-1068

16. Navigation Equipment: Loran C (*), Loran A (*), Omega (*), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other —

17. Cargo Capacity (MT)

Salted Fish	—
Fresh Fish	—
Frozen Fish	2,200 M.T.
Fish Meal	—
Other	—

18. Cargo Space Number / Name

Freezer
Dry Hold
Tanks SEE THE ATTACHED PAPER-II
Other

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

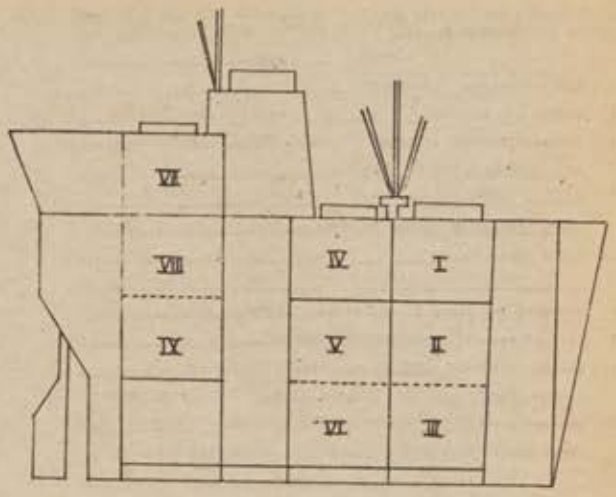
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

See attached paper

JA-77-1068

ATTACHED PAPER II



CARGO SPACE NUMBER	NAME
FREEZER I II III IV V VI VII VIII IX	FROZEN FISH HOLD

JA-77-1068

PAPER I

NATION	TIME
BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

JA-77-1068

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

No. 1069

JA-77-1069

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1069
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KINO MARU
2. Vessel No.: Hull No. — Registration No. ____
3. Name and Address of Owner / Name and Address of Charterer
   Name HOKKOKU SANGYO CO., LTD.
   Address ASAHI-CHO 2-3,
   SHIMIZU-SHI, SHIZUOKA-KEN 434, JAPAN
   Cable Address —
4. Homeport and State of Registry: SHIMIZU, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,759.62 (Net) 893.69
7. Length 87.00 M. 8. Breadth 14.30 M. 9. Draft 8.60 M.
10. Horsepower 3,900 shp. 11. Maximum Speed 16.30 kts.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built MARCH,1975
14. Number and Nationality of Personnel 19,JAPAN
    Officers 9 Crew 10 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
    Other —
    International Radio Call Sign JHDY
    Radio Frequencies Monitored A1 A2 500KHZ
    Other Working Frequencies A1 A2 425KHZ 468KHZ
    Schedule SEE THE ATTACHED PAPER-I

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2000, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2000, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2000, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2000, 0300-0600 (G.M.T.)

JA-77-1069

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other —
17. Cargo Capacity (MT)
18. Cargo Space

	Number	Name
Salted Fish	—	Freezer
Fresh Fish	—	Dry Hold
Frozen Fish	1,700 M.T.	Tanks
Fish Meal	—	Other
Other	—	

SEE THE ATTACHED PAPER-II

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

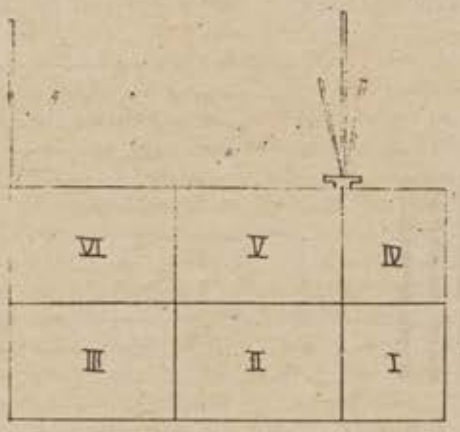
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

see attached paper

JA-77-1069

ATTACHED PAPER II



CARGO SPACE
NUMBER
NAME

FREEZER I II III IV V VI FROZEN FISH HOLD

JA-77-1069

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1070

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other ——

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	—		Freezer
Fresh Fish	—		Dry Hold
Frozen Fish	1,100 M.T.		Tanks
Fish Meal	—		Other
Other	—		

SEE THE ATTACHED PAPER-21

19. Processing Equipment (indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
see attached paper

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. 1070

JA-77-1070

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31,1977
Application No. JA-77-1070 For Use of Issuing Office

State: JAPAN

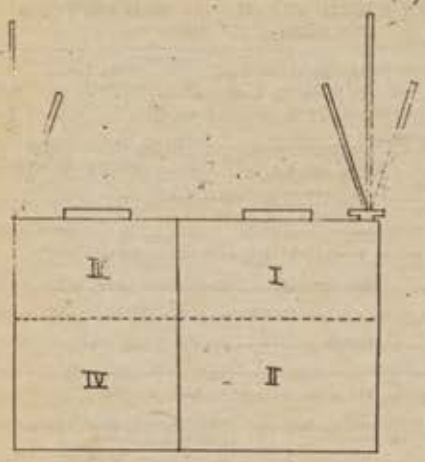
1. Name of Vessel HAKUYO MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner: Name: NOMURA KAIUN YUGEN KAISHA; Address 24-3, 2 CHOME, 3 BANCHO, MATSUYAMA-SHI, EHIME-KEN, 790 JAPAN; Cable Address —
   Name and Address of Charterer: —
4. Homeport and State of Registry: MATSUYAMA, EHIME, JAPAN
5. Type of Vessel REFRIGERATOR TANSPORT
6. Tonnage (Gross) 980.14 (Net) 494.30
7. Length 81.88 M. 8. Breadth 13.90 M. 9. Draft 5.20 M.
10. Horsepower 3,200 shp. 11. Maximum Speed 14.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built NOVEMBER,1968
14. Number and Nationality of Personnel 17, JAPAN
    Officers 10 Crew 7 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*), Other —
    International Radio Call Sign JNXD
    Radio Frequencies Monitored A1 A3 500KHZ
    Other Working Frequencies A1 A3 425KHZ 464KHZ
    Schedule SEE THE ATTACHED PAPER-I

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0400 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0400 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0400 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0400 (G.M.T.)

ATTACHED PAPER II

JA-77-1070



	CARGO SPACE NUMBER	NAME
FREEZER	I II III IV	FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. 1071

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31,1977

Application No. JA-77-1071 For Use of Issuing Office

State: JAPAN

1. Name of Vessel TOSA MARU
2. Vessel No.: Hull No. _____ Registration No. TKI-614
3. Name and Address of Owner / Name and Address of Charterer
   Name SANWA SEMPAKU KABUSHIKI KAISHA
   Address 1-29,AKASHI-CHO
   CHUO-KU,TOKYO,104,JAPAN
   Cable Address SANWA SEMPAKU
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,947.05 (Net) 988.41
7. Length 89.00 M. 8. Breadth 12.80 M. 9. Draft 6.70 M.
10. Horsepower 2,500 shp. 11. Maximum Speed 13.00 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built: NOVEMBER,1960
14. Number and Nationality of Personnel 22,JAPAN
    Officers 9 Crew 13 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy ( ), Other —
    International Radio Call Sign 7KYB
    Radio Frequencies Monitored A1 A2 500 KHZ
    Other Working Frequencies A1 A2 A25 KHZ, 468 KHZ
    Schedule SEE THE ATTACHED PAPER-I

JA-77-1070

JA-77-1071

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

16. Navigation Equipment: Loran C ( ), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other —

17. Cargo Capacity (MT)

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	
Frozen Fish	1,400 M.T.	Tanks	SEE THE ATTACHED PAPER-II
Fish Meal	—	Other	
Other	—		

18. Cargo Space Number / Name

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
see attached paper

JA-77-1071

JA-77-1071

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Gadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

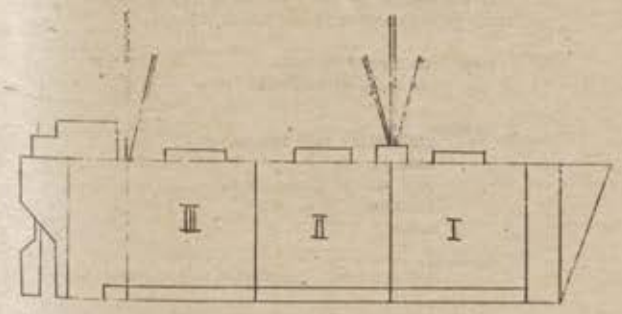
TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2300, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2300, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2300, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2300, 0300-0600 (G.M.T.)

JA-77-1071

ATTACHED PAPER II



CARGO SPACE NUMBER	NAME
FREEZER I II III	FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. 1072

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31,1977
Application No. JA-77-1072
For Use of Issuing Office

State: JAPAN

1. Name of Vessel ITOWAN MARU
2. Vessel No./Hull No. _____ Registration No. TKI-679
3. Name and Address of Owner: Name SANWA SEMPAKU KAIKOSHIKI KAISHA
   Address 1-29,AKASAKI-CHO
   CHUO-KU,TOKYO,104,JAPAN
   Cable Address SANWA SEMPAKU
   Name and Address of Charterer: _____
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2,995.55 (Net) 1,574.39
7. Length 110.50 M. 8. Breadth 15.00 M. 9. Draft 8.00 M.
10. Horsepower 5,700 shp. 11. Maximum Speed 16.00 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built JUNE,1967
14. Number and Nationality of Personnel 22, JAPAN
    Officers 9 Crew 13 Other (Specify) ____
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign JKCP
    Radio Frequencies Monitored A1 A2 500 KHZ
    Other Working Frequencies A1 A3 425 KHZ, 458 KHZ
    Schedule SEE THE ATTACHED PAPER-I

JA-77-1072

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other ———

17. Cargo Capacity (MT)

18. Cargo Space

	Number	Name
Salted Fish	———	Freezer
Fresh Fish	———	Dry Hold
Frozen Fish	2,100 M.T.	Tanks
Fish Meal	———	Other
Other	———	

SEE THE ATTACHED PAPER-II

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

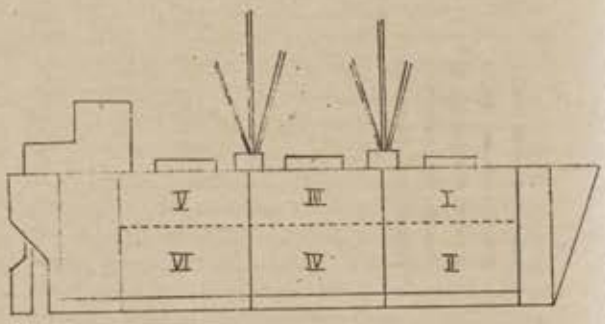
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
PAPER I				
WATCH TIME				
BERING SEA AND ALEUTIAN ISLANDS				2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA				2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC				2100-2200, 0300-0600 (G.M.T.)
ATLANTIC				1700-1700, 0000-0300 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA				2100-2200, 0300-0600 (G.M.T.)

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

see attached paper

JA-77-1072

ATTACHED PAPER II



	CARGO SPACE NUMBER	NAME
FREEZER	I II III IV V VI	FROZEN FISH HOLD

JA-77-1072

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Tohiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

No. 1073

JA-77-1073

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1073
For Use of Issuing Office

State: _____

1. Name of Vessel SANYEKU MARU

2. Vessel No.: Hull No. _____ Registration No. —

3. Name and Address of Owner / Name and Address of Charterer

Name MARUO KUIPPING CO., LTD.

Address 2173,OAZA KAMAEUBA,

KAMAE-CHO,MINAMITAIDA-GUN,OITA-KEN,876-24,JAPAN

Cable Address —

4. Homeport and State of Registry: KAMAE OITA, JAPAN

5. Type of Vessel CARGO VESSEL

6. Tonnage (Gross) 1,984.30 (Net) 1,111.45

7. Length 87.16 M. 8. Breadth 13.00 M. 9. Draft 6.65 M.

10. Horsepower 2,200 x shp. 11. Maximum Speed 10.5 kt.

11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other —

13. Date Built JUNE 1968

14. Number and Nationality of Personnel 14 JAPAN

Officers 7 Crew 7 Other (Specify) —

15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
Other —

International Radio Call Sign JLEW

Radio Frequencies Monitored A1,A2 500KHZ

Other Working Frequencies A1, A2 425KHZ, 468KHZ

Schedule SEE THE ATTACHED PAPER-I

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0400 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0400 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0400 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0400 (G.M.T.)

JA-77-1073

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
Other —

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	—		Freezer
Fresh Fish	—		Dry Hold
Frozen Fish	—		Tanks
Fish Meal	1,600		Other
Other	—		

SEE THE ATTACHED PAPER-II

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

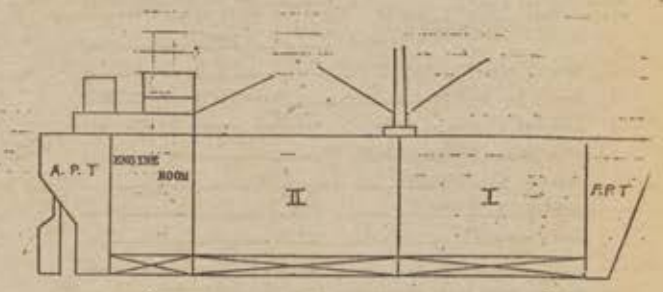
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
—				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

See attached paper

JA-77-1073

ATTACHED PAPER II



CARGO SPACE NUMBER	NAME
DRY HOLD I, II	FISH MEAL HOLD

-JA-77-1073

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1074

16. Navigation Equipment: Loran C (+), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (+), Fathometer ( ),
Other

17. Cargo Capacity (MT)

Salted Fish		Freezer	
Fresh Fish		Dry Hold	I II, III FLUSH FISH HOLD
Frozen Fish	800 M.T.	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER 1	

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA				
BERING SEA AND ALEUTIAN ISLANDS				
OREGON WASHINGTON AND CALIFORNIA				
CENTRAL PACIFIC				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
see attached paper

1074

JA-77-1074

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 Application No. for Use of Issuing Office: JA-77-1074
State: JAPAN

1. Name of Vessel DAIEN MARU NO. 18
2. Vessel No.: Hull No. _____ Registration No. TKI-767
3. Name and Address of Owner / Name and Address of Charterer
Name SEIKAI MARUHONSHU KAIUN CO., LTD.
Address 1080, IMAKI-CHO, KANAGAWA-KEN
KANNONJI-SHI, KANAGAWA-KEN
Cable Address
4. Homeport and State of Registry: KANNONJI JAPAN
5. Type of Vessel REFRIGERATION TRANSPORT
6. Tonnage (Gross) 1,264.61 M.T. (Net) 624.92 M.T.
7. Length 69.00 M. 8. Breadth 11.00 M. 9. Draft 5.60 M.
10. Horsepower 1700 shp 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (+), Steam ( ), Diesel/Electric ( ),
Other
12. Date Built NOVEMBER 1964
14. Number and Nationality of Personnel 16 JAPAN
Officers 7 Crew 9 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (+)
Other
International Radio Call Sign 6LLB
Radio Frequencies Monitored 500 KHZ 2182 KHZ
Other Working Frequencies 410 425 468 480 500 KHZ
Schedule WATCH TIME: ATLANTIC, GULF OF ALASKA BERING SEA AND ALEUTIAN ISLANDS OREGON WASHINGTON CALIFORNIA, CENTRAL PACIFIC AND

JA-77-1077

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Tadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20037
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1075

18. Navigation Equipment: Loran C (•), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (•), Fathometer ( ).
Other

17. Cargo Capacity (MT)

Salted Fish		
Fresh Fish		
Frozen Fish	800 M.T.	
Fish Meal		
Other		

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER 1	
Freezer	
Dry Hold	I, II, III, IV, FISHING FISH HOLD
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity, MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA				
BERING SEA AND ALEUTIAN ISLANDS				
OREGON WASHINGTON AND CALIFORNIA				
CENTRAL PACIFIC				

21. Name and address of Agent appointed to receive any legal process issued in the United States:
See attached paper

1075

JA-77-1075

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977
Application No. JA-77-1075 For Use of Issuing Office
State: JAPAN

1. Name of Vessel SANTO MARU
2. Vessel No., Hull No. ____ Registration No. ____
3. Name and Address of Owner
Name JAPAN LEASE INTERNATIONAL CORP.
Address
Cable Address
Name and Address of Charterer
4. Homeport and State of Registry: TOKYO JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 985.27M.T. (Net) 509.96 M.T.
7. Length 71.40 M. B. Breadth 10.60 M. D. Draft 5.30 M.
8. Horsepower 2200 shp 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other
12. Date Built OCTOBER 1972
14. Number and Nationality of Personnel 46 JAPAN
Officers 7 Crew 9 Other (Specify)
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•), Other
International Radio Call Sign JYUS
Radio Frequencies Monitored 500 KHZ 8182 KHZ
Other Working Frequencies 4142.5 6268.75 8825 12577.5
Schedule MATCH TIME: BERING SEA AND ALEUTIAN ISLANDS, OREGON WASHINGTON CALIFORNIA, CENTRAL PACIFIC AND ATLANTIC, GULF OF ALASKA

JA-77-1075

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES.

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1076

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega (+), Decca ( ), Navsat ( ), Radar (+), Fathometer (+),
Other

17. Cargo Capacity (MT)

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	1100 M/T	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER 1	

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA				
BERING SEA AND ALEUTIAN ISLANDS				
OREGON WASHINGTON AND CALIFORNIA				
CENTRAL PACIFIC				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
see attached paper

- 1076

JA-77-1076

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 to DECEMBER 31, 1977

Application No. For Use of Issuing Office JA-77-1076

State: JAPAN

1. Name of Vessel SEIKOU MARU NO. 68
2. Vessel No.: Hull No. Registration No. KHI-577
3. Name and Address of Owner / Name and Address of Charterer
Name TOKUSHIMA CO., LTD.
Address MIHARI 4-8-7,
MIURASHI, KANAGAWA-KEN, JAPAN
Cable Address
4. Homeport and State of Registry: MIURA JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 997.95 M.T. (Net) 515.40 M.T.
7. Length 76 M., B. Breadth 11.80 M., D. Draft 5.1 M.
10. Horsepower 3000 shp. 11. Maximum Speed 13 kts.
11. Propulsion: Diesel (+), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built FEBRUARY 15, 1977
14. Number and Nationality of Personnel 16 JAPAN
Officers 7 Crew 9 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
Other
International Radio Call Sign JHSV
Radio Frequencies Monitored 500 KHZ 2182 KHZ
Other Working Frequencies 410 425 468 2090 2091 KHZ
Schedule WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS ATLANTIC GULF OF ALASKA

JA-77-1076

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1077

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
Decca ( ), Navaet ( ), Radar (*), Fathometer ( ),
Other _____

17. Cargo Capacity (MT)

Salted Fish	———
Fresh Fish	———
Frozen Fish	1,050
Fish Meal	———
Other	———

18. Cargo Space

Number	Name
Freezer	SEE THE ATTACHED PAPER II I II III IV FROZEN FISH HOLD
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)
———
———
———
———

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

see attached paper

1077

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:
Application No. JA-77-1077
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KIYOTOKU MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-919
3. Name and Address of Owner / Name and Address of Charterer
Name: OGAWA LINES KABUSHIKI KAISHA / ———
Address: 33, NAKAZATO-CHO ISOGOKU / ———
NAKA-KU, YOKOHAMA, JAPAN / ———
Cable Address ——— / ———
——— / ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 990.27 (Net) 585.42
7. Length 76.80 M. 8. Breadth 12.00 M. 9. Draft 4.25 M.
10. Horsepower 2,700 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other ———
13. Date Built APRIL 7, 1973
14. Number and Nationality of Personnel 18, JAPANESE
Officers 7 Crew 11 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy ( ),
Other ———
International Radio Call Sign JG4L
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

JA-77-1077

ATTACHED PAPER I

OTHER WORKING FREQUENCIES

A1 A2	410 425 432 454 468 480 500 512 KHZ
A1	2075 2091 4184 6276 8368 12552 16736
	22055 4204.5 6306.75 8409 12613.5 16818
	22315 4225.5 6338.25 8451 12676.5 16902
	22367.5 4201 6301.5 8402 12603 16804 22305
	4222 6333 8444 12666 16888 22357.5 KHZ
F3	156.30 156.60 156.65 156.70 156.80
	157.00 157.20 157.25 157.30 157.35 MHZ

SCHEDULE
WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS

01:00 TO 04:00 (GMT)
20:00 TO 23:00 (GMT)

GULF OF ALASKA

18:00 TO 21:00 (GMT)
23:00 TO 02:00 (GMT)

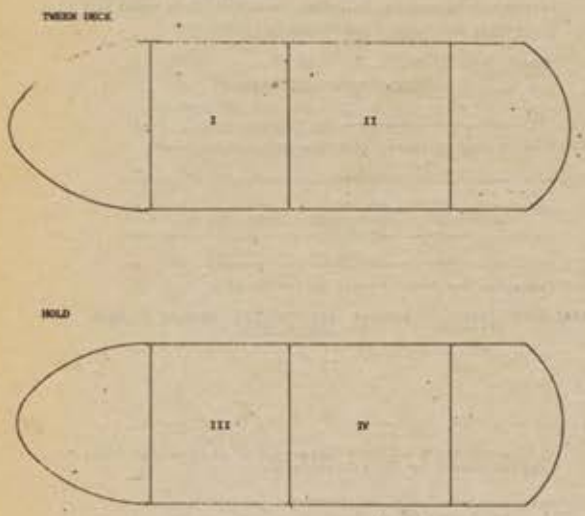
ATLANTIC

12:00 TO 15:00 (GMT)
17:00 TO 20:00 (GMT)

JA-77-1077

ATTACHED PAPER II

CARGO SPACE



1078

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31,1977

Application No. JA-77-1078
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KOEI MARU NO.22
2. Vessel No.: Hull No. ___ Registration No. IX 1-35
3. Name and Address of Owner / Name and Address of Charterer
   Name: HOKKO SUISAN KAISHA CO., LTD.
   Address: 95 HIGASHIKO, YAMAO-CHO,
   TOYOKAWA-SHI, JAPAN
   Cable Address
4. Homeport and State of Registry: YAMAO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 386.69 (Net) 179.68 T.
7. Length 42.71 M. 8. Breadth 7.50 M. 9. Draft 3.80 M.
10. Horsepower 650 shp. 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ___
13. Date Built OCTOBER, 1955
14. Number and Nationality of Personnel 9 JAPAN
    Officers 4 Crew 4 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ),
    Other ___
    International Radio Call Sign JJRF
    Radio Frequencies Monitored 500 KC
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

JA-77-1077

ATTACHED PAPER

II. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAZI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20037
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1078

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other ___
17. Cargo Capacity (MT)
    Salted Fish ___
    Fresh Fish ___
    Frozen Fish 300 M.T
    Fish Meal ___
    Other ___
18. Cargo Space Number / Name
    Freezer SEE THE ATTACHED PAPER II I, II, III, FROZEN FISH HOLD
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    See attached paper

JA-77-1078

KOEI MARU NO.22

PAPER I

A1

A2 430, 425, 454, 468, 480, 500 KHz

A1 2075, 2091, 3190, 4186, 4187, 4198.5, 4199.5, 4206

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLAND	01:00 TO 04:00 (GMT) 20:00 TO 23:00 (GMT)
GULF OF ALASKA	18:00 TO 21:00 (GMT) 23:00 TO 02:00 (GMT)

JA-77-1078

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

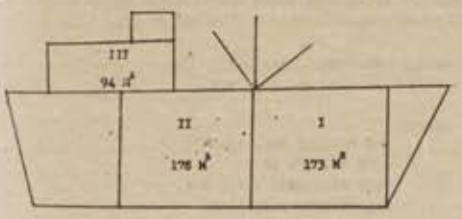
ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20037
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1078

KOEI MARU NO.22

PAPER II



1079

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31,1977 Application No. JA-77-1079
Applied For: For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAGHYO MARU NO.26
2. Vessel No./ Hull No. _____ Registration No. HK 1-637
3. Name and Address of Owner / Name and Address of Charterer
   Name HATSUKI, KAGAYA
   Address 2-2, BENTEN-MACHI,
   HAKODATE, HOKKAIDO, JAPAN
   Cable Address
4. Homeport and State of Registry: HAKODATE, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 496.06 (Net) 307.72 A.
7. Length 53.6 0 M. 8. Breadth 9.20 M. 9. Draft 4.50 M.
10. Horsepower 14 00 shp. 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built OCTOBER, 1959
14. Number and Nationality of Personnel 9 JAPAN
    Officers 6 Crew 3 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ),
    Other
    International Radio Call Sign 7 J K X
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE UNATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

JA-77-1079

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
Other _____

17. Cargo Capacity (MT)

Salted Fish	_____
Fresh Fish	926 M.T
Frozen Fish	_____
Fish Meal	_____
Other	_____

18. Cargo Space

Number	Name
Freezer	SEE THE ATTACHED PAPER II
	I, II, III, IV FROZEN FISH HOLD
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)
_____
_____
_____
_____

20. Fisheries for which Permit is Requested:

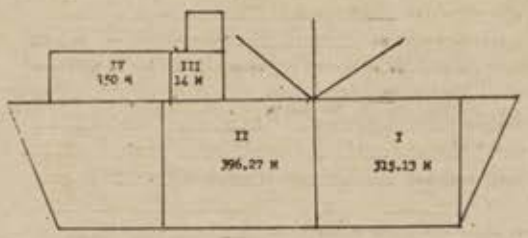
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
See attached paper
_____
_____

JA-77-1079

YACHITO MARU NO.26

PAPER II



JA-77-1079

YACHITO MARU NO.26

PAPER I

A1

A2 410, 425, 468, 480, 500 KHz

A1 2073, 2091
4186, 6279, 8372, 12558, 16744, 22227.5, 4182.2,
6273.3, 8364.4, 12546.6, 16728.8, 22234, 4187
6280.5, 8374, 12561, 16748, 22246

SCHEDULE

WATCH TIME

PERITO ORA AND ALEUTIAN ISLAND	01:00 TO 04:00 (GMT) 20:00 TO 23:00 (GMT)
GULF OF ALASKA	18:00 TO 21:00 (GMT) 23:00 TO 02:00 (GMT)

JA-77-1079

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1080

JA-77-1080

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1080
For Use of Issuing Office

State: ____

1. Name of Vessel MIE MARU NO.7
2. Vessel Hull No. ---- Registration No. FY 1,832
3. Name and Address of Owner / Name and Address of Charterer
   Name MITSUBISHI HYUU SUISAN KAISHA
   Address MINAMI-KAN, MITSUMA-SHI,
   SHIMIZU-CHO, 2-3
   Cable Address ____
4. Homeport and State of Registry: ____
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 498.88 (Net) 282.03 A
7. Length 58.70 M. 8. Breadth 8.90 M. 9. Draft 4.25 M.
10. Horsepower 1500 shp. 11. Maximum Speed 10.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ---
13. Date Built 1962
14. Number and Nationality of Personnel 9 JAPAN
    Officers 5 Crew 4 Other (Specify) ____
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ).
    Other ---
    International Radio Call Sign 8 J F P
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

MIE MARU NO.7

PAPER I

A1

A7 430, 425, 468, 500

A1 4-22 MHz
4-16 MHz

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLAND 01:00 TO 04:00 (GMT)
20:00 TO 23:00 (GMT)

GULF OF ALASKA 18:00 TO 21:00 (GMT)
23:00 TO 02:00 (GMT)

JA-77-1080

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other ____
17. Cargo Capacity (MT)
    Salted Fish ____
    Fresh Fish ____
    Frozen Fish 962 M.T
    Fish Meal ____
    Other ____
18. Cargo Space Number / Name
    Freezer SEE THE ATTACHED PAPER II I, II, III FROZEN FISH HOLD
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity, MT)
    ____
    ____
    ____
    ____
20. Fisheries for which Permit is Requested:

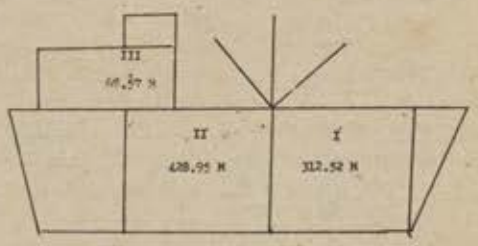
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    See attached paper.
    ____
    ____

JA-77-1080

MIE MARU NO.7

PAPER II



JA-77-1080

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAZI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1081

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other —

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	1950 MT
Fish Meal	
Other	

18. Cargo Space Number / Name — SEE THE ATTACHED PAPER II

Freezer	I II III IV
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
See attached paper

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1081

JA-77-1081

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977
Application No. For Use of Issuing Office: JA-77-1081

State: JAPAN

1. Name of Vessel SHINPUMA MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner / Name and Address of Charterer
Name: YAMAHA KAIUN KABUSHIKI KAISHA
Address: 5-12, NIHONBASHI 3 CHOME, CHUO-KU, 103, TOKYO-TO JAPAN
Cable Address —
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 2,063.11 MT (Net) 1,099.19 MT
7. Length 236.0 M. B. Breadth 11.00 M. 9. Draft 5.200 M.
10. Horsepower 5,000 shp. 11. Maximum Speed 15.14 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built MARCH, 1960
14. Number and Nationality of Personnel 19 JAPAN
Officers 9 Crew 10 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*), Other —
International Radio Call Sign JEIX
Radio Frequencies Monitored 500 KHz
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

PAPER I SHINPUMA MARU

OTHER WORKING FREQUENCIES

A1
A2 410, 425, 466, 480, 500 KHz
A1 4181.8, 6272.7, 8363.6, 12545.4, 16727.2 22252 KHz
4186.2, 6279.3, 8372.4, 12558.6, 16744.8, 22244 KHz
4194.5, 6291.75, 8389, 12583.5, 16778, 22297.5 KHz
4209, 6313.5, 8418, 12627, 16836, 22254 KHz
4201, 6301.5, 8402, 12603, 16804, 22305 KHz

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00 (GMT)
	20.00 TO 23.00 (GMT)
GULF OF ALASKA	18.00 TO 21.00 (GMT)
	23.00 TO 02.00 (GMT)
ATLANTIC	12.00 TO 15.00 (GMT)
	17.00 TO 20.00 (GMT)

PAPER II SHINPUKMA MARU JA-77-1081

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1082

Permit Period Applied For: MARCH 1, 1977 DECEMBER 31, 1977 Application No. JA-77-1082 For Use of Issuing Office

State: JAPAN

1. Name of Vessel NIPPONMAN MARU NO. 1
2. Vessel No.: Hull No. —— Registration No. ——
3. Name and Address of Owner
   Name TAIHO KAIUN KANSHIKI KAISHA
   Address 18, KANDA SUDA-CHO 1 CHOME
   CHIYODA-KU 101, TOKYO-TO, JAPAN
   Cable Address ——
   Name and Address of Charterer: ——
4. Homeport and State of Registry: TOKIO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 2,919.31 MT (Net) 1,707.56 MT
7. Length 109.0 M. 8. Breadth 15.50 M. 9. Draft 6.716 M.
10. Horsepower 6,500 shp. 11. Maximum Speed 19.08 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ——
13. Date Built 26 SEPTEMBER, 1972
14. Number and Nationality of Personnel 21 JAPAN
    Officers 9 Crew 12 Other (Specify) ——
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*)
    Other ——
    International Radio Call Sign J F N C
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

JA-77-1081

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1082

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other ——
17. Cargo Capacity (MT) 18. Cargo Space Number SEE THE ATTACHED PAPER II Hatch I TO VII
    Salted Fish ——
    Fresh Fish ——
    Frozen Fish 2120 MT
    Fish Meal ——
    Other ——
    Freezer
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    see attached paper

JA-77-1082

JA-77-1082

PAPER I KIPPUKEAN MARU NO. 1

OTHER WORKING FREQUENCIES

A1
A2 410, 425, 452, 454, 468, 480, 500, 512 KHz

A3 4182.2, 6273.3, 8364.4, 12546.6, 16728.8, 22254 KHz
4186.6, 6279.9, 8375.2, 12 559.8, 16746.4, 22246 KHz
4205, 6307.5, 8410, 12615, 16820, 22313 KHz
4193.5, 6290.25, 8387, 12580.5, 16774, 22301.5 KHz
4226, 6339, 8452, 12678, 16904, 22367.5 KHz

J3 01 ch TO 26 ch

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT)
	20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT)
	23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT)
	17.00 TO 20.00(GMT)

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

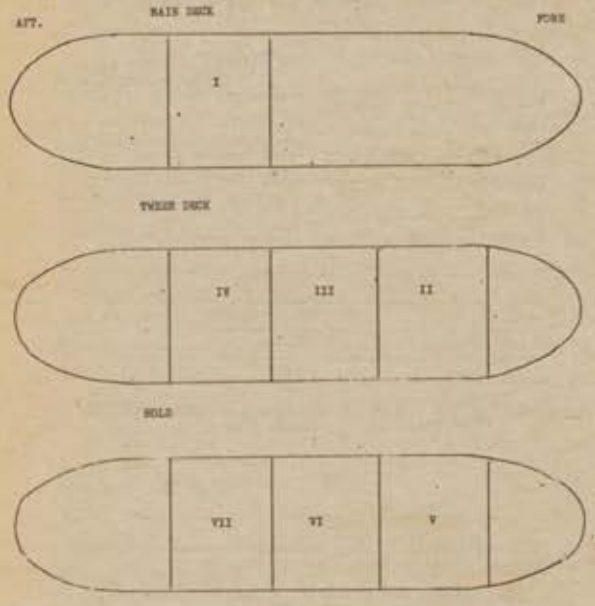
NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

JA-77-1082

PAPER II KIPPUKEAN MARU NO. 1



1083

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1 TO DECEMBER 31, 1977
Application No. JA-77-1053
For Use of Issuing Office

State: JAPAN

1. Name of Vessel: HOKO MARU NO.31
2. Vessel No.: Hull No. _____ Registration No. 851-233
3. Name and Address of Owner: Name and Address of Charterer
   Name: HOKO FISHING CO., LTD.
   Address: 2-4, 1-CHOME, TSUKIJI, CHUO-KU, TOKYO, JAPAN
   Cable Address: HOKOFISH
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,057.91 M.T. (Net) 630.04 M.T.
7. Length 64.46 M. 8. Breadth 11.05 M. 9. Draft 4.60 M.
10. Horsepower 1,500 shp. 11. Maximum Speed 12.72 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other: _____
13. Date Built APRIL 10, 1957
14. Number and Nationality of Personnel 21 (ALL JAPANESE)
    Officers 9 Crew 12 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( )
    Other: _____
    International Radio Call Sign JHFV
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule WATCH TIME : SEE THE ATACHED PAPER II

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
Other _____

17. Cargo Capacity (MT)

Salted Fish _____
Fresh Fish _____
Frozen Fish 700 M.T.
Fish Meal _____
Other _____

18. Cargo Space Number
SEE THE ATTACHED PAPER III

Freezer I, II, III
Dry Hold
Tanks
Other

19. Processing Equipment (Indicate daily capacity, MT)

_____
_____
_____
_____

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

_____
see attached paper
_____

JA-77-1083

PAPER I

OTER WORKING FREQUENCIES

1) 125 468 KHZ
2) 4197.5 6296.25 8395 12592.5 16790 22295 KHZ
3) 4209.5 6314.25 8419 12628.5 16838 22255 KHZ

JA-77-1083

PAPER II

SCHEDULE

1) BERING SEA AND ALEUTIAN ISLAND 21:00 TO 23:00 03:00 TO 05:00 G.M.T.
2) GULF OF ALASKA 20:00 TO 22:00 01:00 TO 03:00 G.M.T.

JA-77-1083

PAPER III

HOKO MARU NO.31 CARGO SPACE

JA-77-1083

JA-77-1084

ATTACHED PAPER

21. NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

NAME MR Ichiro NAKAMURA
MR Sadayuki KASHIWAGI

ADDRESS
C/O HOLIDAY INN, WELLINGTON
ROOM NO. 504 AB
2505 WISCONSIN AVE., N.W.
WASHINGTON, D.C. 20007
U.S.A

TELEPHONE
202-337-7400 (EXTENTION 5072, 5081)

15. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ), Other

17. Cargo Capacity (MT)

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	400 MT	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space

Number	Name
See the attached paper (1)	
I.II.III.	Frozen Fish Hold

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

A. Bering sea and Aleution Trawl and Herring Gillnet Fishery
B. Gulf of Alaska Trawl Fishery
C. Sablefish Fishery
D. Crabs Fishery
E. Snails Fishery

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

(1)Japan Fisheries Association Washington D.C. I. Nakamura
c/o Holiday Inn, Georgetown 2505 Wisconsin Ave., N.W.
Washington D.C. 20007 U.S.A.
(2)J.F.A. Anchorage Alaska

1084

JA-77-1084

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977 Application No. JA-77-1084 For Use of Issuing Office

State: JAPAN

1. Name of Vessel RYUSHO-MARU NO.5
2. Vessel No.: Hull No. ----- Registration No. FO 1-358
3. Name and Address of Owner / Name and Address of Charterer
   Name FUJI KAIUN CO., LTD. / -----
   Address NISHIKI -CHO 5-9 / -----
   MOJI-KU KITAKYUSHU , JAPAN / -----
   Cable Address / -----
   ----- / -----
4. Homeport and State of Registry: KITAKYUSHU , JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 496.76 (Net) 281.46
7. Length 52.195 M. 8. Breadth 8.8 M. 9. Draft 3.8 M.
10. Horsepower 1,100 shp. 11. Maximum Speed 11.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other -----
13. Date Built FEB.1960
14. Number and Nationality of Personnel 10 JAPANESE
    Officers 7 Crew 3 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other -----
    International Radio Call Sign J A C C
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER (1)-A
    Schedule SEE THE ATTACHED PAPER (1)-B

Attached paper (1)- A

Other Working Frequencies:

A1A2 410 425 454 468 500 KHZ A1 150W A2 220W
A1 4179 4185.8 4181.8 4192.5 4209 6268.5 6278.7 6272.7 6288.75 6313.5 8358 8371.6 8363.6 8385 8418 12537 12557.4 12545.4 12577.5 12627 16716 16743.2 16727.2 16770 16836 22230 22244 22232 22272.5 22254 KHZ

Attached paper (1)-B

Watch Time

Bering sea and Aleutian Islands

01.00 to 04.00 (G.M.T.)
20.00 to 23 00 (G.M.T.)

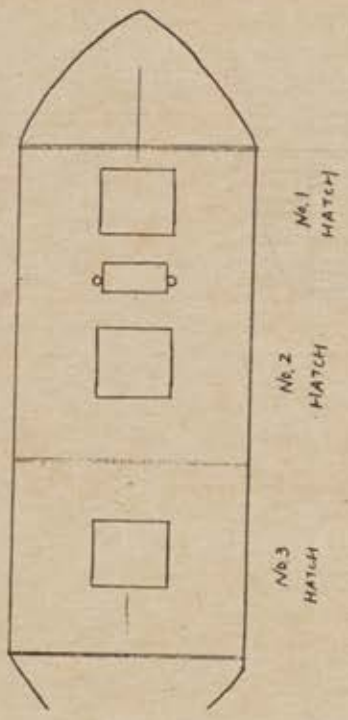
Gulf of Alaska

18.00 to 21.00(G.M.T.)
23.00 to 02.00(G.M.T.)

Attached paper (2)

JA-77-1084

M/S RYUSHO -MARU NO.5



JA-77-1085

18. Navigation Equipment: Loran C ( ), Loran A (*), Omega ( ), Decca ( ), Navaar ( ), Radar (*), Fathometer ( ), Other ——

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	——	Freezer	
Fresh Fish	——	Dry Hold	
Frozen Fish	——	Tanks	
Fish Meal	1,400 M/T	Other	
Other	——		

SEE THE ATTACHED PAPER-II

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
A. Bering Sea and Aleutian Trawl and Herring Gillnet Fishery				
B. Gulf of Alaska Trawl Fishery				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

(1) Japan Fisheries Association, Washington, DC: I. Nakamura
c/o Holiday Inn, Georgetown, 2505 Wisconsin Ave.,N.W.
Washington, D.C. 20007

(2) J.F.A., Anchorage, Alaska

1085

JA-77-1085

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied for:

Application No. JA-77-1085
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TSUBU MARU
2. Vessel No.: Hull No. —— Registration No. ——
3. Name and Address of Owner
Name MEIWA KAIUN CO.LTD.
Address SUISAN BLDG 13-18 DAIKOKU-CHO NAGASAKI-SHI NAGASAKI-KEN,852,JAPAN
Cable Address ——

Name and Address of Charterer

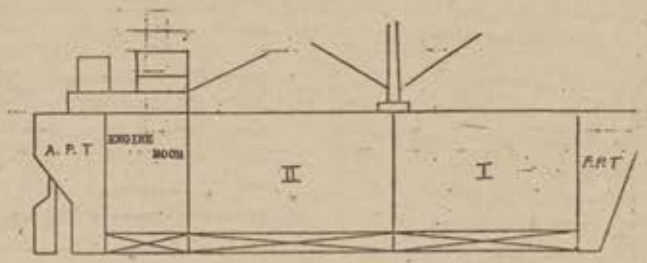
4. Homeport and State of Registry: NAGASAKI,JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 1,997.25 (Net) 1,130.13
7. Length 89.10 M. 8. Breadth 13.00 M. 9. Draft 5.61 M.
10. Horsepower 2,500 shp. 11. Maximum Speed 12.00 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ——
13. Date Built JUNE,1968
14. Number and Nationality of Personnel 21,JAPAN
Officers 9 Crew 12 Other (Specify) ——
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*), Other ——
International Radio Call Sign JLKQ
Radio Frequencies Monitored A1,A2 500KHZ
Other Working Frequencies A1,A2 425KHZ 480KHZ
Schedule SEE THE ATTACHED PAPER-I

PAPER I

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	2100-2400, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2300, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2300, 0300-0600 (G.M.T.)
ATLANTIC	1700-1900, 0000-0300 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2400, 0300-0600 (G.M.T.)

-JA-77-1085

ATTACHED PAPER



	CARGO SPACE NUMBER	MADE
DRY HOLD	I , II	. FISH MEAL HOLD

[FR Doc.77-15221 Filed 5-31-77;8:45 am]

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