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federal register

WEDNESDAY, AUGUST 4, 1976

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR

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

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

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Maryland Advisory Committee, Lutherville, Md. (open), 8–9–76. 30055; 7–21–76

COMMERCE DEPARTMENT
Bureau of the Census—
Asian and Pacific Americans Population for the 1980 Census, Census Advisory Committee, Suitland, Maryland (open), 8–12 and 8–13–76..... 30151; 7–22–76
Domestic and International Business Administration—
Computers Systems Technical Advisory Committee, Washington, D.C. (partially closed), 8–12–76. 29457; 7–16–76

COMMODITY FUTURES TRADING COMMISSION
Advisory Committee on State Jurisdiction and Responsibilities, Bloomington, Minn. (open), 8–11–76. 27111; 7–1–76

DEFENSE DEPARTMENT
Army Department—
United States Military Academy Board of Visitors, Wash., D.C. (closed), 8–11–76..... 31242; 7–27–76
Office of the Secretary—
Defense Wage Committee, Pentagon, Washington, D.C. (closed), 8–10–76..... 27747; 7–6–76
Defense Science Board, San Diego, Calif. (closed), 8–9 through 8–13–76..... 28807; 7–13–76

DEFENSE NUCLEAR AGENCY
Scientific Advisory Group on Effects (SAGE), Colorado Springs, Colorado (closed), 8–10 thru 8–12–76. 26742; 6–29–76

ENVIRONMENTAL PROTECTION AGENCY
National Air Pollution Control Techniques Advisory Committee, Chicago, Ill. (open), 8–10 and 8–11–76. 29488; 7–16–76

FEDERAL ENERGY ADMINISTRATION
LP-Gas Industry Advisory Committee, Transportation and Storage Subcommittee, Tulsa, Oklahoma (open), 8–12–76..... 30720; 7–26–76
Voluntary Agreement and Plan of Action to Implement the International Energy Program, New York, N.Y. (closed), 8–10 and 8–11–76. 31615; 7–29–76

FEDERAL PAY ADVISORY COMMITTEE
Meeting, Washington, D.C. (closed), 8–11–76..... 28577; 7–12–76

FEDERAL POWER COMMISSION
National Gas Survey; Supply-Technical Advisory Committee Study Subgroup on Gas Reserves and Resources Classifications, Washington, D.C. (open), 8–12–76.... 24774; 6–18–76
National Gas Survey—Supply-Technical Advisory Task Force-Regulatory Aspects of Substitute Gas (Drafting Committee), Washington, D.C. (open), 8–13–76..... 30401; 7–23–76
National Gas Survey—Transmission, Distribution and Storage—Technical Advisory Task Force—Rate Design, Washington, D.C. (open), 8–12 and 8–13–76..... 30401; 7–23–76
National Gas Survey—Finance Technical Advisory Committee, Washington, D.C. (open), 8–12–76..... 30401; 7–23–76

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Meeting, Washington, D.C. (closed), 8–12–76..... 30214; 7–22–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Administration—
National Advisory Mental Health Council, Rockville, Md. (partially open), 8–10–76.. 31585; 7–29–76
Food and Drug Administration—
Hematology/Pathology Subcommittee of Diagnostic Products Advisory Committee, Washington, D.C. (open), 8–10 and 8–11–76. 29463; 7–16–76
Computed Tomographic X-Ray Systems, Rockville, Md. (open), 8–11–76..... 31417; 7–28–76
Cancer Immunotherapy Committee, Bethesda, Md. (partially open), 8–12–76.....
Clinical Trials Review Committee, Bethesda, Md. (partially open), 8–9–76..... 27858; 7–7–76
Maternal and Child Health Research Committee, Bethesda, Md. (partially open), 8–9 and 8–10–76. 27858; 7–7–76
Mental Retardation Research Committee, Bethesda, Md. (partially open), 8–12 and 8–13–76. 27859; 7–7–76
National Cancer Advisory Board, Subcommittee on Centers and Construction, Bethesda, Md. (open), 8–13–76..... 27859; 7–7–76
National Heart and Lung Advisory Council, Bethesda, Md. (partially open), 8–12–76.... 27859; 7–7–76
President's Cancer Panel, Bethesda, Md. (open), 8–11–76..... 27859; 7–7–76

INTERIOR DEPARTMENT
Bureau of Land Management—
Roswell District Multiple Use Advisory Board, Roswell, New Mexico (open), 8–12–76.... ..... 28330; 7–9–76
National Park Service—
Stones River National Battlefield and Cemetery, Murfreesboro, Tenn. (open), 8–13–76..... 29736; 7–19–76
Office of the Secretary—
Technology Task Group of the Committee on Enhanced Recovery Techniques for Oil and Gas in the United States National Petroleum Council, Dallas, TX (open), 8–10 and 8–11–76..... 30372; 7–23–76
Outer Continental Shelf Advisory Board, North Atlantic, Boston, Mass. (open), 8–12–76. 31412; 7–28–76

LABOR DEPARTMENT
Occupational Safety and Health Administration—
Advisory Committee on Construction Safety and Health, Washington, D.C. (open), 8–9 and 8–10–76. 30414; 7–23–76
National Advisory Committee on Occupational Safety and Health, Washington, D.C. (open), 8–10–76. 30413; 7–23–76

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
Advisory Committee Fellowships Panel, Washington, D.C. (closed), 8–13–76. 29042; 7–14–76

NATIONAL SCIENCE FOUNDATION
Advisory Group on Earthquake Prediction and Hazard Mitigation, Washington, D.C. (open), 8–12 and 8–13–76. 30404; 7–23–76

NUCLEAR REGULATORY COMMISSION
Advisory Committee on Reactor Safeguards, Washington, D.C. (open and closed), 8–12, 8–13; and 8–14–76. 30745; 7–26–76
Advisory Committee on Reactor Safeguards, North Anna Power Station, Units 1 and 2, Washington, D.C. (open and closed), 8–11–76. 30746; 7–26–76
Advisory Committee on Reactor Safeguards, Regulatory Guides Subcommittee, Washington, D.C. (open and closed), 8–11–76.. 30747; 7–26–76

Advisory Committee on Reactor Safeguards, Working Group on Fire Protection, Washington, D.C. (open and closed), 8–11–76.... 30748; 7–26–76

Advisory Committee on Reactor Safeguards, Working Group on Peaking Factors, Washington, D.C. (open and closed), 8–10–76.... 30749; 7–26–76

REGIONAL ECONOMIC DEVELOPMENT FEDERAL ADVISORY COUNCIL

Washington, D.C. (open), 8–11–76. 27866; 7–7–76

SECURITIES AND EXCHANGE COMMISSION

Replacement Cost Implementation Advisory Committee, Washington, D.C. (open), 8–9–76..... 29921; 7–20–76

SMALL BUSINESS ADMINISTRATION

Los Angeles District Advisory Council, Los Angeles, Calif. (open), 8–11–76. 29922; 7–20–76

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Advisory Board, Massena, New York (open with restrictions), 8–9–76. 30226; 7–22–76

TRANSPORTATION DEPARTMENT

Coast Guard—

Chemical Transportation Industry Advisory Committee, Washington, D.C. (open), 8–10–76..... 23463; 6–10–76

Chemical Transportation Industry Advisory Committee, Washington, D.C. (open), 8–11–76..... 30705; 7–26–76

VETERANS ADMINISTRATION

Veterans Administration Wage Committee, Washington, D.C. (open with restrictions), 8–12–76 ... . 21532; 5–26–76

Educational Allowances Station Committee, Waco, Tex. (open), 8–10–76. 29922; 7–20–76

List of Public Laws

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

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 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 99; Docket No. AO-183-A34]

PART 1099—MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.*—Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Paducah, Kentucky, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) 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 said marketing area, and the minimum prices specified in the order as hereby 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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.*—It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 608c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Paducah, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1099.61, paragraph (h) is revised to read as follows:

§ 1099.61 Computation of uniform price (including weighted average price).

* * * * *

(h) For each of the months of September, October, November, and December, add one-fourth of the total amount subtracted pursuant to paragraph (g) of this section;

* * * * *

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

Effective date: September 1, 1976.

Signed at Washington, D.C., on: July 30, 1976.

JOHN DAMGARD,
Deputy Assistant Secretary.

[FR Doc.76-22560 Filed 8-3-76;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instruction 443.2]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Farm Ownership Loan Policies, Procedures and Authorizations

Section 1821.55 of Subpart A of Part 1821, Title 7, Code of Federal Regulations (31 FR 14165) is amended. The purpose of the amendment is to change a reference as a result of the rewriting, consolidating and relocating of material on voluntary conveyances and foreclosure into the new Part 1955, Subpart A, of this Chapter, which is published as an agency rule this date. Since this amendment involves only internal administrative changes and has no effect on the public, publication for notice and public procedure is unnecessary.

In § 1821.55, paragraph (g)(3) is amended to add a reference to 1955-A and reads as follows:

§ 1821.55 Special requirements.

* * * * *

(g) * * *

* * * * *

(3) To an applicant whose debts have been settled pursuant to Part 1864 of this Chapter or who has been released from personal liability under Part 1872 or Part 1955, Subpart A, of this Chapter, as reflected by the County Office records, or where settlement under such regulations is contemplated unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control; the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by making of the loan; and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Before requesting an appraisal or causing the applicant to incur any expense in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FmHA 431-2, "Farm and Home Plan," and send it, together with the application, any available case folders, and his recommendation, to the State Office for a determination as to whether to proceed with development of the loan docket.

Effective date: These amendments are effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Dated: July 14, 1976.

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

[FR Doc.76-22565 Filed 8-3-76;8:45 am]

[FmHA Instruction 441.1]

PART 1831—OPERATING LOANS

Operating Loan Policies and Authorizations

Section 1831.10 of Subpart A of Part 1831, Title 7, Code of Federal Regulations (38 FR 14154), is amended. The

amendment is for the purpose of changing a reference as a result of the rewriting, consolidating and relocating of material on voluntary conveyance and foreclosure in the new Part 1955, Subpart A, which is published as an agency rule this date. Since this amendment involves only internal administrative changes for the purpose of properly referencing another regulation, publication for notice and public procedure is unnecessary.

In § 1831.10, paragraph (e) is revised to add a reference to Part 1955, Subpart A and as amended reads as follows:

§ 1831.10 Special requirements and loan limitations.

* * * * * *

(e) *Debt settlement cases.*—A loan will not be made to an applicant whose debts have been settled pursuant to Part 1864 of this Chapter, or who has been released from personal liability under Subpart A of Part 1872 or Subpart A of Part 1955 of this Chapter, as reflected by the County Office records, or where settlement or release under such requirements is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed and the borrower's operations will afford him a reasonable prospect of repaying the loan and meeting his other obligations. Prior to approval of the loan, the loan docket and any available case folders, including the County Supervisor's justification for making the loan, will be submitted to the State Office for a determination as to whether the loan should be made.

* * * * *

Effective date. These amendments are effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10, Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Dated: July 14, 1976.

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

[FR Doc.76-22563 Filed 8-3-76;8:45 am]

[FmHA Instructions 451.3 and 451.5]

PART 1861—ROUTINE

Servicing and Supervision of Association and Organization Loans and Security and Community Program Loans and Grants

Sections 1861.47, 1861.83 and 1861.91 of Subparts C and F of Part 1861, Title 7, Code of Federal Regulations (32 FR 8064, 37 FR 15562), are revised and §§ 1861.86 and 1861.87 are deleted and reserved. Section 1861.47 is revised to make reference to new Subpart A of Part 1955 of this Chapter, which deals with liquidation by voluntary conveyance of real estate and related security, conveyance of property to FmHA by trustee in bankruptcy, foreclosure of loans secured by real estate, and acquisition of chattels. The material formerly contained in §§ 1861.86 and 1861.87 has been revised and transferred to new §§ 1955.1 through 1955.6, §§ 1955.10 and 1955.11, and § 1955.15 of this Chapter. Sections 1861.83 and 1861.91 are revised to change references to new Subparts A, B and C of Part 1955 of this Chapter.

Since these changes serve to update property management regulations in accordance with new Part 1955, which is published as an agency rule this date, notice and public procedure thereon are unnecessary. Accordingly, §§ 1861.86 and 1861.87 are deleted and reserved; §§ 1861.47, 1861.83 and 1861.91 as revised, read as follows:

§ 1861.47 Default and liquidation.

Liquidation will be recommended to and approved by the National Office only after all efforts by FmHA officials have failed to effect a satisfactory solution whereby the borrower will comply with its obligations under the note and all related agreements and security and other instruments. Specific instructions as to handling of the case and delegation of authority will be issued by the National Office. For liquidation by voluntary conveyance or foreclosure, see 1955-A.

§ 1861.83 Liquidation of security.

When the County Supervisor believes that continued servicing will not accomplish the objectives of the loan, he will complete the form, "Report on Association Loan Problem Case (Association-Type Projects)", and submit it along with the County Office file to the State Office. If the State Director determines the account should be liquidated, he will encourage the borrower to voluntarily sell the property and remit the proceeds to FmHA. He will give the borrower a specified period of time not to exceed 180 days to accomplish such action. If the voluntary sale cannot be accomplished, the loan will be liquidated in accordance with § 1861.85 or Subpart A of Part 1955 of this Chapter.

§ 1861.86 [Reserved]

§ 1861.87 [Reserved]

§ 1861.91 Care, management and disposal of acquired property.

Property acquired by FmHA will be handled in accordance with Subparts B and C of Part 1955 of this chapter.

Effective date: These amendments are effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Dated: July 14, 1976.

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

[FR Doc.76-22566 Filed 8-3-76;8:45 am]

[FmHA Instruction 462.1]

PART 1871—CHATTEL SECURITY

Servicing Chattel Security

Section 1871.14 of Subpart A of Part 1871, Title 7, Code of Federal Regulations, is amended. The purpose of the amendment is to make a reference change as a result of the rewriting, consolidating and relocating of material on voluntary conveyances and foreclosure into the new Part 1955, Subpart A, which is published as an agency rule this date. Since this amendment involves only internal administrative changes, publication for notice and public procedure is unnecessary.

The introductory paragraph of § 1871.14 is revised to change a reference from § 1872.20 (a) to 1955.6 and is amended to read as follows:

§ 1871.14 Assignment of notes and security instruments including financing statements.

State Directors are authorized hereby to accept from third parties payment in full of a borrower's notes held by FmHA and to assign such notes to such third parties without recourse against FmHA and to assign related security instruments including financing statements without warranty by FmHA in the situations set forth below.

See § 1955.6 of this chapter for special provisions on assigning insured loans. The OGC will review each proposed assignment as to the legal matters involved and will approve the form of assignment.

Effective date. This amendment is effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Dated: July 14, 1976.

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

[FR Doc.76-22568 Filed 8-3-76;8:45 am]

[FmHA Instruction 455.1]

PART 1871—CHATTEL SECURITY

Liquidation of Chattel Property and Related Actions

Various sections of Subpart B of Part 1871, Title 7, Code of Federal Regulations are revised. The text in § 1871.21 is revised to delete reference to the disposition of acquired property; §§ 1871.31(a) and 1871.32(d) are deleted and reserved. The material in these paragraphs has been revised and transferred to § 1955.20 of this Chapter. Section 1871.32(a) is revised to delete the sentence referring to the Farmers Home Administration as the successful bidder at a public sale. Sections 1871.36 and 1871.37 are deleted and reserved. The material formerly in these sections has been revised and transferred to new §§ 1955.67 and 1955.121 of this Chapter.

Since these changes serve to update procedure concerning acquired real estate and chattels, foreclosure and sale, and since these procedures have been revised and transferred to the new Part 1955 of this Chapter, which was published as a proposal on March 23, 1976, (41 FR 12041), notice and public procedure for these revisions is unnecessary. Accordingly, §§ 1871.31(a), 1871.32(d), 1871.36 and 1871.37 are deleted and reserved; and the introductory paragraph of § 1871.21, and § 1871.32(a) as revised, reads as follows:

§ 1871.21 General.

This subpart is supplemented by Subpart A of Part 1872 of this Chapter. This subpart establishes the policies, procedures and authorities for liquidating chattel security and Economic Opportunity (EO) property and handling civil actions, bankruptcy and similar proceedings, probate or administration proceedings, and alleged criminal violations.

§ 1871.31 Liquidation of security property by other parties.

(a) [Reserved]

* * * * *

§ 1871.32 Sale of repossessed property by FmHA.

(a) *Manner of sale.*—Repossessed property may be sold by FmHA at public or private sale under: Form FmHA 455–4; Form FmHA 441–19, "Loan Agreement"; the power of sale in security agreements under the UCC; the power of sale in crop and chattel mortgages and similar instruments if authorized by regulations issued by the State Office. Also, repossessed property may be sold at private sales when the borrower executes Form FmHA 455–11, "Bill of Sale 'B' (Sale by Private Party)." Private and public sales will be made for cash. The sale will be made as follows:

* * * * *

(d) [Reserved]

* * * * *

§§ 1871.36–1871.37 [Reserved]

Effective date: These amendments are effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Dated: July 14, 1976.

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

[FR Doc.76–22567 Filed 8–3–76;8:45 am]

[FmHA Instruction 465.1]

PART 1872—REAL ESTATE SECURITY

Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

Sections 1872.1, 1987.2, 1872.15 and 1872.17 of Subpart A of Part 1872, Title 7, Code of Federal Regulations (40 FR 15066) are amended. Section 1872.19 and § 1872.20 are deleted and reserved. These amendments are made for the purpose of updating these regulations in line with the new Subpart A of Part 1955 of this Chapter which deals with liquidation by voluntary conveyance of real estate and related security, conveyance of property to FmHA by trustee in bankruptcy, foreclosure of loans secured by real estate, and acquisition of chattels. Since these changes merely serve to update regulations relating to property management, primarily to correct references, in accordance with newly issued Part 1955 which is published as an agency rule this date, public procedures are unnecessary.

1. Section 1872.1(e)(1) is revised to change the reference from §§ 1872.19 and 1872.20 to § 1955.6. The paragraph now reads:

§ 1872.1 General.

* * * * *

(e) *Servicing insured loans*—(1) *Servicing actions.*—Servicing actions for insured loans will be the same as for direct loans except that in voluntary conveyance and foreclosure cases when the insured note is not held in the County Office, the Finance Office will be requested to obtain assignment of the insured loan to the insurance funds as provided in § 1955.6, and when an insured Farm Ownership (FO) mortgage running to the lender as mortgagee is not held by the FmHA under trust assignment, or declaration or trust, or in the insurance fund (called insured FO mortgage held by the lender in this subpart) and a written subordination or partial release of other servicing documents is requested, the document will be executed by the holder on a form prepared or approved by the OGC. In such cases, contacts with the holder will be made by the State Director and the holder's execution of the document will constitute his consent.

* * * * *

2. Section 1872.2 is revised to include the use of other forms in paragraph (b) and the last sentence of (b)(1) and to add a new reference paragraph (b)(5) and to change a reference in paragraphs (c)(1), (c)(1)(i), and (c)(1)(iv)(A). Paragraphs (b), (b)(1), (b)(5), (c)(1), (c)(1)(i), and (c)(1)(iv)(A) read as follows:

§ 1872.2 Preservation of security property and protection of liens.

* * * * *

(b) *Action by FmHA for account of borrower.*—When necessary to protect the interest of the Government, actions will be taken by FmHA for the account of the borrower as provided below. Any advances made for such purposes will be paid by Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," or other approved voucher and charged to the borrower's account.

(1) *Operation of security by lessee or caretaker.* * * * Lease agreements will be entered into on Form FmHA 465–2, "Lease of Security Property," or other form approved by OGC and caretaker's agreements on Form FmHA 465–3, "Caretaker's Agreement (Real Property Only)."

* * * * *

(5) *Management of abandoned property or property after approval of foreclosure.* See § 1955.55 of this chapter.

* * * * *

(c) * * *

* * * * *

(1) *Sale under prior lien foreclosure.* When a prior lien foreclosure sale is to be held and the State Director determines that a substantial net recovery on the Government's interest can be made by acquiring and reselling the security, he will authorize a bid in accordance with § 1955.15(d) (8) and (9). * * *

(i) *Lienholder debt.*—The prior lienholder will be contacted to determine the amount of his indebtedness including the cost of foreclosure sale and whether payment by SF 1034 is acceptable to him if the Government is the successful bidder at the sale. If the prior lienholder requires a cash payment, SF 1034 will be processed in sufficient time for the County Supervisor to receive a U.S. Treasury check before the sale. Requesting the check, payment of the bid, and payment of any other costs by using SF 1034 will be in accordance with the applicable portions of § 1955.15 of this chapter. The costs will be charged to the borrower's account.

* * * * *

(iv) *Final reporting.* (A) When FmHA enters a bid or is the successful bidder at the foreclosure sale, reporting actions will be in accordance with § 1955.15(d)(1) of this chapter.

* * * * *

3. Section 1872.15(a) is revised to change the reference from "§ 1872.20(b)(4) (vi) and (vii)" to "§ 1955.15(d) (8) and (9)." As amended, the last sentence of § 1872.15(a) reads as follows:

§ 1872.15 Servicing note-only cases.

* * * * *

(a) * * * In case of a judgment sale, the State Director with the advice of the OGC and the U.S. Attorney will authorize an employee to attend the sale and, if appropriate, enter a bid on behalf of the Government in accordance with § 1955.15 (d) (8) and (9) of this chapter.

* * * * *

4. The first sentence of §1872.17(a) is revised to change the reference from "§ 1872.19" to "Subpart 1955–A." Section 1872.17(b) is revised to delete the last sentence. The material formerly in §1872.17(c) has been relocated in § 1955.15(d)(2) of this chapter. The new paragraph (c) serves as a reference. Section 1872.17(d) is amended including a new title. Section 1872.17(f) has been revised to include a reference to Exhibit C of Subpart 1955–A and to include a reference to the new § 1872.17(d). The title of § 1872.17(g) is changed from "Acceleration Agreement" to "Accelerated Repayment Agreement." As amended, § 1872.17 (a), (b), (c), (d), (f) and (g) read as follows:

§ 1872.17 Liquidation action.

* * * * *

(a) *General.*—When the borrower is willing to voluntarily liquidate the account immediately by selling the property and paying the account in full, transferring the total security with an assumption of all or the appropriate portion of the debt under § 1872.18, selling the property for not less than its present market value under §1872.17(h), or conveying the security to the FmHA under Subpart 1955–A, the County Supervisor may give him 60 days to accomplish such action. * * *

(b) *Problem case report.*—If the borrower is unwilling to take any of the actions specified in § 1872.17(a) or fails to carry out any such actions within 60 days, the County Supervisor will complete Form FmHA 465–7 and send it to the State Office through the District Director so that the District Director's recommendations may be attached. In cases involving only a section 502 or 504 RH loans, the County Committee's recommendation on Form FmHA 465–7 will not be obtained. If the State Director agrees that forced liquidation is appropriate, he should approve such liquidation.

(c) *Acceleration of account.*—When the State Director approves forced liquidation, the account should be accelerated and the borrower notified in accordance with §1955.15(d)(2) of this chapter.

(d) *Voluntary liquidation after acceleration.*—If after the notice of acceleration has been sent to the borrower as outlined in § 1955.15, paragraph (d)(2) of this chapter, arrangements are made to have the account voluntarily liquidated, then the State Director may give the borrower time beyond the date listed in the notice of acceleration to accomplish voluntary liquidation. The State Director will inform the borrower of this decision in a separate letter. The State Director should place a time limit on the borrower which should not exceed three months from the date of the letter agreeing to allow the borrower to attempt to voluntarily liquidate. The original period fixed by the State Director plus any extensions determined necessary by the State Director should in no case exceed one year without prior concurrence of the National Office. Prior to granting any extension after the original period fixed by him, the State Director will require the County Supervisor to report the steps taken by the borrower to liquidate the account. If a sale is involved, the County Supervisor's report should indicate whether the borrower's asking price is reasonable and whether the asking price is delaying the sale unreasonably. Acceleration or granting time for voluntary liquidation as provided for above will not preclude exercise of the authority in § 1872.17(g). However, the above authority should never be used for the purpose of extending the correction period under § 1872.17(f). If the borrower has not taken steps to voluntarily liquidate within the time period (including any extensions thereof) granted him by the State Director, then the State Director should proceed with foreclosure in accordance with Section 1955.15(d) of this chapter.

* * * * *

(f) *Requirement.* * * * If the borrower is not available for personal contact or definite agreements cannot be reached or consent to a lease is not authorized, the County Supervisor will write to the borrower at his last known address, notifying him of the violation and advise him that, because of the violation, it will be necessary to liquidate the account. A notice such as that set forth as Exhibit C of FmHA Instruction 1955–A will not be used for this purpose. The County Supervisor may authorize the borrower a reasonable period of time (60 to 90 days) in which to correct the violation. If during such period the borrower fails to remove the violation or take appropriate action for liquidation of the account in full, the case will be handled in accordance with § 1872.17 (b), (c) and (d).

(g) *Accelerated repayment agreement.* * * *

* * * * *

5. The texts of §§ 1872.19 and 1872.20 are deleted. This material has been revised and relocated in Subpart 1955–A. Sections 1872.19 and 1872.20 are reserved.

§§ 1872.19–1872.20 [Reserved]

Effective date: These amendments are effective on August 4, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat 392; delegation of authority by the Sec. of Agri, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

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

JULY 14, 1976.

[FR Doc.76–22569 Filed 8–3–76;8:45 am]

[FmHA Instruction 465.2]

PART 1872—REAL ESTATE SECURITY

Management and Sale of Acquired Real Estate; Deletion of Subpart

§§ 1872.61–1872.67 [Removed]

Subpart C of Part 1872, "Management and Sale of Acquired Real Estate," (38 FR 19204), is deleted from Chapter XVIII, Title 7, Code of Federal Regulations.

The material in this Subpart has been revised and transferred to new Subparts B and C of Part 1955 of this Chapter, which is published as an agency rule this date.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Effective date: This deletion shall become effective on August 4, 1976.

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

[FR Doc.76–22570 Filed 8–3–76;8:45 am]

[FmHA Instruction AL–843(440)]

PART 1890c—LOANS SECURED BY REAL ESTATE ON RECLAMATION PROJECTS

Amendment

The first sentence in § 1809c.1 of Part 1890c, Chapter XVIII, Title 7, Code of Federal Regulations (35 FR 13977) is amended to delete the supplementing reference to Subpart C of Part 1872 of this Chapter and insert in its stead Subparts A, B and C and Part 1955. Subpart C of Part 1872 is now obsolete and regulations for the management and sale of acquired real estate are now contained in the new Subparts A, B and C of Part 1955 of this Chapter which are published as an Agency rule this date. Since this amendment involves only a reference change, notice and public procedure thereon are unnecessary.

Accordingly, the first sentence in § 1890c.1 is amended as follows:

§ 1890c.1 General.

This part supplements Part 1807, Subparts A and B of Part 1821, Subparts A and C of Part 1822, Subpart A of Part 1831, Subpart A of Part 1832, Subpart A of Part 1871, Subpart A of Part 1872, and Subparts A, B, and C of Part 1955, all of this chapter. * * *

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Effective date: This amendment is effective on August 4, 1976.

Dated: July 14, 1976.

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

[FR Doc.76–22564 Filed 8–3–76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 217—INTEREST ON DEPOSITS

CFR Correction

The 1976 edition of 12 CFR omitted several sentences from § 217.4(d) on page 562. In its entirety § 217.4(d) should read as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty for early withdrawals.* Where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed in § 217.7 for a savings deposit: *Provided,* That the depositor shall forfeit three months of interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited. Where necessary to comply with the requirements of this

paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn. However, upon the death of any person whose name appears on the time deposit passbook or certificate, a member bank may pay such time deposit before maturity without a reduction of forfeiture of interest as prescribed by this paragraph.[6a] Any amendment of a time deposit contract that results in an increase in the rate of interest paid or in a change in the maturity of the deposit constitutes a payment of the time deposit before maturity. *Provided further*, That Investment Certificates issued in negotiable form by a member bank pursuant to subparagraph (3) of § 217.7(b) may not be paid before maturity. This provision does not present a member bank from arranging the sale or purchase of such a certificate on behalf of the holder or prospective purchaser of a certificate issued under that subparagraph. A member bank may not, however, repurchase such certificates for its own account. Where a time deposit representing funds contributed to an Individual Retirement Account established pursuant to 26 U.S.C. (I.R.C. 1954) § 408 is paid before maturity when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) 72(m)(7)) or thereafter, a member bank may pay all or a portion of such time deposit without a reduction or forfeiture of interest as prescribed by this paragraph.

* * * * *

Board of Governors of the Federal Reserve System, July 28, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-22603 Filed 8-3-76;8:45 am]

[6a] The provisions of this paragraph apply to all time deposit contracts entered into after July 5, 1973 and to all existing time deposit contracts that are extended or renewed (whether by automatic renewal or otherwise) after such date, and to all time deposit contracts that are amended after such date so as to increase the rate of interest paid. All contracts not subject to the provisions of this paragraph shall be subject to the restrictions of § 217.4(d) in effect prior to July 5, 1973, which permitted payment of a time deposit before maturity only in an emergency where necessary to prevent great hardship to the depositor, and which required the forfeiture of accrued and unpaid interest for a period of not less than 3 months on the amount withdrawn if an amount equal to the amount withdrawn had been on deposit for 3 months or longer, and the forfeiture of all accrued and unpaid interest on the amount withdrawn if an amount equal to the amount withdrawn had been on deposit less than 3 months.

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-153, Amdt. 9]

PART 310—INSPECTION AND COPYING OF BOARD OPINIONS, ORDERS, AND RECORDS

Written Requirement for Freedom of Information Act Requests

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 29, 1976.

Part 310 of the Civil Aeronautics Board's Procedural Regulations (14 CFR Part 310) sets forth the procedures for inspection and copying of Board opinions, orders, and records pursuant to the Freedom of Information Act (FOIA), (5 U.S.C. 552). Section 310.6 sets forth the procedure for requesting records and provides for requests to be made in person, by telephone, or in writing. Requests for records listed in Appendix A of Part 310 are to be made to the office listed there as the location of the records and all other requests are to be directed to the Public Reference Room.

The Board has experienced an increase in the number of FOIA requests made orally. It has become apparent that a more efficient method of handling FOIA requests is necessary to assure a complete, accurate, and timely record of requests and responses, thereby obviating disputes as to dates or the contents of oral conversations. A requirement that all FOIA requests be written would serve these purposes as well as better allocate staff resources to respond to FOIA requests thoroughly and systematically.

We believe that the most appropriate approach would be one which allows oral inquiries at the Public Reference Room but requires all requests made pursuant to the FOIA to be made in writing. We have therefore determined to amend § 310.6 to eliminate the possibility of oral FOIA requests and to require specific information which will be helpful in answering written FOIA requests.

FOIA requests for records listed in Appendix A of Part 310 will continue to be made to the office there listed as the location of the records. All other requests will be directed to the Office of the Secretary rather than the Public Reference Room. The Secretary is the official custodian of all Board records and will be better able to direct the request to the appropriate staff unit. So that the staff may readily identify FOIA requests, we are requiring that FOIA requests be captioned "Freedom of Information Act Request" on the envelope and the request itself. Requests not so captioned will be deemed to be received on the date it is determined that the request is in fact an FOIA request and the requester will be advised of that date. We continue to require that known identifying information for each document requested be provided. We also require that the individual specify whether inspection, or copies, or both are being requested.

Finally, we are amending § 310.9, Refusal to make record available, by requiring that all refusals to FOIA requests be in writing.

Because the amendments being adopted herein are rules of agency practice and procedure intended to assure systematic responses to FOIA requests and to avoid undue disruption of other ongoing Board activities, the Board finds that notice and public procedure are not required and for good cause shown that the rule may be effective on August 4, 1976.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 310 of its Procedural Regulations (14 CFR Part 310) effective August 4, 1976, as follows:

1. Amend § 310.6 to read as follows:

§ 310.6 Procedure for requesting records.

(a) All requests for Board records made pursuant to the Freedom of Information Act (FOIA) shall be in writing and conform to the requirements of this section. Oral requests will not be accepted as FOIA requests unless they are reduced to writing and conform to the requirements of this section.

(b) FOIA requests for records listed in Appendix A hereto shall be made to the office listed in Appendix A as the location of the record, and all other FOIA requests shall be made to the Office of the Secretary. Requests shall be mailed to the appropriate office, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 or delivered in person to that office during the Board's regular business hours.

(c) FOIA requests shall be captioned "Freedom of Information Act Request." This caption shall appear on the request and on the envelope if one is used. Such request shall be dated, shall list the address of the person making the request, and, for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document, and any known relevant dates or form/report numbers. At the requester's option, a telephone number may be included. The requester shall specify whether personal inspection or copies of the record(s) or both are desired.

(d) Failure to address or mark the envelope and the request in accordance with paragraphs (b) and (c) of this section will result in the request being deemed to have been received on the date the request is determined to be in fact an FOIA

request. In such cases, the requester shall be advised of the actual date of receipt.

(e) Where a requested file or record does contain exempt information, a file or a copy of the record will be made available with appropriate deletions whenever this can be done without revealing the exempted information. Although the Board's staff need not honor blanket or generalized requests for records, it will endeavor to do so if compliance would not unduly burden or interfere with Board operations because of the staff time consumed or the resulting disruption of files.

2. Amend § 310.9 to require written refusals to make records available to read as follows:

§ 310.9 Refusal to make record available.

* * * * *

(b) Where the material requested is not a record, is an exempted record, or is otherwise unavailable, the person making the request will be so informed in writing by the office to which the request was made. The notification shall include a reference to the specific exemption under this regulation and the Freedom of Information Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld and contain a description of the appeal procedure within the agency and of the ultimate availability of judicial review as set forth in paragraph (e) of this section. A copy of all denial letters and all written statements explaining why exempt records have been withheld will be collected and maintained for public inspection in the Public Reference Room.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324), and the Freedom of Information Act, 81 Stat. 54, (5 U.S.C. 552).)

By the Civil Aeronautics Board.

Effective: August 4, 1976.

Adopted: July 29, 1976.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22643 Filed 8-3-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0011]

PART 121—FOOD ADDITIVES

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

SANITIZING SOLUTIONS

The Commissioner of Food and Drugs is amending § 121.2547 *Sanitazing solutions* (21 CFR 121.2547) to provide for safe use of aqueous solutions containing di-*n*-alkyl(C_8-C_{10}) dimethyl ammonium chlorides and isopropyl alcohol as sanitizing solutions; effective August 4, 1976; objections by September 3, 1976.

A notice was published in the FEDERAL REGISTER of June 4, 1975 (40 FR 24040) announcing that a food additive petition (FAP 4H3006) had been filed by Lonza, Inc., Fair Lawn, N.J. 07410, proposing that § 121.2547 be amended to provide for safe use of di-*n*-alkyl(C_8-C_{10}) dimethyl ammonium chlorides and isopropyl alcohol as sanitizing solutions for food processing equipment and utensils.

The Commissioner, having evaluated the data in the petition and other relevant material, concludes that § 121.2547 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2547 is amended by adding new paragraphs (b)(17) and (c)(12) to read as follows:

§ 121.2547 Sanitizing solutions.

* * * * *

(b) * * *

(17) An aqueous solution containing di-*n*-alkyl(C_8-C_{10}) dimethyl ammonium chlorides and isopropyl alcohol, having average molecular weights of 332-361. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

* * * * *

(c) * * *

(12) Solutions identified in paragraph (b)(17) of this section shall provide, when ready to use, a level of 150 parts per million of the active quaternary compound.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before September 3, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections, shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on August 4, 1976.

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

Dated: July 30, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-22706 Filed 8-3-76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0345]

PART 310—NEW DRUGS

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Marketing Status of Ingredients Recommended for Over-the-Counter Use

The Food and Drug Administration (FDA) is amending the regulations to clarify the marketing status of ingredients recommended for OTC (over-the-counter) use, effective September 3, 1976.

In the FEDERAL REGISTER of December 4, 1975 (40 FR 56675), the Commissioner of Food and Drugs proposed to amend Part 310 (21 CFR Part 310) to clarify that the OTC drug review process is another procedure for transferring an ingredient from prescription to OTC status and Part 330 (21 CFR Part 330) to set forth FDA policy regarding the marketing of OTC drug products containing an active ingredient (a) that is at a dosage level higher than that currently available in an OTC drug product, or (b) that is currently limited to prescription use, but that is regarded by an OTC drug advisory review panel as suitable for OTC use. Interested persons were invited to submit comments on the proposal by February 2, 1976.

The Commissioner is now issuing a final regulation setting forth the following policies:

1. Any OTC drug product containing an active ingredient previously limited to prescription use for the indication and route of administrative under consideration by an OTC drug advisory review panel, or containing any active ingredient at a dosage level higher than that available in an OTC drug product on December 4, 1975, which ingredient and/or dosage level is classified by a panel in category I (generally recognized as safe and effective and not misbranded, shall be considered a new drug if marketed before the date of publication in the FEDERAL REGISTER of a proposed monograph for the ingredient.

2. Any such drug product may be marketed after the date of publication of a proposed monograph in the FEDERAL REGISTER, but before the effective date of a final monograph, subject to the risk that the Commissioner may not accept a panel's recommendation but adopt a different position that could require relabeling, recall, or other regulatory action.

3. Any OTC drug product containing an active ingredient previously limited to prescription use for the indication and route of administration under considera-

tion by an OTC drug advisory review panel, or containing any active ingredient at a higher dosage level than that available in any OTC drug product on December 4, 1975; which ingredient and/or dosage level is classified by a panel in category II (not generally recognized as safe and effective or is misbranded), shall be considered to be a new drug requiring an approved new drug application before marketing.

4. Any OTC drug product containing an active ingredient previously limited to prescription use for the indication and route of administration under consideration by an OTC advisory review panel, or containing any active ingredient at a higher dosage level than that available in any OTC drug product on December 4, 1975, which ingredient, and/or dosage level is classified by a panel in category III (insufficient data to permit final classification at this time), may be marketed only after the ingredient or dosage level is determined by the Commissioner to be generally recognized as safe and effective and not misbranded in an appropriate OTC drug monograph or a new drug application for the product for OTC use has been approved.

These policies reflect current FDA enforcement policies, and the regulations embodying them are therefore effective immediately.

In response to the proposal, comments were received from three manufacturers, one trade association, and one Federal agency. A summary of the comments and the Commissioner's conclusions thereon are as follows:

1. One comment was in response to that part of the preamble which stated that the Commissioner may indicate in the preamble to a proposed monograph his disagreement with a panel's recommendation regarding specific ingredients proposed for classification in category I, e.g., ingredients having manufacturing or formulation problems or unresolved questions concerning a potential for abuse or misuse. The comment argued that, in this final order, the agency should clearly state that, if the Commissioner dissents from a panel's category I product classification, he will (a) specifically state the basis for that disagreement, (b) cite the data or other information upon which he relies, and (c) specify his reasons for distinguishing between the drug in question and other drugs in the same general therapeutic class that are considered to be generally recognized as safe and effective for OTC use. The comment expressed the opinion of disagreement would be final agency action because of its immediate impact on drug manufacturers, and thus should be fully supported to facilitate judicial review if sought.

The Commissioner advises that a decision to disagree with a panel's recommendation regarding specific ingredients proposed for classification in category I will be based on material contained in the applicable administrative record as defined in § 330.10(a)(10)(iv) (21 CFR 330.10(a)(10)(iv)) and/or other data and information available to him. The preamble to the proposed monograph or, when appropriate, a separate notice in the FEDERAL REGISTER, will contain a comprehensive statement of the basis for the Commissioner's decision including, where appropriate, the specific reason for his decision to disagree with the panel's classification of a particular drug in a therapeutic category and not all drugs in that category. All data and information on which the Commissioner's decision is based will be put on public display in the office of the Hearing Clerk, Food and Drug Administration, except to the extent that the person submitting it to FDA demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905, 5 U.S.C. 552(b), or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)).

The Commissioner will ordinarily announce his tentative decision not to accept a panel's recommendation regarding specific ingredients or dosage levels of ingredients proposed for classification in category I at the time the proposed monograph is published in the FEDERAL REGISTER. This announcement will be included in the preamble to the proposed monograph or in a separate notice in the FEDERAL REGISTER. In some instances, the Commissioner may not announce his decision not to accept a panel's recommendation until after the date of publication of the proposed monograph, as stated in § 330.13(b)(2) (21 CFR 330.13(b)(2)). The wording of paragraph (b)(2) has been revised to clarify this. In either case, his decision will be fully documented in the administrative record. The Commissioner emphasizes, however, that his tentative decision not to accept a panel's recommendation does not mean that he may not subsequently agree with the panel when a final monograph is published. In any event, persons marketing a drug product not in compliance with the Commissioner's tentative decision not to accept a panel's recommendation will be subject to regulatory action and the Commissioner's determination will therefore effectively be reviewable in the context of any proceeding brought by FDA pursuant to this policy.

2. One comment questioned whether an FDA warning that regulatory action will be taken against drug products that are reformulated in keeping with anticipated recommendations of an OTC drug advisory review panel and marketed pending completion of the OTC drug review is the most effective way to protect consumers. The comment urged that for such reformulated drugs, as well as those unreformulated drugs for which no monograph is yet final and for category III drugs, FDA require the product label to inform consumers that regulations assuring the safety and/or effectiveness of the ingredients of the drug in question are not yet final. It was suggested that this alternative would enable FDA to avoid taking regulatory action against reformulations intended to improve drug products that a panel has found unsafe, ineffective, or otherwise misbranded as currently marketed, but for which monographs are not yet final. The comment added that such a labeling requirement should be coordinated with the Federal Trade Commission (FTC) to assure that consumers are similarly notified in any advertising of reformulated OTC drug products.

The Commissioner is sympathetic with the intent of this comment, but notes that it misapprehends the purpose and extends far beyond the limited scope of the proposal. In this document the Commissioner is setting forth the policy he intends to enforce with respect to prescription drug products that are marketed for OTC use before the establishment of a final OTC drug monograph; he is not establishing a new policy for all OTC drug products reformulated during the pendency of the OTC drug review. The comment suggests requiring a labeling statement indicating that no final judgment has been made regarding safety and effectiveness of all drug products reformulated in anticipation of a final monograph, whether previously prescription or OTC, as well as in the labeling of all drug products containing category III ingredients or making category III claims. Early in the OTC drug review, the Commissioner considered the need for information in drug product labeling to indicate the status of ingredients and labeling claims that had not been finally resolved. He may reconsider this issue, and, if he does, he will coordinate his decision with the FTC. Any change from the current policy will be the subject of a separate FEDERAL REGISTER document.

3. One comment noted that in the procedures promulgated in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), the Commissioner recognized that it was the duty of OTC drug advisory review panels to recommend what drugs should be sold OTC and, further, that any interested person could submit data and views suggesting that a prescription drug be moved to OTC status. The comment therefore urged the Commissioner to instruct the panels to review, either on their own initiative or at the request of others, those prescription drugs within the therapeutic categories for which each is responsible and recommend whether any of these prescription drugs should be marketed as nonprescription drugs.

In the preamble to the December 4 proposal, the Commissioner described the two procedures by which a prescription drug ingredient may lawfully be marketed for OTC use. Ingredients limited to prescription use under section 503(b)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)(C)) may acquire OTC status by a petition submitted pursuant to the procedures set forth in § 310.200 (21 CFR 310.200); the OTC drug review process provides another procedure.

The Commissioner notes that OTC drug advisory review panels were directed to review and make recommendations concerning OTC drug ingredients as well as certain prescription drug ingredients that could be used safely and

effectively by laymen. Several panels have made such recommendations regarding prescription drug ingredients. It is, however, impractical and it was never intended that these panels evaluate all prescription drug ingredients within the therapeutic category under their review. The Commissioner advises that any interested person may, as the comment indicated, submit data and views to a panel suggesting that a prescription drug be moved to OTC status. Any interested person may also file a petition with FDA requesting a change from prescription to OTC status for a specific drug product.

4. Two comments objected to making the enforcement policy effective immediately without considering comments from interested persons.

The Commissioner advises that in the interest of the public health it was necessary that the proposal constitute the FDA enforcement policy pending promulgation of the final regulation. The enforcement policy was announced to prevent precipitous marketing of OTC drug products that may not have been demonstrated safe and effective and to clarify for all interested persons the regulatory status of drug products containing ingredients currently limited to prescription use, or dosage levels of ingredients above those currently available OTC, even though a panel may regard such ingredients or dosage levels as appropriate for classification in category I. The Commissioner notes that some manufacturers were in fact commencing OTC marketing of drug products containing prescription ingredients and this in part necessitated the immediate action.

5. One comment stated that proposed § 330.13 consistently refers to OTC drug products available on December 4, 1975, or currently available, but that the proposal does not indicate whether mere presence in the marketplace or "legal" presence is necessary to satisfy that requirement. The comment requested clarification of the applicable standard.

The Commissioner intends the terms "currently available" and "available on December 4, 1975" to apply to any drug product that was in fact marketed for OTC use on December 4, 1975, except for drug products that were limited to prescription use on or after May 11, 1972 (the date on which the OTC drug review officially commenced), and were not thereafter exempted from such a limitation pursuant to § 310.200. The regulation has been revised to delete the terms "previously available" and "currently available" and substitute the more precise terms, as appropriate.

6. In addition to the changes noted in comments 1 and 5 above, the Commissioner has also added references to the appropriate paragraphs in § 330.10 to clarify the terms "category I," "category II," and "category III."

7. The Commissioner points out that the ingredients diphenhydramine, oxymetazoline, and chlorpheniramine, which were cited in the December 4 proposal, will be dealt with in the proposed monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic products to be published in a future issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053, as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 310, § 310.200 is amended by revising paragraphs (a) and (c) and adding new paragraph (e) to read as follows:

§ 310.200 Prescription-exemption procedure.

(a) *Duration of prescription requirement.* Any drug limited to prescription use under section 503(b)(1)(C) of the act remains so limited until it is exempted as provided in paragraph (b) or (e) of this section.

* * * * *

(c) *New drug status of drugs exempted from the prescription requirement.* A drug exempted from the prescription requirement under the provisions of paragraph (b) of this section is a "new drug" within the meaning of section 201(p) of the act until it has been used to a material extent and for a material time under such conditions except as provided in paragraph (e) of this section.

* * * * *

(e) *Prescription-exemption procedure of OTC drug review.* A drug limited to prescription use under section 503(b)(1)(C) of the act may also be exempted from prescription-dispensing requirements by the procedure set forth in § 330.13 of this chapter.

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2. In Part 330, a new § 330.13 is added to read as follows:

§ 330.13 Conditions for marketing ingredients recommended for over-the-counter (OTC) use under the OTC drug review.

(a) Before the publication in the FEDERAL REGISTER of an applicable proposed monograph, an OTC drug product that contains: (1) An active ingredient limited, on or after May 11, 1972, to prescription use for the indication and route of administration under consideration by an OTC advisory review panel, and not thereafter exempted from such limitation pursuant to § 310.200 of this chapter, or

(2) An active ingredient at a dosage level higher than that available in an OTC drug product on December 4, 1975, shall be regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application is required.

(b) (1) An OTC drug product that contains: (i) An active ingredient limited, on or after May 11, 1972, to prescription use for the indication and route of administration under consideration by an OTC advisory review panel, and not thereafter exempted from such limitation pursuant to § 310.200 of this chapter, or

(ii) An active ingredient at a dosage level higher than that available in an OTC drug product on December 4, 1975, which ingredient and/or dosage level is classified by the panel in category I (conditions subject to § 330.10(a)(6)(i)) shall be regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application is required if marketed for OTC use prior to the date of publication in the FEDERAL REGISTER of a proposed monograph.

(2) An OTC drug product covered by paragraph (b)(1) of this section which is marketed after the date of publication in the FEDERAL REGISTER of a proposed monograph but prior to the effective date of a final monograph shall be subject to the risk that the Commissioner may not accept the panel's recommendation and may instead adopt a different position that may require relabeling, recall, or other regulatory action. The Commissioner may state such position at any time by notice in the FEDERAL REGISTER, either separately or as part of another document; appropriate regulatory action will commence immediately and will not await publication of a final monograph. Marketing of such a product with a formulation or labeling not in accord with a proposed monograph or tentative final monograph also may result in regulatory action against the product, the marketer, or both.

(c) An OTC drug product that contains: (1) An active ingredient limited, on or after May 11, 1972, to prescription use for the indication and route of administration under consideration by an OTC advisory review panel, and not thereafter exempted from such limitation pursuant to § 310.200 of this chapter, or

(2) An active ingredient at a dosage level higher than that available in any OTC drug product on December 4, 1975, which ingredient and/or dosage level is classified by the panel in category II (conditions subject to § 330.10(a)(6)(ii)), shall be regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application is required for marketing.

(d) An OTC drug product that contains: (1) An active ingredient limited, on or after May 11, 1972, to prescription use for the indication and route of administration under consideration by an OTC advisory review panel, and not thereafter exempted from such limitation pursuant to § 310.200 of this chapter, or

(2) An active ingredient at a dosage level higher than that available in any OTC drug product on December 4, 1975 which ingredient and/or dosage level is classified by the panel in category III (conditions subject to § 330.10(a)(6)(iii)), may be lawfully marketed only after either the ingredient is determined by the Commissioner to be generally recognized as safe and effective, or a new drug application for the product has been approved.

Effective date: This regulation shall become effective on September 3, 1976.

(Secs. 502, 505, 701(a), 52 Stat. 1050–1053, as amended, 1055 (21 U.S.C. 352, 355, 371(a)))

Dated: July 26, 1976.

SHERWIN GARDNER,
Deputy Commissioner of Food and Drugs.

[FR Doc.76-22534 Filed 8-3-76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Orgotein for Injection

The Food and Drug Administration approves supplemental new animal drug application 45-863V filed by Diagnostic Data, Inc., 518 Logue Ave., Mountain View, CA 94043, proposing safe and effective use of orgotein for injection for dogs for treating inflammatory conditions. The approval is effective September 3, 1976.

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

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 522 is amended in § 522.1620 by revising paragraph (c) to read as follows:

§ 522.1620 Orgotein for injection.

* * * * *

(c) *Conditions of use*—(1) *Horses.*—(i) It is used in the treatment of soft tissue inflammation associated with the musculoskeletal system.

(ii) It is administered by deep intramuscular injection at a dosage level of 5 milligrams every other day for 2 weeks and twice weekly for 2 to 3 more weeks. Severe cases, both acute and chronic, may benefit more from daily therapy initially. Dosage may be continued beyond 5 weeks if satisfactory improvement has not been achieved.

(iii) Not for use in horses intended for food.

(2) *Dogs.* (i) It is used for the relief of inflammation associated with ankylosing spondylitis, spondylosis, and disc disease. When severe nerve damage is present, response will occur much more slowly, if at all.

(ii) It is administered by subcutaneous injection at a dosage level of 5 milligrams every day for 6 days, and thereafter, every other day for 8 days. In less severe conditions, shorter courses of therapy may be indicated.

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

Effective date: This amendment shall be effective on September 3, 1976.

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

Dated: July 29, 1976.

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

[FR Doc.76-22532 Filed 8-3-76;8:45 am]

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

Chloramphenicol Tablets

The Food and Drug Administration approves new animal drug application 55-051V filed by Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, MI 48232, proposing safe and effective use of 100-, 250-, and 500-milligram chloramphenicol tablets for dogs for oral treatment of bacterial pulmonary infections, bacterial infections of the urinary tract, bacterial enteritis, and bacterial infections associated with canine distemper caused by susceptible organisms. The approval is effective on September 3, 1976.

The Commissioner of Food and Drugs is amending Part 555 (21 CFR Part 555) to reflect this approval.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (41 FR 24262)), Part 555 is amended in in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262), Part 555 is amended in § 555.110a by revising paragraph (c)(1)(i) and (ii) to read as follows:

§ 555.110a Chloramphenicol tablets.

* * * * *

(c) *Conditions of marketing*—(1)(i) *Specifications.*—Chloramphenicol tablets contain 100, 250, or 500 milligrams of chloramphenicol and confrom to the certification requirements of paragraph (a) of this section.

(ii) *Sponsor.* See No. 000071 in § 510.600(c) of this chapter for 100-, 250-, and 500-milligram tablets; see No. 017030 in § 510.600(c) of this chapter for 100-milligram tablets.

* * * * *

Effective date: This amendment shall be effective on September 3, 1976.

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

Dated: July 29, 1976.

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

[FR Doc.76-22533 Filed 8-3-76;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0005]

PART 701—COSMETIC LABELING

Hypoallergenic Cosmetic Products; Revocation of Stay of Effective Date

The Food and Drug Administration is revoking the stay, published in the FEDERAL REGISTER of July 28, 1975 (40 FR 31606), of the effective date of § 701.100 (a) through (j) (21 CFR 701.100 (a) through (j)), which concerns the conditions under which a cosmetic may be labeled as "hypoallergenic." This revocation is effective on September 3, 1976, for all cosmetics initially introduced into interstate commerce on or after such date.

The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of June 6, 1975 (40 FR 24442) a regulation establishing the conditions under which a cosmetic may be designated in its labeling by words that state or imply that the product or any ingredient thereof is hypoallergenic. The regulation requires dermatological testing to confirm the validity of such a claim. Paragraph (h) of § 701.100 requires that any cosmetic product that is designated in labeling as hypoallergenic or for which claims are made that one or more ingredients are hypoallergenic or for which hypoallergenicity is implied through the use of other terms shall comply with the requirements of the regulation before such claims are made if it was not in commercial distribution on June 6, 1975, and shall comply by June 6, 1977, if it was in commercial distribution on June 6, 1975.

McMurray and Pendergast, as attorneys for Clinique Laboratories, Inc., and Almay, Inc., petitioned the Commissioner to stay the regulation pending the outcome of litigation, which those companies had instituted in the United States District Court for the District of Columbia to challenge the validity of the regulation. (Almay, Inc. v. Weinberger, Civil Action No. 75-1135.)

The Commissioner stayed the regulation "until further notice" pending the lawsuit. In an order filed June 30, 1976, the United States District Court for the District of Columbia upheld the validity of the regulation in full. On July 9, 1976, the plaintiffs filed a notice of appeal to the United States Court of Appeals for the District of Columbia. The plaintiffs also requested the Commissioner to continue the stay during the appeal in a letter on file in the office of the Hearing Clerk.

The Commissioner believes that any further delay in the effectiveness of the regulations is not justified in light of the important public interest served by the regulation of eliminating consumer confusion about claims of hypoallergenicity and of requiring documentation of the claims. Moreover, the plaintiffs have had an opportunity for judicial review by the District Court and have not been successful. Accordingly, the Commissioner finds a continuation of the stay to be no longer justified under the criteria considered in evaluating requests for stay; the criteria are reflected in 21 CFR 2.9, as proposed in the FEDERAL REGISTER of September 3, 1975 (40 FR 40722-23).

The Commissioner, in order to permit an orderly transition, is revoking the stay effective on September 3, 1976, for all cosmetics initially introduced into interstate commerce on or after that date. Accordingly, cosmetics with a hypoallergenic claim not in commercial distribution, i.e., not on the market, on June 6, 1975, may not be shipped in interstate commerce by the cosmetic firm marketing the product to a wholesaler, retailer or other party on or after September 3, 1976, unless the claim is justified in accordance with the regulation. Cosmetics shipped in interestate commerce by the cosmetic firm marketing the product to a wholesaler, retailer or other party before September 3, 1976, need not be recalled. Cosmetics with a hypoallergenic claim which were in commercial distribution on June 6, 1975, still have until June 6, 1977, to justify their claims in accordance with the regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602(a), 701(a), 52 Stat. 1041 as amended, 1054, 1055 (21 U.S.C. 321(n), 362(a), 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the stay of 21 CFR 701.100(a) through (j) published in the FEDERAL REGISTER of July 28, 1975 (40 FR 31606) is hereby revoked effective September 3, 1976, for all cosmetics initially introduced into interstate commerce on or after such date.

Dated: July 30, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner For Compliance.

[FR Doc.76-22705 Filed 8-3-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-932]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Final Flood Elevation Determinations for the Town of Longboat Key, Florida

On March 11, 1976, at 41 FR 10431, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Town of Longboat Key, Florida. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of February 20, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 125126A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Longboat Key Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Longboat Key map.

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

Issued: July 2, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-22573 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—HOUSING AND URBAN DEVELOPMENT

Notice of Changes Made in Determinations of Jefferson Parish, Louisiana

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Jefferson Parish, Louisiana.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Jefferson Parish. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 225199B, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Hugh Ford, Director of Planning, Jefferson Parish, 3300 Metairie Road, Metairie, Louisiana 70001.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Jefferson Parish Flood Insurance Rate Map make it administratively infeasible to pubish in this notice all of the base flood elevation changes contained on the Jefferson Parish map.

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

Issued: July 2, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-22572 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the Borough of Highlands, New Jersey, Base Flood Elevations

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the Borough of Highlands, New Jersey.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the Community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the Borough of Highlands. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345297A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mayor Cornelius J. Guiney, Borough Hall, 171 Bay Avenue, Highlands, New Jersey 07732.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Borough of Highlands, New Jersey Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Highlands, New Jersey map.

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

Issued: July 14, 1976.

R. W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-22577 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the City of Winston-Salem, North Carolina, Base Flood Elevations

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Winston-Salem, North Carolina.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the City of Winston-Salem. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 37630D, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Orville Powell, City Manager, City Hall, P.O. Box 2511, Winston-Salem, North Carolina 27102.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the City of Winston-Salem Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Winston-Salem, North Carolina map.

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

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-22579 Filed 8-3-76;8:45 am]

[Docket No. FI-2145]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the City of Tulsa, Oklahoma, Base Flood Elevations

On June 25, 1976, at 41 FR 26402 the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Tulsa, Oklahoma.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the City of Tulsa, Oklahoma. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 405381C, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National

Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mayor Robert J. La Fortune, City Hall, Tulsa, Oklahoma 74103.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the City of Tulsa Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Tulsa, Oklahoma map.

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

Issued: July 22, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-22578 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—HOUSING AND URBAN DEVELOPMENT

Notice of Changes Made in Determinations of Portsmouth, Rhode Island

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Portsmouth, Rhode Island.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Portsmouth. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 445405B, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Town Administrator, Town of Portsmouth, 2200 East Main Road, Portsmouth, Rhode Island 02871.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Portsmouth Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Portsmouth map.

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

Issued: July 26, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-22575 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—HOUSING AND URBAN DEVELOPMENT

Notice of Changes Made in Determinations of the City of Nassau Bay, Texas

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Nassau, Bay, Texas.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Nassau Bay, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485491 D, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Howard L. Ward, City Manager, City of Nassau Bay, 18100 Upper Bay Road, Suite 102, Houston, Texas 77058.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Nassau Bay, Texas Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Nassau Bay, Texas map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Admin-

istrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: June 30, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-22574 Filed 8-3-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the City of Seguin, Texas

On June 25, 1976, at 41 FR 26415, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Seguin, Texas.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Seguin. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485508 B, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

The Honorable Alfred H. Koebig, Mayor, City of Seguin, P.O. Box 591, Seguin, Texas 78155.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Seguin Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Seguin map.

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

Issued: July 14, 1976.

R. W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.-76-22576 Filed 8-3-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 589-6]

PART 416—PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

Revocation and Suspension of Regulations

On April 5, 1974 effluent limitations guidelines, new source performance standards and new source pretreatment standards were promulgated pursuant to sections 301, 304(b), 306 and 307(c) of the Federal Water Pollution Control Act (the Act), 33 U.S.C. 1311, 1314(b), 1316 and 1317(c), for thirteen subcategories of the Plastics and Synthetics point source category, (40 CFR 416, subparts A through M) (the "Phase I" regulation). On January 23, 1975, 40 CFR 416 was amended to add effluent limitations guidelines, new source performance standards and new source pretreatment standards for eight additional subcategories of the point source category, (40 CFR 416, subparts N through U) (the "Phase II" regulation). Pretreatment standards for existing sources pursuant to section 307(b) of the Act were proposed for subparts A through M on April 5, 1974 and for subparts N through U on January 23, 1975. On May 19, 1975 subpart M (the Acrylics subcategory) was suspended until further notice.

On March 10, 1976 the United States Court of Appeals for the Fourth Circuit rendered its decision concerning petitions for review of the Phase I regulations in *FMC Corporation, et al.* v. *Train*, No. 74-1386. The Court remanded the Phase I effluent limitations guidelines and new source performance standards to the Administrator for reconsideration. The principal defect in the regulations which the Court found to exist concerned the hydraulic flows used to calculate all parameters whose effluent limitations and standards were set in terms of mass. Therefore, the limitations and standards for all such parameters for all Phase I subcategories are being revoked. The pH limitations and standards were not challenged by the petitioners in *FMC Corporation* v. *Train* nor is anything in the Court's opinion inconsistent with their validity. However, because all other limitations and standards are being revoked it is appropriate to suspend the pH limitations and standards pending reconsideration of these other parameters.

Sufficient similarity exists between the hydraulic flows used to calculate all parameters whose effluent limitations and standards were set in terms of mass in the Phase I and Phase II regulations to cast doubt on the validity of the Phase II limitations and standards. Therefore, the Phase II limitations and standards are being revoked and suspended in the same manner as the Phase I regulation. Proposed pretreatment standards for existing sources for all Phase I and Phase II subcategories must similarly be rescinded. The Agency intends to repromulgate the portions of the regulations revoked today and to terminate the suspension of those portions suspended, as soon as the inadequacies noted by the Court of Appeals can be remedied. In the interim, effluent limitations and guidelines and new source performance standards for the Plastics and Synthetics Manufacturing Point Source Category shall be considered to be not implemented for purposes of section 402(a)(1) of the Act.

Specifically, the following changes are made in 40 CFR Part 416:

(Subparts A through M were promulgated April 5, 1974.)

Subpart A—Polyvinyl Chloride Subcategory

§ 416.12 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.13 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.15 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.16 [Amended]

The pretreatment standards for new sources are revoked.

Subpart B—Polyvinyl Acetate Subcategory

§ 416.22 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.23 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.25 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.26 [Amended]

The pretreatment standards for new sources are revoked.

Subpart C—Polystyrene Subcategory

§ 416.32 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.33 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.35 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.36 [Amended]

The pretreatment standards for new sources are revoked.

Subpart D—Polypropylene Subcategory

§ 416.42 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.43 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.45 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.46 [Amended]

The pretreatment standards for new sources are revoked.

Subpart E—Polyethylene Subcategory

§ 416.52 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.53 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.55 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.56 [Amended]

The pretreatment standards for new sources are revoked.

Subpart F—Cellophane Subcategory

§ 416.62 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.63 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.65 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.66 [Amended]

The pretreatment standards for new sources are revoked.

Subpart G—Rayon Subcategory

§ 416.72 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.73 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.75 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.76 [Amended]

The pretreatment standards for new sources are revoked.

Subpart H—Acrylonitrile-Butadiene-Styrene (ABS) and Styrene-Acrylonitrile (SAN) Resin Copolymers Subcategory

§ 416.82 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.83 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.85 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.86 [Amended]

The pretreatment standards for new sources revoked.

Subpart I—Polyester Subcategory

§ 416.92 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.93 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.95 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.96 [Amended]

The pretreatment standards for new sources are revoked.

Subpart J—Nylon 66 Subcategory

§ 416.102 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.103 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.105 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.106 [Amended]

The pretreatment standards for new sources are revoked.

Subpart K—Nylon 6 Subcategory

§ 416.112 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.113 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.115 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.116 [Amended]

The pretreatment standards for new sources are revoked.

Subpart L—Cellulose Acetate Subcategory

§ 416.122 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.123 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.125 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.126 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

Subpart M—Acrylics Subcategory

§ 416.132 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.133 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.135 [Amended]

The standards of performance for all parameters except pH are revoked; the

standards of performance for pH are suspended.

§ 416.136 [Amended]

The pretreatment standards for new sources are revoked.

(Subparts N through U were promulgated January 23, 1975.)

Subpart N—Ethylene-Vinyl Acetate Copolymers Subcategory

§ 416.142 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.143 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.145 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.146 [Amended]

The pretreatment standards for new sources are revoked.

Subpart O—Polytetrafluoroethylene Subcategory

§ 416.152 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.153 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.155 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.156 [Amended]

The pretreatment standards for new sources are revoked.

Subpart P—Polypropylene Fiber Subcategory

§ 416.162 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.163 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.165 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.166 [Amended]

The pretreatment standards for new sources are revoked.

Subpart Q—Alkyds and Unsaturated Polyester Resins Subcategory

§ 416.172 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.173 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.175 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.176 [Amended]

The pretreatment standards for new sources are revoked.

Subpart R—Cellulose Nitrate Subcategory

§ 416.182 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.183 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.185 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.186 [Amended]

The pretreatment standards for new sources are revoked.

Subpart S—Polyamide (Nylon 6/12) Subcategory

§ 416.192 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.193 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.195 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.196 [Amended]

The pretreatment standards for new sources are revoked.

Subpart T—Polyester Resins (Thermoplastic) Subcategory

§ 416.202 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.203 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.205 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.206 [Amended]

The pretreatment standards for new sources are revoked.

Subpart U—Silicones Subcategory

§ 416.302 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.303 [Amended]

The limitations for all parameters except pH are revoked; the limitations for pH are suspended.

§ 416.305 [Amended]

The standards of performance for all parameters except pH are revoked; the standards of performance for pH are suspended.

§ 416.306 [Amended]

The pretreatment standards for new sources are revoked.

Because of the order issued by the United States Court of Appeals for the Fourth Circuit and the nature of the action taken, the Agency finds that public participation in this rulemaking is unnecessary and impractical. This amendment as set forth shall become effective immediately.

Dated: July 28, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-22492 Filed 8-3-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

(Public Land Order 5592; I-9100)

IDAHO

Withdrawal for Protection of Recreational and Other Natural Resource Values

Correction

In FR Doc. 76-20268 appearing on page 28954 in the issue for Wednesday, July 14, 1976 make the following correction:

In the middle column of page 29855, in the 4th line under the heading "Stock Driveway No. 112 (Partial)" the numbers now reading "Secs. 1, 11, 12, 14, 15, 12, 22, 28, 33." should have read "Secs. 1, 11, 12, 14, 15, 21, 22, 28, 33."

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 252—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES

Foreign-Flag Competition

On September 22, 1975, Notice was published in the FEDERAL REGISTER (39

FR 20383) announcing adoption of a new Part 252 to Title 46 of the Code of Federal Regulations, setting forth regulations governing the payment of operating-differential subsidy (ODS) to bulk cargo vessels engaged in worldwide services pursuant to Title VI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1171–1083).

Notice is hereby given that § 252.22 of Part 252 is amended.

Section 252.22 of Title 46 provides procedures for determining the substantiality and extent of foreign flag competition for bulk carriers engaged in world-wide services. Under this procedure foreign flag competition is determined as of January 1 of each year by surveying a data file known as "Merchant Fleets of the World" and calculating the percentage weight of each competing flag within the applicable vessel type and deadweight tonnage range. The principal competitive foreign flags are those that have the greatest deadweight tonnage of the vessels in a specified range, not to exceed five foreign flags.

The purpose of this amendment is to remove from consideration in the determination of the substantiality and extent of foreign-flag competition those foreign-flag vessels which are engaged in foreign trades from which U.S.-flag vessels are excluded. This is necessary in order that the true foreign-flag vessel competition may be accurately determined.

This amendment to 46 CFR Part 252 has been reviewed pursuant to E.O. 11821 and OMB Circular A107 and it has been determined that it will have no major inflationary impact.

Accordingly, paragraph (d) of § 252.22 of Part 252 of Title 46 of the Code of Federal Regulations is amended to read as follows:

§ 252.22 Substantiality and extent of foreign-flag competition.

* * * * *

(d) *Principal Competitive foreign-flags.* The principal competitive foreign-flags shall be those foreign-flags that have the greatest total tonnage of vessels deemed competitive with the subsidized vessel that, when combined, aggregate at *least 60 percent of the total tonnage of* the competitive vessels not to exceed the five foreign-flags with the greatest total tonnage. For the purposes of this paragraph, foreign-flag vessels engaged in foreign trades from which U.S.-flag vessels are excluded are deemed not competitive with the subsidized vessel.

* * * * *

Effective date: This amendment shall be effective as of January 1, 1974.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036, Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973)).)

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

By Order of the Maritime Subsidy Board.

Dated: JULY 28, 1976.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Subsidy Board.

[FR Doc.76-22654 Filed 8-3-76;8:45 am]

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 72-19; General Order 13]

PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

Further Postponement of Effective Date

In order to permit additional time to evaluate petitions for reconsideration of final rules in this proceeding (40 FR 47770; October 10, 1975), it has been determined that further postponement of their effective date is warranted. *Accordingly, it is ordered,* That the "August 2, 1976" effective date incorporated in the first sentence of § 536.16 of Part 536, 46 CFR is amended to read "October 1, 1976".

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-22641 Filed 8-3-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-708; Docket No. 20746]

PART 15—RADIO FREQUENCY DEVICES

Receiver Certification Program; Technical Specifications

In the matter of revision of Part 15 to extend the receiver certification program, to revise the technical specifications for receivers, and to make other changes.

1. A Notice of Proposed Rule Making in this proceeding was adopted on March 19, 1976 and released on March 29, 1976.[1] This Notice specified that comments be submitted on or before May 3, 1976 and reply comments on or before May 13, 1976. These dates were extended to May 26, 1976 and June 10, 1976 by order of the Commission on April 16, 1976 in response to a petition from Electronic Industries Association, Citizens Radio Section, filed April 13, 1976 and from Jerrold Electronics Corp., filed April 16, 1976.

2. This First Report deals only with the problem of the Citizen Band Class D[2] receiver which will be referred to herein as the CB receiver. This term includes a CB receiver sold as a separate unit of equipment, the receiver portion of a CB Class D transceiver and the CB converter commonly marketed as an attachment to the AM receiver in a car which permits listening to CB Class D transmissions on the car radio.

3. The Utilities Telecommunications Council (UTC)[3] brought to the attention of the Commission, a serious interference problem to operations of Power Radio Stations on frequencies in the 37 MHz band which are allocated to the Power Radio Service. UTC had investigated this problem and found that the interference was due to emissions from CB receivers using a form of frequency synthesis which involves the use of a 37 MHz oscillator.[4] Pointing out that FCC regulations currently in effect[5] to control receiver radiation, apply only to receivers that operate above 30 MHz and do not apply to CB receivers which operate below 30 MHz, UTC urges the Commission to extend the scope of these regulations to include CB receivers. Subsequently, on March 15, 1976, UTC filed a petition to amend Part 15 to provide for reduced radiation interference limits for a CB receiver operating in the 27 MHz band.[6]

4. The interference reported by UTC arises from the particular type of frequency synthesis used by many of the CB receivers. With conventional techniques, 23 crystals—one for each channel—are required in a CB receiver designed to receive each of the 23 CB Class D channels. By combining the outputs of two oscillators—one using crystals at 37.6, 37.65, 37.7, 37.75, 37.8 and 37.85 MHz and one using 4 crystals at 10.180, 10.170, 10.160 and 10.140 MHz—all the 23 Class D channels can be obtained with a total of 10 crystals.[7] It should be noted that the frequencies 37.6, 37.7 and 37.8 MHz are precisely those used by the Power Radio Service and that the frequencies 37.65, 37.75 and 37.85 MHz are only 50 kHz removed from the Power Radio frequencies.

5. The UTC findings were verified by tests on 15 CB Class D transceivers by the FCC Laboratory[8] which showed that emissions from many of these CB receivers were in fact capable of causing

[1] 41 FR 13375; 58 FCC 2nd 5, Page 839.

[2] Citizens Radio Class D stations operate on frequencies between 26.96-27.23 and on 27.255 MHz. Effective January 1, 1977, Citizens Radio Class D stations operate on frequencies between 26.96 and 27.41 MHz.

[3] The Utilities Telecommunication Council is the national representative on telecommunications matters of electric, gas, water and steam utilities—the entities eligible under FCC Rules in the Power Radio Service.

[4] See Appendix A for a tabulation of the frequencies involved in this type of synthesizer.

[5] 47 CFR 15.63.

[6] This petition was received a few days before the Notice in Docket 20746 was adopted. Since the regulations proposed in this Notice would provide the relief sought by UTC, the petition was filed as a comment in Docket 20746.

[7] See Appendix A.

[8] "Strength of Emissions from Citizens Radio Service Transmitters," FCC Laboratory Division Report FCC/OCE Lab 76-01, April 1976. This report is available from the Office of the Chief Engineer, FCC Washington, D.C. 20554. A copy has been filed in this Docket.

harmful interference to land mobile communications in the 30 MHz band. It was concluded that to provide reasonable protection to the land mobile service, it was necessary to keep the spurious energy at the antenna terminals of the CB receiver below 0.2 nanowatts (nW).

RESPONSE TO THE NOTICE OF PROPOSED RULE MAKING

6. In response to this Notice, comments were received from many parties. Only those comments related to CB receivers are discussed herein. The other aspects of this proceeding will be considered in a subsequent report. None of the comments objected to the proposal that CB receivers be certificated, or that spurious emissions be measured at the antenna terminals. Objections were raised against the 0.2 nW level and against the chassis radiation specification of 15 μV/m at 1 meter which make up the two parts of the Commission proposal.

7. FAA supported the Commission's proposal, pointing out that the 3rd harmonic of the CB receiver oscillator falls in the aeronautical services band and should be reduced 10dB. In its comment, the Forestry Conservation Communications Association (FCCA) pointed out Forestry Conservation licensees are suffering interference on 151.205 and 151.400 MHz from radiation from CB receivers.[9] FCCA urges early implementation of the proposed rules.

8. The R.L. Drake Co. (Drake) supported the proposal to extend the certification requirement to CB receivers, but did not comment on the technical specifications proposed for these receivers. Although not addressing the CB receiver problem, GTE Sylvania calls attention to the lack of a measurement procedure to measure chassis radiation at 1 meter. Since a procedure exists for making such measurements at 3 meters, GTE Sylvania suggests a chassis radiation specification of 5 μV/m at 3 meters instead of 15 μV/m at 1 meter. GTE Sylvania also points out that 0.2 nW does not correlate to the radiation interference limits in §§ 15.63(a) or 15.64(c). The chassis radiation measurement at 1 meter is also questioned by the Land Mobile Communications Section of the Electronic Industries Association (EIA/Land Mobile) which points up the difficulties in making such a measurement. In addition, EIA/Land Mobile maintains that 15 μV/m at 1 meter is an unrealistically severe specification.

9. The transceiver export committee of Electronic Industries Association of Japan (EIA Japan) took no position with respect to the instant proposal, but it questioned the suitability of measuring at 1 meter due to practical difficulties. It also pointed out that the 0.2 nW limit is out of touch with current practice, and called attention that Canada and Japan both impose a limit of 20 nW.

10. Collins Division of Rockwell International Corp. (Collins) points out that the regulations proposed for CB receivers would also apply to a number of professional communication receivers. Collins states that the Commission has not demonstrated a need to apply the CB regulations across the board to all receivers that operate in the band 26–30 MHz and requests that the proposed regulations be limited to CB receivers. Mr. David Bentley, speaking as an individual amateur, makes a similar request that amateur receivers that operate in this band likewise be excluded from the proposed regulations.

11. The Consumer Electronics Group of Electronic Industries Assn. (EIA/CEG) questions the accuracy of chassis radiation measurements made at 1 meter and urges the Commission to adopt a more appropriate measurement distance, but makes no recommendations as to what such a distance should be. EIA/CEG also questions the sweeping nature of the Commission's proposal with respect to the 26–30 MHz, alleging that many multi-band home entertainment-type receivers will be eliminated from the market if the severe regulations proposed for this band are adopted and implies that these regulations be limited to CB receivers. Zenith Radio Corp. supports EIA/CEG on the latter point and urges that multi-band receivers be excluded from the new regulations.

12. General Electric Co., Audio Electronics Product Department (GE) supports the proposal to require certification of CB receivers and favors the measurement of spurious power at the antenna terminals as more accurate than open field radiation measurements. However, it believes the specifications proposed are overly stringent and impose unreasonable constraints on the manufacture of CB equipment, or dramatically increase the cost of such equipment. GE points out that the 0.2 nW limit translates into a field strength of 6.5 μV/m at 30 meters which is 5 times more severe than the limit imposed on other receiver emissions in the frequency range 25–30 MHz[10] and recommends that the limit be set at 5 nW.

13. GE also objects to the chassis radiation limit in proposed Section 15.59(c) as being excessively severe and points out that this specification is in conflict with the 100 μV/m at 3 meter requirement proposed in Docket 20780.[11] As a more reasonable requirement, GE proposes a limit of 35 μV/m at 3 meters which it says is approximately 10 percent of the power limit. GE also calls attention to the fact that many CB receivers and multi-band receivers which include a CB reception capability are housed in plastic cabinets and will not be able to meet the chassis radiation limit. GE urges that such receivers be permitted to employ open field measurements and to comply with § 15.63(a).

14. Tram/Diamond Corp. does not question the Commission's proposal to require certification but raises objections to the technical specifications proposed. Tram/Diamond argues that since the rule making is designed to minimize radiation in the 37 MHz band, the same objective can be achieved by prohibiting the use of local oscillator frequencies above 30 MHz. Alternatively, Tram/Diamond suggests that the proposed rules be applied only to CB receivers using a local oscillator above 30 MHz, thereby permitting the manufacturer to determine whether using such an oscillator has sufficient technical advantage to warrant the effort and expense of meeting the proposed requirement. Tram/Diamond also points out that the 6 month lead time set out in the proposal is not sufficient and suggests that the new regulations be applied only to CB receivers which are first placed in production more than 6 months following the adoption of new rules and that the manufacture of non-certificated CB receivers be terminated within two years.

15. Vector, Inc., acknowledges the Commission's concern concerning the CB receiver problem, but alleges that the Commission is proposing unnecessarily severe, difficult and costly performance criteria and proposes their implementation within an unreasonable short time (six months). Vector submitted computations based on theoretical considerations to show that 0.2 nW at the CB receiver antenna terminals will theoretically deliver a signal of 1 μV to a land mobile receiver at 105 meters as a worst case condition. In practice, Vector says, this will be reduced by a factor of ten and the protection distance will be reduced to 11 meters. Vector suggests that the CB limit be set at 2.0 nW to give a theoretical protection distance of 1000 meters and a real life distance of 100 meters. In agreement with the above, Vector suggests that the chassis radiation specification be increased to 150 μV/m at 1 meter.

16. The Academy of Model Aeronautics (Academy)[12] filed its comment late and petitioned the Commission to accept this late filing.[13] The Academy estimates that some 450,000 persons operate radio controlled model aircraft and that many of these use equipment that operates in the 27 MHz band. The Academy points out

[9] That a CB receiver is capable of causing such interference was verified by the measurements made by the FCC Laboratory discussed in paragraph 5 above. See also footnote 8 above.

[10] Section 15.63(a), 47 CFR 15.63(a) requires subject receivers to limit emissions in the frequency range 25–70 MHz to 32 μV/m at 30 meters.

[11] In the Matter of: Amendment of Part 15 to redefine and clarify the rules governing restricted radiation devices and low power communication devices. Notice of Proposed Rule Making, adopted April 14, 1976, released April 23, 1976 (41 FR 23723).

[12] The Academy of Model Aeronautics is the governing body for model aircraft activities in the USA. At the end of 1975 its membership was about 60,000, of which 75 percent are said to regularly fly model aircraft under Class C Citizens Radio station licenses issued by the Commission.

[13] The petition filed by Academy is hereby granted and its late filing is accepted.

that these equipments, both transmitters and receivers, have not been shown to be a cause of interference. Moreover, the 27 MHz receiver is so simple that it has no antenna terminals and the measurements required to demonstrate compliance with the Commission's proposed regulation cannot be made. The Academy requests that 27 MHz radio control CB receivers be exempt from the proposed regulations and not be made subject to a needless financial burden. The Radio Control Equipment Manufacturers Association supports the position of the Academy stating that the CB radio control receiver (Class C) cannot be a source of interference since it cannot emit radiation of the magnitude that is emitted by the higher powered Class D equipment although no data is submitted to show the actual level of energy emitted by CB radio control receivers.

17. The Citizens Radio Section of the Electronic Industries Association (EIA/Citizens Section) fully endorses the Commission's program to extend certification to CB receivers, but contends that the technical specifications proposed single out CB receivers for treatment that is different in kind than that applied to other devices capable of causing similar interference problems. It argues that an orderly approach—requiring certification to the present Part 15 limits with a second look at some future date at the need for a more stringent limit will best achieve the Commission's objective at the lowest cost to the public.

18. EIA/Citizens Section contends that the frequency synthesis scheme that is creating the interference problem in the 37 MHz is being replaced by designs using a phase lock loop (PLL) digital technique which will provide relief more effectively than the stringent regulations proposed, but submits no data to show what levels of emission is given off by a CB receiver using the PLL technique. Moreover EIA/Citizens Section alleges that the Commission in its report[14] does not reveal whether the 15 CB receivers that were measured are a statistically significant sample of CB receivers on the market and suggests that the Commission's conclusions may be severely skewed.

19. Although EIA/Citizens Section endorses the concept of antenna terminal measurements, it states that it cannot endorse such a specification combined with a chassis radiation measurement at 1 meter. The antenna terminal measurement, it agrees, gives accurate and repeatable results. But this is not true for chassis radiation measurements at 1 meter. It concludes by urging the Commission to require certification under the present Part 15 limits and review this requirement after the Commission and industry have had sufficient time to observe the operation of CB receivers using the PLL technique to see whether the strict requirements proposed at this time are in fact required. It maintains that the concept of protection should be applied uniformly without regard to the nature or use of the subject equipment, and that there is no need to impose a special set of more stringent limitations on CB receivers.

20. Larry Hirsch, an individual, who has been "in the CB business for approximately 20 years" alleges that the Commission's proposal for a 0.2 nW limit is not in the public interest. It would increase the cost of a CB radio by at least $100 and people would not be able to afford to buy CB radios. He suggests that a limit of 40 nW would be adequate, although no data is submitted to support this suggestion.

21. In addition to its petition discussed in paragraph 3, UTC submitted a comment in which it calls attention to its petition and the survey it had made of Power Service licensees operating on 37.6, 37.7 and 37.8 MHz. Of the 53 licensees surveyed 80% responded and 38 percent indicated they were receiving interference from CB operations which in many cases blocked out reception of their own signals. UTC notes that its petition had recommended a 6dB tightening up of the radiation limit for CB receivers from 32 μ/Vm at 30 meters to 16 μV/m at 30 meters. It strongly supports the Commission proposal and urges that it be finalized as soon as possible.

22. Fanon/Courier Corp. supports in principle the application of certification to CB receivers. It points out that only about one half of all crystal controlled heterodyne synthesizer designs use the offending frequencies (37 MHz). As industry converts to PLL circuitry, effective relief will be provided without the need for the stringent regulations proposed. Fanon/Courier endorses the concept of antenna terminal measurements but not when required in conjunction with a one meter radiation test. In essence it suggests that the radiation measurement be abandoned and only the terminal measurement be required.

23. EIA/CEG is the only entity that filed a reply comment. It points out the discrepancy between the limits proposed for CB receivers in this proceeding and those proposed in Docket No. 20780.[15] The limits in these two proceedings, EIA/CEG contends, should be consistent as far as practicable and a common measurement procedure should be made available for all near-field measurements.

THE 0.2 NANOWATT SPECIFICATION

24. All parties objected to the limit of 0.2 nW proposed by the Commission. The comments claimed that this limit is unnecessarily severe and singles out CB receivers for special treatment which places an unreasonable burden on the CB receiver manufacturer and user. Very little factual data was submitted to show that the 0.2 nW limit was not necessary or how much of a burden in the form of increased cost would be imposed, although several of the parties did present some theoretical calculations to support their contentions. Many of the parties urged that CB receivers be required to meet the limit now in § 15.63(a) which requires emissions in the frequency range 25 to 70 MHz to be kept below 32 μV/m at 30 m.

25. The Commission cannot accept this point of view. The CB receiver does have a special characteristic that requires special treatment. These receivers are found in millions of vehicles on the highways where they are intimately associated with vehicles carrying land mobile equipment. The probability that a vehicle carrying a CB receiver will be adjacent to a vehicle using a land mobile equipment is quite high. On the other hand an FM or TV receiver or other devices regulated by Part 15 (for which revised regulations have been proposed in Docket No. 20780) are not likely to be adjacent to a vehicle carrying a land mobile installation. In view of the large numbers of CB installations in vehicles and the high probability that the CB receiver will be close to the land mobile installation and in order to minimize the probability of interference due to this proximity effect, stringent specifications must be imposed on the CB receiver.

26. However, to ease the burden this proposal would place on manufacturers, the Commission has decided to implement its proposal in two steps. Accordingly the regulations adopted herein provide that all CB receivers whose manufacture is begun after January 1, 1977 must be certificated to meet a limit of 2.0 nW at the antenna. On and after January 1, 1978 this limit will be 0.2 nW.

THE ONE METER MEASUREMENT PROBLEM

27. Nearly all the parties commenting objected to making measurements at 1 meter to check chassis (or cabinet) radiation. Sylvania proposed that measurements be made at 3 meters. EIA suggested that a more suitable distance be specified but did not indicate what this distance should be. The Commission is aware of the problems inherent in measurements at 1 meter but is satisfied that such measurements can be made with sufficient accuracy to show that chassis radiation will not be a problem.[16] In response to the request to ease the chassis radiation measurement problem, the Commission is revising its proposal and is adopting a limit of 5μV/m at 3 meters for chassis radiation.

THE EFFECTIVE DATE FOR CERTIFICATION

28. Considerable objection was raised against requiring certification to the 0.2 nW limit within 6 months after final rules are adopted. The Commission must insist on this requirement. We find that it is contrary to the public interest to permit continued production of CB receivers to designs that yield relatively high levels of spurious emissions. Accord-

[14] Paragraph 5 of this report and footnote 8.

[15] See footnote 11 supra.

[16] Attention is invited to the Commission's rules or Class I TV devices (home video games). These rules, 47 CFR 15.401 et seq., impose a chassis radiation specification of 15 μV/m at 1 meter and such measurements are regularly made at the Commission's Laboratory during type approval testing of the Class I TV Devices.

ingly the rules adopted herein provide that all receivers whose manufacture is first begun after January 1, 1977 must be certificated to meet the revised limit of 2 nW and a chassis radiation limit of 5 μV/m at 3 meters. CB receivers whose initial production was begun prior to January 1, 1977 must be terminated not later than August 1, 1977 unless such CB receivers are certificated to meet the limits adopted herein. In addition, the sale or other form of marketing of non-certificated CB receivers must be terminated not later than January 1, 1978. Applications for certification under the revised regulations adopted herein will not be accepted prior to September 10, 1976.

RULES LIMITED TO CB RECEIVERS

29. The Commission had proposed that all receivers in the 26–30 MHz band be certificated to meet the same limits. None of the parties that commented objected to certification per se. Objections were raised however against certificating other (i.e. non-CB) receivers to the same limits as those proposed to resolve the interference problem posed by CB receivers. Since this report is limited to the CB receiver problem, the regulations adopted herein will apply only to CB receivers. The question of technical specifications for non-CB receivers is reserved for later consideration.

COMMISSION ORDER

30. The Commission finds that it is in the public interest to adopt the rules set out in Appendix C. In view of the foregoing and pursuant to the authority contained in sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, *It is ordered,* That effective September 10, 1976, Part 15 is amended in the manner set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, sec. 302, 82 Stat. 290; 47 U.S.C. 154, 302, 303)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX A.—*Citizen band class D frequencies*

CB channel No.	Frequency (megahertz)	Frequency of oscillator 1 (megahertz)	Frequency of oscillator 2 (megahertz)
1	26.965	37.60	10.180
2	26.975	37.60	10.170
3	26.985	37.60	10.160
4	27.005	37.60	10.140
5	27.015	37.65	10.180
6	27.025	37.65	10.170
7	27.035	37.65	10.160
8	27.055	37.65	10.140
9	27.065	37.70	10.180
10	27.075	37.70	10.170
11	27.085	37.70	10.160
12	27.105	37.70	10.140
13	27.115	37.75	10.180
14	27.125	37.75	10.170
15	27.135	37.75	10.160
16	27.155	37.75	10.140
17	27.165	37.80	10.180
18	27.175	37.80	10.170
19	27.185	37.80	10.160
20	27.205	37.80	10.140
21	27.215	37.85	10.180
22	27.225	37.85	10.170
23	27.255	37.85	10.140

APPENDIX B

I. Comments in this proceeding regarding the rules proposed for a CB receiver were received from:

Federal Aviation Administration (FAA)
Forestry Conservation Communications Assn. (FCCA)
Larry Hirsch—(an individual)
R. L. Drake Co.
Utilities Telecommunications Council (UTC)
GTE Sylvania Inc. (Sylvania)
Electronic Industries Association of Japan, Transceiver Export Committee
Electronic Industries Association, Citizens Radio Section (EIA/Citizens Radio)
Electronic Industries Association, Land Mobile Communications Section
General Electric Company
Electronic Industries Association, Consumer Electronics Group
Zenith Radio Corp.
Tram/Diamond Corp.
Fanon/Courier Corp.
Vector, Inc.
Academy of Model Aeronautics
Radio Control Equipment Mfrs Assn.

II. Comments directed to other aspects of this proceeding were also received from:

Oak Industries Inc., CATV Division
Jerrold Electronics Corp.
National Cable Television Association, Inc.
Electronic Industries Association of Japan, Engineering Committee of Mfrs of Radio and TV receivers
Rockwell International Corp., Collins Divisions
David Bentley—an individual

III. Reply comments were received from:

Electronic Industries Assn., Consumer Electronics Group

APPENDIX C

Part 15 is amended by adding a new § 15.59 immediately after the heading Subpart C—Radio Receivers.

§ 15.59 Interference requirement for a CB receiver.

(a) For the purpose of this regulation, a CB receiver is defined as any receiver that operates in the Citizens Radio Service on frequencies allocated for Class D stations. A CB receiver includes a receiver or converter which is sold as a separate unit of equipment or the receiver portion of a CB transceiver.

(b) A CB receiver model which is initially placed in production after January 1, 1977 shall be certificated pursuant to Subpart B of this part and Subpart J of Part 2 of this chapter, to meet all the requirements of this section.

(c) With the antenna terminals of the CB receiver connected to a resistor equal to the manufacturer's rated input impedance, the power at the antenna terminals at any frequency in the range 25–500 MHz shall comply with the following

(1) For a CB receiver model initially placed in production after January 1, 1977 ..... 2.0 nanowatts.

(2) For a CB receiver model initially placed in production after January 1, 1978 ..... 0.2 nanowatts.

(d) With the antenna terminals of the CB receiver connected to a shielded resistor equal to the manufacturer's rated input impedance, the emission on any frequency in the range 25 to 500 MHz shall not exceed 5 uV/m at a distance of 3 meters from the surface of the receiver initially placed in production after January 1, 1977. Measurements shall be made with microphone and all other options attached.

(e) If the CB receiver is intended to be connected to the power lines of a public utility, the conducted interference fed back into the power lines shall not exceed 100 uV at any frequency in the range 0.45–25 MHz. This requirement shall also apply to a battery operated CB receiver which has the capability of being connected to the power lines through a battery charger.

(f) The manufacture of a CB receiver model that has not been certificated to meet all the requirements of this section shall be terminated as soon as possible but in no event later than August 1, 1977.

(g) The marketing of non-certificated CB receivers shall be terminated not later than January 1, 1978.

[FR Doc.76-22606 Filed 8-3-76;8:45 am]

[Docket No. 20189; FCC 76-624]

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

Remote Pickup Broadcast Stations

Correction

In FR Doc. 76-20538, appearing at page 29681, in the issue for Monday, July 19, 1976, make the following changes:

1. Change the letter designation for the last paragraph of § 74.431 from "e" to "1".

2. In the second line of § 74.432(a) insert the word "system" in between the words "station" and "will".

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket 45]

PART 81—RECOMMENDATIONS TO THE PRESIDENT UNDER SECTION 801 OF THE FEDERAL AVIATION ACT OF 1958

Establishment of Part

Section 801 of the Federal Aviation Act of 1958 ("the Act") makes certain decisions of the Civil Aeronautics Board ("Board") concerning overseas or foreign air transportation subject to the approval of the President. By Executive Order 11920 (June 10, 1976, 41 FR 23665), the President established procedures to be followed in the Executive Branch for the purpose of facilitating Presidential review under Section 801 of the Act. Section 5 of that executive order requires "Departments and agencies outside of the executive office of the President which regularly make recommendations to the President in connection with the Presidential review pursuant to section 801 * * *" to establish procedures gov-

erning communications between government employees and persons not employed by the Federal government in connection with the preparation of recommendations to the President on pending section 801 cases. The procedures of the United States Department of Transportation ("DOT") are established herein.

DOT believes that all persons with an interest in a case subject to section 801 review should have an equal opportunity to present their views to DOT and that all comments made by such persons to DOT should be available to the public. For these reasons and to comply with the requirements of Executive Order 11920, § 81.7 of this part establishes a public docket for receipt of all communications between persons not employed by the Federal government and an official or employee of DOT concerning pending Presidential review under section 801 of a Board decision. All such communications are required, whenever possible, to be made in writing. If oral communication is necessary, the communication is required to be summarized and the summary placed in the public docket.

All comments submitted to the Department on matters arising under section 801 will be maintained in one docket which will be divided into subdockets as appropriate. Each subdocket will bear the same number as the Board's docket to which it relates. Normally, public announcement will not be made of the opening of a subdocket on a particular matter. A subdocket will be opened automatically upon receipt under this part of a comment. Comments submitted to the Department should reference OST Docket No. 45, subdocket No. ____ (same number as the Board's docket number).

Since this regulation relates to Departmental procedures, practices, and management, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, subtitle A of title 49 of the Code of Federal Regulations is amended by adding a new Part 81, to read as appears below.

Effective date: This regulation is effective July 29, 1976.

Issued in Washington, D.C., on July 29, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

Sec.
81.1 Purpose.
81.3 Applicability.
81.5 Submission of comments.
81.7 Docket.

AUTHORITY: The provisions of this Part 9 issued under sec. 9, 80 Stat. 944, 49 U.S.C. 1657; EO 11920 (June 10, 1976, 41 FR 23665).

§ 81.1 Purpose.

The purpose of this part is to set forth procedures for the receipt by the Department of Transportation of comments from persons not employed by the Federal government on possible recommendations by the Department to the President on decisions of the Civil Aeronautics Board submitted for the President's approval under section 801 of the Federal Aviation Act of 1958, which relates to overseas and international air transportation.

§ 81.3 Applicability.

(a) This part applies to all communications between persons not employed by the Federal government and officials or employees of the Department of Transportation on matters set forth in § 81.1 of this part.

(b) This part applies, with respect to any particular proceeding before the Civil Aeronautics Board, from the time that the Board's decision has been submitted to the President for consideration until the President has issued a final decision with respect to that proceeding.

§ 81.5 Submission of comments.

(a) All communications with Departmental officials or employees concerning a Presidential decision under section 801 of the Federal Aviation Act shall, whenever possible, be made in writing. Any such communication which is not made in writing shall be summarized by the official or employee of the Department who receives the communication.

(b) All such summaries and written communications except those relating to matters that are specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy are placed in a public docket and available for public inspection and copying, and responsive comment.

§ 81.7 Docket.

(a) All comments submitted under this part shall reference OST Docket No. 45 and, as a subdocket number, the number of the Civil Aeronautics Board docket relating to the proceeding which is the subject of the comment.

(b) The original and four copies of such comments may be mailed to the Docket Clerk, Office of The General Counsel, TGC, Department of Transportation, Washington, D.C. 20590, or delivered to the Docket Clerk in the Office of the Assistant General Counsel for Operations and Legal Counsel, room 10100 Nassif building, 400 Seventh Street, SW, Washington, D.C., 9 am to 5:30 pm local time, Monday through Friday except Federal holidays. Written comments submitted to Department officials other than the Docket Clerk and summaries of oral communications prepared in accordance with § 81.5(a) of this part shall be placed in the appropriate subdocket of OST Docket No. 45.

(c) All comments submitted under this part are available for public inspection and copying, and responsive comment, at the address and times specified in paragraph (b) of this section.

[FR Doc.76-22536 Filed 8-3-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 284]

PART 1038—PERFORMANCE STANDARDS FOR THE TRANSPORTATION OF PERISHABLE COMMODITIES

Investigation Into Need for Defining Reasonable Dispatch (Perishable Commodities)

Present: George M. Stafford, Chairman, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding, and of the petition of Association of American Railroads, filed July 6, 1976, for (A) extension to August 16, 1976, of the date on or before which statements showing cause, if any there may be, why the regulations (49 CFR Part 1038) conditionally adopted in the report and order of April 8, 1976 (351 I.C.C. 812) should not become effective; (B) postponement of the effective date of the regulations; and (C) an opportunity to submit replies to any show cause statement as may be filed herein; and good cause appearing therefor:

It is ordered, That the request in (A) above be, and it is hereby, granted, and the order entered April 8, 1976, be, and it is hereby, modified by extending the due date for such statements to August 16, 1976.

It is further ordered, That the request in (B) above be, and it is hereby, granted, and the date on which the regulations should, in the absence of good cause to the contrary, become effective be, and it is hereby, fixed as October 1, 1976.

It is further ordered, That the request in (C) above be, and it is hereby, denied.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 23d day of July 1976.

By the Commission, Chairman Stafford.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22656 Filed 8-3-76;8:45 am]

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[No. 36299]

UNIFORM SYSTEMS OF ACCOUNTS

Elimination of Self-Insurance Reserves

Certain revised accounting regulations governing all carriers subject to our accounting rules are adopted to be effective January 1, 1976.[1]

REPORT OF THE COMMISSION

In March 1975, the Financial Accounting Standards Board (FASB) issued

[1] Dissenting Statement of Commissioner Murphy filed as part of the original document.

Statement No. 5, "Accounting for Contingencies," establishing standards of financial accounting and reporting for loss contingencies.

The FASB stated that a loss must be both (1) probable, either an asset impaired or liability incurred, and (2) the amount of the loss reasonably estimable before the loss should be accrued by a charge to income. Appropriate disclosures of details of the loss contingency should be made when necessary to prevent misleading financial statements.

The FASB concluded that absence of insurance on fire, explosions, and other similar risks does constitute a contingency, but does not satisfy the conditions necessary for accrual. The loss should only be charged to income upon actual occurrence of the event causing either impairment of an asset or incurrence of a liability. Self-insurance cannot be considered as a basis to accrue a liability since the enterprise cannot assume a contractual obligation with itself for reimbursement in case of possible loss. However, self-carried insurance risks for losses sustained by others, including liability claims and cargo loss and damage claims, must be accrued in the accounts when a loss has occurred which the carrier is aware of or a previous experience enables it to estimate that a loss was incurred and reasonable estimate of the loss can be made.

Many carriers subject to our accounting rules choose not to insure their plant and equipment, either in whole or in part, against possible future losses from fire, theft, explosion, or other contingencies. These carriers are often referred to as "self-insured." In accord with FASB statement No. 5, a loss should only be charged to income when an event occurs causing an impairment to an asset or incurrence of a liability.

We believe the standards set forth in FASB Statement No. 5 will improve financial reporting to the Commission and we have amended the uniform systems of accounts for all modes subject to our regulations in accordance with those standards. These changes clarify the texts of certain accounts as they relate to FASB Statement No. 5, and align our accounting rules with generally accepted accounting principles (GAAP).

The amendments are minor technical changes in the regulations which require no additional recordkeeping and conform to generally accepted accounting principles announced in FASB Statement No. 5. Many companies which prepare financial statements to stockholders have therefore made the reclassification. Therefore, a rulemaking proceeding under sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) is not necessary.

FINDINGS

We find that Parts 1201 through 1210 of Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the appended statement of changes; and that such rules are reasonable and necessary to the effective enforcement of the provisions of Parts I, II, III, and IV of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; that for good cause notice and public procedure are unnecessary under the Administrative Procedure Act, 5 U.S.C. 553 (b) (B); and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

An appropriate order will be entered.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of June 1976.

Consideration having been given to the matters and things involved in this proceeding, and the Commission, on the date hereof, having made and filed a report herein containing its findings and conclusions, which report is hereby made a part hereof:

It is ordered, That Parts 1201 through 1210 of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown below.

It is further ordered, That the prescribed amendments shall be effective January 1, 1976.

And it is further ordered, That service of the order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 and that for good cause notice and public procedure are unnecessary under the Administrative Procedure Act, 5 U.S.C. 553(b) (B).

(49 U.S.C. 12, 20, 304, 913, 1012.)

By the Commission.

ROBERT L. OSWALD,
Secretary.

PART 1201—RAILROAD COMPANIES

Amend Part 1201—Uniform System of Accounts for Railroad Companies as follows:

List of Instructions and Accounts

772 [Deleted]

Railway Operating Expense Accounts. Maintenance of Roadway and Structures

The text of account 275, "Insurance," is revised to read as follows:

275 Insurance.

(a) This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to maintenance of way and structures; also premiums on fidelity bonds of employees whose pay is chargeable to maintenance of way and structures.

(b) This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 333, "Insurance," is revised to read as follows:

333 Insurance.

(a) This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to maintenance of equipment; also premiums on fidelity bonds of employees whose pay is chargeable to maintenance of equipment.

(b) This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risks of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 357, "Insurance," is revised to read as follows:

357 Insurance.

(a) This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to Traffic; also premiums on fidelity bonds of employees whose pay is chargeable to Traffic.

(b) This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risks of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 414, "Insurance," is revised to read as follows:

414 Insurance.

(a) This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier

would be chargeable to rail line transportation; also premiums on fidelity bonds of employees whose pay is chargeable to rail line transportation.

(b) This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 455, "Insurance," is revised to read as follows:

455 Insurance.

(a) This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to general account 450, "General"; also premiums on fidelity bonds of officers and employees whose pay is chargeable to general account 450, "General."

(b) This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

General Balance Sheet Accounts

772 [Deleted]

Account 772, "Insurance Reserves," number, title and text are deleted.

799 [Amended]

Within account 799, "Form of General Balance Sheet Statement," the subaccount 772, "Insurance Reserves," number and title are deleted.

PART 1202—ELECTRIC RAILWAYS

Amend Part 1202—Uniform System of Accounts for Electric Railways as follows:

List of Instructions and Accounts

441 [Deleted]

Line item 441, 'Insurance reserves," is deleted.

Operating Expense Accounts

The text of account 93, "Insurance," is revised to read as follows:

93 Insurance.

This account shall include premiums paid for fire, fidelity, boiler, casualty, burglary, workmen's compensation, and other insurance.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

NOTE A. * * *

In General Balance Sheet, 05 General instructions, within instruction 05-8, "Form of general balance sheet statements," line item 441, "Insurance reserves," is deleted.

General Balance Sheet Accounts

441 [Deleted]

The account 441, "Insurance reserves," number, title and text are deleted.

PART 1203—EXPRESS COMPANIES

Amend Part 1203—Uniform System of Accounts for Express Companies as follows:

Balance Sheet Account Classifications

Line item 241, "Accumulated provision for self-insurance," is revised to read:

241 Estimated liabilities.

General Instructions

Within General Instruction 1-2, "Accounting scope," line item 241, "Accumulated provision for self-insurance," is amended to read:

241 Estimated liabilities.

General Instruction 1-11, "Insurance," is amended to read as follows:

1-11 Insurance.

(a) Secondary operating expense account 12—Insurance, shall be used for recording monthly write-off of amounts of prepaid premiums paid to commercial insurance companies and charges for the purposes of estimating losses sustained by others not covered by commercial insurance and representing liabilities to the carrier. Amounts payable by the carrier in settlement of cargo loss and damage claims not recoverable from insurance companies or others, shall be charged to the appropriate account.

(b) Fire, theft and collision and other insurance costs are to be charged to secondary operating expense account 12—Insurance. Inasmuch as such risks represent losses that may be sustained by the carrier rather than claims against it by others, coverage by commercial insurance is not a mandatory requirement. Losses from fire, theft or collision not covered by commercial insurance shall be charged to the appropriate expense accounts if owned or leased property is repaired, or if retired from service, handled in accordance with carrier property instruction 3-3. However, the carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft or similar loss contingencies.

(c) Accumulated provisions for estimated cargo loss and damage and other loss and damage claims shall be included in account 241-04—Surface cargo loss, and account 241-05—Air cargo loss, as the case may be.

Monthly charges to expense accounts for the purpose of estimating losses shall be determined currently by the carrier from its best source of information and the rates used may be based on percentage of revenue, mileage of vehicles, or other equitable bases.

(d) Amounts payable by the carrier in settlement of cargo and other loss and damage claims, including those paid by the carrier for which it will be reimbursed wholly or in part by insurance companies, connecting carriers or others, shall be charged to either account 241-04—Surface cargo loss, or account 241-05—Air cargo loss, as the case may be. Parts of such claims that are payable by insurance companies or others, less any adjustment for salvage recovered, when their liability is determined, be credited to the accounts previously charged.

* * * * *

Secondary Operating Expense Accounts

The text of account 12, "Insurance," is amended to read as follows:

12 Insurance.

(a) This expense account includes the cost of all insurance and charges for the estimated liability for losses sustained by others not covered by commercial insurance, i.e., cargo loss and damage, personal injury and property damage, etc. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

Balance Sheet Account Classifications

Account 241, "Accumulated provision for self-insurance," is revised to read as follows:

241 Estimated liabilities.

* * * * *

(c) The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft or similar loss contingencies.

299 [Amended]

Within account 299, "Form of balance sheet", line item 241, "Accumulated Provision for Self-Insurance," is revised to read 241, "Estimated Liabilities."

Income Accounts

In the text of account 522, "Line haul transportation," secondary operating expense account 12, "Insurance," is revised to read:

522 Line haul transportation.

* * * * *

12 Insurance

* * * * *

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

In the text of account 523, "Pickup and delivery transportation," secondary operating expense account 12, "Insurance," is revised to read:

523 Pickup and delivery transportation.

* * * * *

12 Insurance

* * * * *

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

In the text of account 524, "Air transportation," secondary operating expense account 12, "Insurance," is revised to read:

524 Air transportation.

* * * * *

12 Insurance

* * * * *

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

In the text of account 525, "Railroad transportation," secondary operating expense account 12, "Insurance," is revised to read:

525 Railroad transportation.

* * * * *

12 Insurance

* * * * *

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

In the text of account 531, "Terminal management," secondary operating expense account 12, "Insurance," is revised to read:

531 Terminal management.

* * * * *

12 Insurance

* * * * *

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

In the text of account 584, "Terminal management—exclusive air," secondary operating expense account 12, "Insurance," is revised to read:

584 Terminal management—exclusive air.

* * * * *

12 Insurance

Net cost (that is, the amounts of premiums less the amounts of dividends or refunds), of commercial insurance to protect the carrier against loss from fire and other perils to structures and improvements. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

* * * * *

PART 1204—PIPELINE COMPANIES

Amend part 1204—uniform system of accounts for pipeline companies as follows:

Operating Expenses—General

Account 560, "Insurance," is revised to read:

560 Insurance.

(a) This account shall include the cost of commercial insurance to protect the carrier against losses and damages in its pipeline operations such as injuries to or deaths of employees and other persons, damages to or destruction of carrier property or the property of others, and other business risks and hazards pertaining to transportation operations.

(b) The carrier shall not accrue amounts for the purpose of estimating risk of loss or damage to its property from fire, theft, or similar loss contingencies not covered by commercial insurance.

NOTE. * * *

PART 1205—REFRIGERATOR CAR LINES

Amend Part 1205—Uniform System of Accounts for refrigerator car lines as follows:

List of Instructions and Accounts

772 [Deleted]

Line item 772, "Insurance reserves," is deleted.

Operating Expense Accounts Texts

The text of account 222, "Insurance," is revised to read:

222 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to car service; also premiums on fidelity bonds of employees whose pay is chargeable to car service.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 257, "Insurance," is revised to read:

257 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to icing operations; also premiums on fidelity bonds of employees whose pay is chargeable to icing operations.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 286, "Insurance," is revised to read:

286 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to icing service operations; also premiums on fidelity bonds of employees whose pay is chargeable to such service.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss of damage to its property from fire, theft, or similar loss contingencies.

The text of account 308, "Insurance," is revised to read:

308 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to mechanical protective service maintenance and operations; also premiums on fidelity bonds of employees whose pay is chargeable to such service.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

The text of account 372, "Insurance," is revised to read:

372 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to heater service; also premiums on fidelity bonds of employees whose pay is chargeable to heater service.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss of damage of its property from fire, theft, or similar loss contingencies.

The text of account 460, "Insurance," is revised to read:

460 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to general expenses; also premiums on fidelity bonds of em-

ployees whose pay is chargeable to general expenses.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

General Balance Sheet Accounts

772 [Deleted]

The number, title, and text of account 772, "Insurance reserves," are deleted.

799 [Amended]

Within account 799, "Form of general balance sheet statement," line item 772, "Insurance reserves," is deleted.

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Amend Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers as follows:

List of Instructions and Accounts

2660 [Deleted]

Line item 2660, "Insurance reserves," is deleted.

Line item 4546, "Workmen's compensation—Self insurer," is amended to read:

4546 Workmen's compensation—Provision for claims.

Instructions

Instruction 2-27, "Insurance," is revised to read as follows:

2-27 Insurance.

(a) * * *

(b) Carriers authorized by the Commission to accrue charges for the purpose of estimating losses sustained by others not covered by commercial insurance and representing liabilities to the carrier, such as bodily injury and property damage insurance and cargo loss and damage insurance, shall record periodic charges to the appropriate expense accounts in amounts sufficient to cover estimated losses based on the carrier's experience.

(c) The following accounts have been provided under Operation and Maintenance Expenses for the purpose of estimating amounts sufficient to settle claims by others for the classes of risks cited above which are not covered by commercial insurance:

4530 Injuries and Damages.
4546 Workmen's Compensation—Provision for Claims.
4560 Baggage and Express Loss and Damage.
4570 Fire and Theft Insurance.
4580 Other Insurance.

Accruals for estimated claims from injuries and damages, workmen's compensation and baggage and express loss and damage shall be included in account 2680, Injuries, Loss and Damage Reserves. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Periodic charges to expense accounts for the purpose of creating accruals for the estimated liability for losses sustained by others not covered by outside insurance shall be determined currently by the carrier from its best source of information and the rates used may be based on percentage of revenue, mileage of busses, amount of payrolls or other equitable basis.

Balance Sheet Accounts

2660 [Deleted]

The number, title and text of account 2660, "Insurance reserves," are deleted.

Account 2680, "Injuries, loss and damage reserves," is amended to read:

2680 Injuries, loss and damage reserves.

(a) This account shall be credited with amounts charged to accounts 4530, Injuries and damages, 4546, Workmen's Compensation—Provision for Claims. Baggage and Express * * *

* * * * *

2999 [Amended]

Within account 2999, "Form for balance sheet statement," line item 2660, "Insurance Reserves," is deleted.

Operation and Maintenance Expenses

4520 [Amended]

Account 4520, "Public liability and property damage insurance," is amended by striking the words "self-insurance" in Note B and inserting the words "estimated accruals for claims" in their place.

Account 4530, "Injuries and damages," is revised to read as follows:

4530 Injuries and damages.

This account shall be charged each period with amounts estimated to settle claims by others for injuries to persons (other than employees—see account 4546, Workmen's Compensation—Provision for Claims) or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, which are not covered by commercial insurance and which are not provided for elsewhere. (See Instruction 27.) The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

This account shall also be charged with amounts payable in settlement of claims for injuries to persons and damage to property of others which are not recoverable from insurance companies or for which estimates have not been provided.

NOTE. * * *

4541 [Amended]

Account 4541, "Workmen's Compensation—Insurance," is revised by changing the reference to account 4546, "Workmen's Compensation—Self Insurer," in the Note to read 4546, "Workmen's Compensation—Provision for Claims."

Account 4546, "Workmen's compensation—Self insurer," is revised to read:

4546 Workmen's compensation—Provision for claims.

This account shall be charged each period with amounts estimated to settle claims by others for injuries to and death of employees arising under the workmen's compensation acts. (See Instruction 27.) This account shall also be charged with amounts payable in settlement of claims which are not recoverable from insurance companies or for which estimates have not been provided.

NOTE. * * *

Account 4550, "Baggage and express insurance," is revised to read:

4550 Baggage and express insurance.

This account shall include premiums payable to outside insurance companies to indemnify the carrier against costs and expenses incurred through loss of and damage to express matter and baggage entrusted to the carrier for transportation or storage. (See Instruction 27.)

NOTE.—Amounts payable in settlement of claims for loss of or damage to property entrusted to the carrier for transportation or storage which are not recoverable from insurance companies and for which the carrier has not provided estimates shall be included in account 4560, Baggage and Express Loss and Damage.

Account 4560, "Baggage and express loss and damage," is revised to read:

4560 Baggage and express loss and damage.

This account shall be charged each period with amounts estimated to settle claims by others for loss, damage, destruction or delay to express matter, baggage, parcels, etc., entrusted to the carrier for transportation or storage. (See Instruction 27.) The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies. This account shall also be charged with amounts payable in settlement of claims which are not recoverable from insurance companies or for which estimates have not been provided.

NOTE. * * *

Account 4570, "Fire and theft insurance," is revised to read as follows:

4570 Fire and theft insurance.

(a) * * *

(b) This account shall be charged with losses arising under the classes of risks enumerated in paragraph (a) which are not recoverable from insurance companies. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Account 4580, "Other insurance," is revised to read as follows:

4580 Other insurance.

(a) * * *

(b) This account shall be charged with losses arising under the classes of risks

enumerated in paragraph (a) of this section, which are not recoverable from insurance companies. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

NOTE. * * *

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Amend Part 1207—Uniform System of Accounts for Class I and II Common and Contract Motor Carriers of Property as follows:

Class I and Class II Motor Carriers Instructions

Instruction 21, "Retirement of property," is revised by amending paragraph (a) (1) (ii) to read:

21 Retirement of property.

(a) * * *

(1) * * *

(ii) The clearing account shall be credited with the value of salvage recovered in the case of property dismantled; the amount received from the sale or trade-in of the retired property; or with the amount of insurance recovered; and with the amount of depreciation accumulated to date of retirement with a concurrent charge to the appropriate accumulated depreciation and amortization account.

* * * * *

Instruction 22, "Insurance," is revised to read as follows:

22 Insurance.

(a) The following accounts shall include premiums payable by Instruction 27 and 28A carriers to commercial insurance companies for risks covering claims against others:

4430 Workmen's Compensation (classes I and II).
4810 Public Liability and Property Damage Insurance (classes I and II).
4820 Cargo Loss and Damage Insurance (classes I and II).

Instruction 28B carriers shall include such premiums in the following accounts:

5030 Workmen's Compensation.
8620 Public Liability and Property Damage—Premiums Paid.
8610 Cargo Loss and Damage Insurance—Premiums Paid.

The accounts indicated above for instruction 27 and 28A carriers shall also include any related estimates to settle claims by others against loss through injuries to persons or damage to or destruction or loss of property whether caused by fire, accident, or other cause and which are not covered by commercial insurance. Instruction 28B carriers shall use the following accounts for such estimates:

5030 Workmen's Compensation.
8720 Provision for Claims—Public Liability and Property Damage.
8710 Provision for Claims—Cargo Loss and Damage.

Amounts payable or paid by the carrier in settlement of claims for risks set out in the above accounts, not recoverable from insurance companies or others, shall be charged to the appropriate estimated liability account.

(b) The following accounts shall include premiums payable by instruction 27 and 28A carriers to commercial insurance companies for risks covering losses of owned property.

4830 Fire, Theft, and Collision Insurance (classes I and II).
4840 Insurance on Buildings and Structures (classes I and II).
4890 Other Insurance (classes I and II).

Instruction 28B carriers shall include such premiums in the following accounts:

8640 Fire, Theft, and Collision Insurance—Premiums Paid.
8660 Insurance on Buildings and Structures.
8690 Other Insurance Expense.

Inasmuch as such risks represent losses that may be sustained by the carrier rather than claims against it by others, coverage by commercial insurance is not a mandatory requirement. Losses from fire, theft or collision not covered by commercial insurance shall be charged to the appropriate expense accounts if owned or leased property is repaired. (see paragraph (f) of this section.) If the property is removed from service, retirement accounting shall be performed as provided in instruction 21. However, the carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or other similar loss contingencies.

Estimates to settle claims by others for injuries or damages, and workmen's compensation, shall be credited to Account 2172—Personal Injuries, Property Damage Claims, and Workmen's Compensation Claims (estimated liabilities; accrued) (class I).

Estimates to settle claims by others for cargo loss and damage shall be credited to Account 2173—Cargo Loss and Damage Claims (estimated liabilities; accrued) (class I). All other estimated liabilities not included in any of the preceding accounts, shall be recorded in Account 2175—Other Estimated Liabilities (estimated liabilities; accrued) (class I), with concurrent charges to the appropriate expense account. Class II carriers shall credit Account 2130—Other Current and Accrued Liabilities, for any liability created for claims by others.

Periodic charges to expense accounts for the purpose of estimating liability shall be determined currently by the carrier from its best source of information, and the rates used may be based on percentage of revenue, mileage of vehicles, amounts of payrolls, or other equitable bases. A schedule of the risks covered by each estimated liability shall be maintained, giving a description of the property involved, the character of the risks covered, and the rates used.

* * * * *

28 [Amended]

Instruction 28, "Distribution of expenses to activities: Other than Instruction 27 carriers," Section B, "Carriers of household goods," is amended by (1) revising line item "8720—Provision for Claims—Self-Insured Portion—Public Liability and Property Damage," to read "8720—Provision for Claims—Public Liability and Property Damage," and (2) deleting line item "8740—Provision for Claims — Self-Insured Portion — Fire, Theft, and Collision."

Class I and Class II Motor Carriers, Chart of Accounts

2171 [Deleted]

Under the column entitled "Class I Accounts," line item 2171, "Self-Insurance," is deleted.

Class I and Class II Motor Carriers Balance Sheet Account Explanations

The text of account 1451, "Special Funds (classes I and II)," paragraph (e), is revised to read:

1451 Special Funds (classes I and II).

* * * * *

(e) This account shall also include amounts set aside to settle claims by others estimated in accounts 2172 through 2175 which are not covered by commercial insurance.

* * * * *

Account 4890, "Other Insurance," is amended by revising the second paragraph to read:

4890 Other Insurance.

This account group includes * * *

This account group shall also be charged, and Account 2130—Other Current and Accrued Liabilities (class II) or Account 2175—Other Estimated Liabilities (estimated liabilities; accrued) (class I) shall be credited with the estimated liability for losses sustained by others, and related legal fees, which are not covered by commercial insurance for the classes of risks set out above.

The amounts in * * *

* * * * *

CLASSIFICATION OF REVENUES AND EXPENSES FOR CLASS I AND CLASS II CARRIERS OF HOUSEHOLD GOODS (INSTRUCTION 28B CARRIERS).—Class I and Class II carriers of household goods—Chart of Accounts—Matrix of operating revenues and expenses.

Line item 870, "Provision for claims—self-insured portion," is revised to read:

870 Provision for claims.

Control account 8740, "Provision for claims — Self-insured portion — Fire, Theft, and Collision," and line item numbers 8741, 8742, 8743, 8746, 8747, and 8749 are deleted.

Class I and Class II Carriers of Household Goods. Account Explanations—Operating Expenses

Account 8660, "Insurance on Buildings and Structures," is revised by deleting the entire second paragraph and adding a Note A to read:

8660 Insurance on Buildings and Structures.

* * * * *

NOTE A: The carrier shall not accrue amounts to cover risk of loss or damage to

its property from fire, theft, or similar loss contingencies.

* * * * *

Account 8690, "Other Insurance Expense," is revised to read:

8690 Other Insurance Expense.

This account includes * * *

This account group shall also be charged and Account 2130—Other Current and Accrued Liabilities (class II) or Account 2175—Other Estimated Liabilities (Estimated Liabilities; Accrued) (class I) shall be credited with the estimated liability for losses sustained by others and related legal fees which are not covered by commercial insurance.

ITEMS (SEE INSTRUCTION 6)

* * * * *

Account 8700, "Provision for Claims—Self-Insured Portion," is revised to read:

8700 Provision for claims.

This account may be used as a control account for all accounts in the 8700 series. Class II carriers shall include in this account group the expenses includable in accounts 8710 and 8720.

Such expenses shall be distributed to the following accounts in accordance with instruction 28B:

Account 2171—"Self-Insurance (estimated liabilities; accrued) (class I)," number, title and text are deleted.

Account 2511—"Estimated Liabilities (classes I and II)" is revised to read:

2511 Estimated Liabilities (classes I and II).

This account shall include the noncurrent portion of the amounts included in accounts 2172, 2173, 2174, and 2175.

CLASS I AND II MOTOR CARRIERS—OPERATING EXPENSE ACCOUNT EXPLANATIONS—Instruction 27 and 28A Carriers.

In the text of account 4810, "Public Liability and Property Damage Insurance," the second paragraph is revised to read:

4810 Public Liability and Property Damage Insurance.

* * * * *

This account group shall also be charged, and Account 2130—Other Current and Accrued Liabilities (class II), or Account 2172—Personal Injuries Property Damage Claims and Workmen's Compensation Claims (estimated liabilities; accrued) (class I) shall be credited with the estimated liability for claims and related legal fees not covered by commercial insurance, for the classes of risks set out above.

The total of * * *

* * * * *

In the text of account 4820, "Cargo Loss and Damage Insurance," the second paragraph is revised to read:

4820 Cargo Loss and Damage Insurance.

* * * * *

This account group shall also be charged, and Account 2130—Other Current and Accrued Liabilities (class II), or Account 2173—Cargo Loss and Damage Claims (estimated liabilities; accrued) (class I) shall be credited with the estimated liability and related legal fees, which are not covered by commercial insurance for the classes of risks set out above.

The total of * * *

* * * * *

Account 4830, "Fire, Theft, and Collision Insurance," is amended by deleting the entire second paragraph in the account text and by adding Note D to read:

4830 Fire, Theft, and Collision Insurance.

* * * * *

NOTE D: The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Account 4840, "Insurance on Buildings and Structures," is amended by deleting the entire second paragraph in the account text and by adding Note B to read:

4840 Insurance on Buildings and Structures.

* * * * *

NOTE B: The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Class I and Class II Motor Carriers Conversion Tables

TABLE I-A—CLASS I MOTOR CARRIERS BALANCE SHEET ACCOUNT NUMBERS CONVERSION TABLE

Under the column entitled "System of accounts effective January 1, 1974":

Line item 2171, "Self Insurance (Estimated Liabilities; Accrued)," is deleted.

TABLE III—CLASS I HOUSEHOLD GOODS CARRIERS—REVENUE AND EXPENSE ACCOUNT NUMBERS CONVERSION TABLES

Under the column entitled "System of accounts effective January 1, 1974":

Line item 8721, "Provision for claims—self-insured portion—public liability and property damage—interstate moving," is revised to read:

8721 Provision for claims—public liability and property damage—interstate moving.

Line item 8722, "Provision for claims—self-insured portion—public liability and property damage—intrastate moving," is revised to read:

8722 Provision for claims—public liability and property damage—intrastate moving.

Line item 8723, "Provision for claims—self-insured portion—public liability and property damage—local moving," is revised to read:

8723 Provision for claims—public liability and property damage—local moving.

Line item 8724, "Provision for claims—self-insured portion—public liability and property damage—indirect operating—carrier only," is revised to read:

8724 Provision for claims—public liability and property damage—indirect operating—carrier only.

Line item 8711, "Provision for claims—self-insured portion—cargo loss and damage—interstate moving," is revised to read:

8711 Provision for claims—cargo loss and damage—interstate moving.

Line item 8712, "Provision for claims—self-insured portion—cargo loss and damage—intrastate moving," is revised to read:

8712 Provision for claims—cargo loss and damage—intrastate moving.

Line item 8713, "Provision for claims—self-insured portion—cargo loss and damage," is revised to read:

8713 Provision for claims—cargo loss and damage.

Line items 8741, "Provisions for claims—self-insured portion—fire, theft, and collision—interstate moving," 8742, "Provision for claims—self-insured portion—fire, theft, and collision—interstate moving," and 8743, "Provision for claims—self-insured portion—fire, theft, and collision—local moving," number, title and text are deleted.

TABLE III—CLASS I HOUSEHOLD GOODS CARRIERS—APPENDIX A—CONVERSION OF NONCARRIER EXPENSES

Line items 874-8746, 8747, 8749, "Claims for loss and damage—public liability and property damage," are deleted.

8701 Provision for claims—interstate moving.
8702 Provision for claims—intrastate moving.
8703 Provision for claims—local moving.
8704 Provision for claims—indirect operating—carrier only.
8706 Provision for claims—packing and crating.
8707 Provision for claims—warehousing.
8708 Provision for claims—overseas import and export.
8709 Provision for claims—indirect operating—noncarrier.

Account 8710, "Provision for Claims—Self-Insured Portion—Cargo Loss and Damage," is revised to read:

8710 Provision for Claims—Cargo Loss and Damage.

This account shall be charged, and account 2130—Other Current and Accrued Liabilities (class II) or Account 2173—Cargo Loss and Damage Claims (Estimated Liabilities; Accrued) (class I) shall be credited with the estimated liability and related legal fees, which are not covered by commercial insurance for the classes of risks set out in Account 8610. This includes for example, company protection against liability for claims resulting from loss or damage to, or delay of property entrusted to it for transportation or storage. The total of such amounts shall be distributed to the following activities in accordance with instruction 28B:

8711 Provision for claims—cargo loss and damage—interstate moving.
8712 Provisions for claims—cargo loss and damage—intrastate moving.
8713 Provision for claims—cargo loss and damage—local moving.
8716 Provision for claims—cargo loss and damage—packing and crating.

8717 Provision for claims—cargo loss and damage—warehousing.
8718 Provision for claims—cargo loss and damage—overseas import and export.
8719 Provision for claims—cargo loss and damage—indirect operating—noncarrier.

NOTE A.—Class II carriers shall use account 8700 to record provisions for cargo loss and damage claims.

NOTE B.— * * *

Accounts 8720, "Provision for Claims—Self-Insured Portion—Public Liability and Property Damage," is revised to read:

8720 Provision for Claims—Public Liability and Property Damage.

This account shall be charged, and account 2130—Other Current and Accrued Liabilities (class II) or Account 2172—Personal Injuries Property Damage Claims and Workmen's Compensation Claims (Estimated Liabilities; Accrued) (class I) shall be credited with the estimated liability and related legal fees, not covered by commercial insurance for the classes of risks set out in account 8620. This includes, for example, company protection against liability for deaths of or injuries to persons (other than company employees) and damages to the property) of others (except entrusted to the company for transportation or storage), resulting from the operation of owned or leased vehicles. The total of such amounts shall be distributed to the following activities in accordance with instruction 28B:

8721 Provision for claims—public liability and property damage—interstate moving.
8722 Provision of claims—public liability and property damage—intrastate moving.
8723 Provision for claims—public liability and property damage—local moving.
8724 Provision for claims—public liability and property damage—indirect operating—carrier only.
8726 Provision for claims—public liability and property damage—packing and crating.
8729 Provision for claims—public liability and property damage—indirect operating—noncarrier.

Account 8740, "Provision for Claims—Self-Insured Portion—Fire, Theft, and Collision," number, title and text are deleted.

TABLE IV—CLASS II HOUSEHOLD GOODS CARRIERS—REVENUE AND EXPENSE ACCOUNT NUMBER CONVERSION TABLE

Under the column entitled "System of accounts effective January 1, 1974":

Line items 8701, "Provision for claims—self-insured portion—interstate moving," are revised to read:

8701 Provision for claims—interstate moving.

Line items 8702, "Provisions for claims—self-insured portion—intrastate moving," are revised to read:

8702 Provision for claims—intrastate moving.

Line items 8703, "Provisions for claims—self-insured portion—local moving," are revised to read:

8703 Provision for claims—local moving.

TABLE IV—CLASS II HOUSEHOLD GOODS CARRIERS—APPENDIX A—CONVERSION OF NONCARRIER OPERATING EXPENSES

Line item 870, "Provision for claims—self-insured portion," is revised to read:

870 Provision for claims.

PART 1208—MARITIME CARRIERS

Amend Part 1208—Uniform System of Accounts for Maritime Carriers as follows:

Balance Sheet Accounts

Account 570, "Estimated allowances for insurance," is amended by revising paragraph (b) to read:

570 Estimated allowances for insurance.

(a) * * *

(b) This account shall also include amounts estimated to settle claims by others, such as workmen's compensation and public liability insurance, which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies. At the end of each accounting year, any balance in this account applicable to voyages terminated during the preceding accounting year, in those instances where the records indicate that all claims have been settled, shall be transferred to the appropriate insurance expense account.

* * * * *

Operating Expenses

Account 730, "Insurance-hull and machinery," is revised to read:

730 Insurance-hull and machinery.

This account shall include premiums for hull and machinery insurance.

The carrier shall not accurue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Account 732, "Insurance-protection and indemnity," is revised to read:

732 Insurance-protection and indemnity.

This account shall include premiums for protection and indemnity insurance, such as personal injury claims, illness claims, cargo claims and Second Seaman's insurance.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accure amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

Amend Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers as follows:

General Instructions

General instruction 5, "Insurance," paragraph (b), is revised to read:

5 Insurance.

* * * * *

(b) The following provisions apply if the carrier does not have commercial insurance coverage:

(1) * * *

(2) Accruals for estimated losses shall not be made for insurance expense for fire and other casualty loss contingencies sustained by the enterprise. Only provisions for claims by others and representing liabilities to the carrier, such as bodily injury and property damage and cargo loss and damage may be estimated for herein.

(3) Schedules of risks covered by the reserve shall be maintained giving a description of the property or the character of risks covered.

* * * * *

Balance Sheet Accounts

Account 166, "Claims pending," is revised to read:

166 Claims pending.

This account shall include claims in litigation and insurance claims in process of compilation or adjustment. After adjustment of claims, this account shall be cleared and the amounts receivable included in account 108, "Claims receivable."

Account 221, "Insurance reserves," is revised to read:

221 Insurance reserves.

(a) This account shall include amounts estimated to settle claims by others which are not covered by commercial insurance and which are not provided for elsewhere. Amounts shall be charged for each voyage or period to the appropriate expense account and the corresponding credit included in this account. When the amount of deductible losses chargeable against each voyage or period is determined, it shall be cleared from account 166, "Claims pending," by a charge to this account.

The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

(b) This account shall also be used for equalization of other insurance risks, such as estimated workmen's compensation, public liability insurance, and loss and damage claims. This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

NOTE A.—The records supporting the entries in this account shall be kept to show separately the transactions with respect to cargo, and liability insurance estimates, and each class of other insurance risks for which reserves have been created.

NOTE B: * * *

Operating Expenses

Account 473, "Hull insurance and damage," is revised to read:

473 Hull insurance and damage.

This account shall include the cost of insurance to protect the carrier against loss or damage sustained in the operation of floating equipment in line service or terminal service due to marine accidents, perils of the sea, fire and other losses covered by usual hull insurance policies.

This account also shall include the cost of repairs to floating equipment arising from such causes borne by the carrier under the deductible provisions of insurance policies or otherwise not collectible from underwriters or others. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Account 477, "Other insurance," is revised to read:

477 Other insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss or property, whether caused by fire, accident, or other cause, when not provided elsewhere, such as fire, theft, collision, public liability and property damage insurance on motor vehicles; fire insurance on structures, machinery, and equipment, and burglary, fidelity, and holdup insurance. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

PART 1210—FREIGHT FORWARDERS

General Balance Sheet Accounts

Amend Part 1210—Uniform System of Accounts for Freight Forwarders as follows:

Account 220, "Insurance reserves," is revised to read:

220 Insurance reserves.

(a) This account shall include amounts estimated to settle claims by others for fire, fidelity, casualty, burglary, and other insurance which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

(b) This account shall also be used for equalization of other insurance risks, such as estimated workmen's compensation, and public liability insurance.

NOTE.—* * *

Account 220, "Other reserves," is amended by adding the following Note:

222 Other reserves.

* * * * *

NOTE.—The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

Account 617, "Insurance," is revised to read:

617 Insurance.

This account shall include premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause; also premiums on fidelity bonds of employee.

This account shall also include amounts estimated to settle claims by others for the classes of risks cited above which are not covered by commercial insurance and which are not provided for elsewhere. The carrier shall not accrue amounts to cover risk of loss or damage to its property from fire, theft, or similar loss contingencies.

NOTE.—Amounts charged to this account for estimated risk shall be credited to account 220, "Insurance reserves."

[FR Doc.76-22657 Filed 8-3-76;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 28—PUBLIC ACCESS, USE AND RECREATION

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 28.25 Special regulations.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Portable icehouses and other structures expressly used for ice fishing are permitted within the Charles M. Russell National Wildlife Range only from December 1 through March 31 of the following year. These structures must be removed from the Wildlife Range entirely by March 31 each year. In addition, each structure must be labeled with the owner's name and permanent address in a prominent location on an outside sidewall.

Violations of this regulation will be treated under the provisions of §§ 26.18 and 26.22 of Title 50 of the Code of Federal Regulations dealing with unauthorized private structures and abandoned property. Penalties described in Part 27 will be applicable.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through August 31, 1977.

Dated: July 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22524 Filed 8-3-76;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 28.25 Special regulations.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Camping on the Charles M. Russell National Wildlife Range is permitted year-round. All forms of camping are limited to 14 days within any 30 day period, except in state parks where state regulations apply. These special regulation areas are delineated on maps available at refuge headquarters, Lewistown, MT, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT 59102.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through August 31, 1977.

Dated: JULY 26, 1976.

LARRY L. CALVERT,
Refuge Manager.

[FR Doc.76-22525 Filed 8-3-76;8:45 am]

PART 32—HUNTING

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Migratory game birds may be hunted on the Charles M. Russell National Wildlife Range in accordance with all applicable state regulations. These hunting areas comprising approximately 700,000 acres are delineated on maps available at refuge headquarters, Lewistown, Montana, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT 59102.

The provisions of this special regulation supplement the regulations which govern migratory game bird hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Reg-

ulations, Part 32, and are effective through August 31, 1977.

Dated: July 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22520 Filed 8-3-76;8:45 am]

PART 32—HUNTING

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 32.22 Special regulations; upland game birds, for individual wildlife refuge areas.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Sage grouse, sharp-tailed grouse, ring-necked pheasants, and gray partridge may be hunted on the Charles M. Russell National Wildlife Range in accordance with all applicable state regulations. These hunting areas comprising approximately 700,000 acres are delineated on maps available at refuge headquarters, Lewistown, MT, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT 59102.

The provisions of this special regulation supplement the regulations which govern upland game bird hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through August 31, 1977.

Dated: July 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22521 Filed 8-3-76;8:45 am]

PART 32—HUNTING

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 32.22 Special regulations; upland game birds, for individual wildlife refuge areas.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Hunting of Merriam's turkey is permitted in two areas of the Charles M. Russell National Wildlife Range in accordance with all applicable State regulations. The only areas open to turkey hunting are that portion of Garfield County, Montana, inside the Charles M. Russell National Wildlife Range, lying west of Hell Creek State Park and that portion of Fergus County, Montana, inside the Charles M. Russell National Wildlife Range. The spring turkey hunt is limited to males (gobblers).

These hunting areas comprising approximately 160,000 acres, are delineated on maps available at refuge headquarters, Lewistown, MT, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT 59102.

The provisions of this special regulation supplement the regulations which govern upland game bird hunting on wildlife refuge areas generally which are set for'h in Title 50, Code of Federal Regulations, Part 32, and are effective through August 31, 1977.

Dated: July 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22522 Filed 8-3-76;8:45 am]

PART 32—HUNTING

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Antlered elk, antlered mule deer, and either sex white-tailed deer may be hunted with firearms on the Charles M. Russell National Wildlife Range in accordance with all applicable state regulations. In addition, either sex elk, mule deer, and white-tailed deer archery hunting is permitted from September 19, 1976 to October 10, 1976. These hunting areas comprising approximately 950,000 acres are delineated on maps available at refuge headquarters, Lewistown, MT, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT 59102.

The provisions of this special regulation supplement the regulations which govern big game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through August 31, 1977.

Dated: July 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22523 Filed 8-3-76;8:45 am]

PART 33—SPORT FISHING

Charles M. Russell National Wildlife Range, Montana

The following special regulation is issued and is effective on August 4, 1976.

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

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Sport fishing by rod, reel, pole and set lines on the Charles M. Russell National Wildlife Range, Montana, is permitted year-round on all waters of the Missouri and Musselshell Rivers and the Fort Peck Reservoir. These fishing areas, comprising approximately 250,000 acres, are delineated on maps available at refuge headquarters in Lewistown, Montana, and from the area office headquarters, U.S. Fish and Wildlife Service, 711 Central Avenue, Billings, MT. 59102. Sport fishing shall be in accordance with all applicable State regulations.

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

Dated: JULY 26, 1976.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

[FR Doc.76-22526 Filed 8-3-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TUNA FISHERIES

PART 285—ATLANTIC TUNA FISHERIES

Atlantic Bluefin Tuna Regulatory Area Extension

On July 8, 1976, the Director, National Marine Fisheries Service, announced in § 285.9 of Title 50 CFR (41 FR 27953) that certain States had waived their right to a hearing upon a determination by the Director that those States had not enacted laws or promulgated regulations for the conservation of Atlantic bluefin tuna, and that as a consequence, the regulatory area for the conservation and management of bluefin tuna was extended under the authority of Section 9 (d) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971) into the territorial sea of the United States adjacent to those States. 50 CFR 285.9 was amended on July 20, 1976 (41 FR 29820) following a similar determination with respect to, and waivers by, additional States.

The Director has determined that neither the Virgin Islands nor Puerto Rico has enacted laws or promulgated regulations for the conservation and management of bluefin tuna. Therefore, § 285.9 of Title 50 CFR is further amended to extend the regulatory area to include the territorial sea adjacent to the Virgin Islands and Puerto Rico.

The Director further finds and determines that while the State of Maine has enacted laws and/or promulgated regulations for the conservation and manage-

ment of Atlantic bluefin tuna, that those laws and/or regulations are less restrictive than Federal laws or regulations, and that certain portions of the Federal regulations as set out below will, therefore, become effective in the territorial sea adjacent to the State of Maine. Accordingly, § 285.9 is hereby amended to read as follows:

§ 285.9 Extensions of regulatory area into territorial seas.

Pursuant to section 9(d) of the Atlantic Tunas Convention Act (16 U.S.C. 971) and § 285.8 of this Title 50 CFR, the Director has determined that the territorial sea of the United States adjacent to the States of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire and Puerto Rico and Virgin Islands are included in the regulatory area for Atlantic bluefin tuna. The Director further finds that the following provisions of Title 50 CFR as amended, shall be effective in the territorial waters of the United States adjacent to the State of Maine: Sections 285.1 through 285.11, inclusive, § 285.12, except paragraph (a) and paragraph (b)(2) § 285.13, except paragraph (a), and §§ 285.14 through 285.17, inclusive.

Effective: 0001 hours, August 4, 1976.

Issued at Washington, D.C. and dated July 30, 1976.

JACK W GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22597 Filed 8-3-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 210]

FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Proposed Collection Procedures

On October 9, 1975, there was published in the FEDERAL REGISTER (40 FR 47492) an amendment to Title 31 of the Code of Federal Regulations, adding a new Part 210 entitled "Federal Recurring Payments Through Financial Organizations By Means Other Than By Check." Notice is hereby given that the Department of the Treasury proposes to amend § 210.7 (e), add a new § 210.10 to that part, and renumber the present § 210.10 to § 210.11.

Section 210.7(e) now provides that a financial organization shall credit the account indicated by the depositor account number in the credit payment, whether or not it is the proper account, so long as the account indicated is an existing account. In most cases the crediting process in the financial organization will be automated, and an incorrect depositor account number would not come immediately to the financial organization's attention unless the depositor account number in the credit payment did not correspond to any existing account with the financial organization. If the depositor account number information included in the credit payment does not correspond to an existing account with the financial organization, the financial organization has two options. It can either return the credit payment, or, based on other payment information in the credit payment, credit the proper account. However, in the latter case, if the wrong account is credited, the financial organization will be liable for any loss sustained. Inquiries have indicated that some financial organizations, detecting an erroneous account number in a credit payment which corresponds to an existing account, are uncertain of appropriate action when these errors are discovered, pointing out that § 210.7(e) apparently requires that the incorrect account be credited. The proposed § 210.7(e) would clarify this point, by recognizing that some financial organizations will detect these errors (credit payments directed to an incorrect but existing account), and that when such an error is detected, the financial organization can either return the payment to the Federal Reserve Bank, or, at its own risk, attempt to credit the proper account from other information in the credit payment.

The proposed § 210.10 is new, and prescribes the procedure for collection of amounts for which a financial organization is accountable under § 210.9(a). That subsection provides that financial organizations are accountable for the total amount of credit payments received for an account after the death or legal incapacity of the recipient, or death of the beneficiary. The financial organization can, however, limit its liability to a lesser amount (equal to the amount in the account plus the amount recovered by the financial organization and the amount equal to credit payments received within 45 days subsequent to the date of death or legal incapacity) if the three conditions in § 210.9(a) (1), (2), and (3) are satisfied. The collection procedure of the new § 210.10 will begin with a first notice to the financial organization demanding the immediate return to the Department of the Treasury of monies in the account up to the amount received after the event of death or legal incapacity, and, if the amount returned is less than the amount of accountability, the name and address of any person who withdrew monies from the account after the event of death or legal incapacity. If the financial organization has not complied with the first notice within 30 days from the date of the notice, a follow-up notice will be sent to the financial organization. If it does not comply with the follow-up notice within 15 days from the date of the notice, the financial organization will be sent a second notice demanding return of the total amount of unreturned credit payments received after the event of death or legal incapacity. The financial organization can comply with the second notice by returning the full amount demanded, or a lesser amount, if the conditions in § 210.9(a) (1), (2) and (3) are satisfied and the financial organization furnishes evidence to this effect.

If the financial organization complies with the first notice within the prescribed period, the program agency will attempt to collect any additional money due, and this attempt will include setting off this amount against any money due the person(s) who withdrew money from the account. If the program agency is unable to collect the remaining amount due, a second notice will be sent to the financial organization demanding the outstanding amount. The financial organization can comply with this demand by returning the total outstanding amount, or a lesser amount equal to the amount of credit payments received within 45 days subsequent to the event of death or legal incapacity and the amount, if any, which the financial organization recovered pursuant to § 210.9(a)(3). If the amount returned is less than the remaining amount due, the financial organization shall provide a statement to the effect that it has met the conditions of § 210.9(a)(2) and (3).

If the amount required by the second notice is not returned within thirty days from the date of the second notice, the Treasury will instruct the Federal Reserve Bank to debit the account being maintained or utilized at the Federal Reserve Bank by the financial organization for receipt of credit payments, and to credit the amount to the account of the United States. The proposed subsection provides that the financial organization or its designated correspondent, by its action in handling credit payments or in authorizing its Federal Reserve account to be utilized for the handling of credit payments, is deemed to authorize the Federal Reserve Bank to effect such debits.

Interested persons are invited to submit comments on the proposed amendments in writing to the Fiscal Assistant Secretary of the Treasury, Department of the Treasury, Washington, D.C. 20220, for a period ending September 3, 1976. Copies of comments received will be available for public inspection and copying upon request in accordance with the Treasury's rules regarding Access to Records (31 CFR Part 1, Subpart A).

1. The proposed amended § 210.7(e) would read as follows:

§ 210.7 Financial organization.

* * * * *

(a) A financial organization receiving credit payment shall credit the amount a credit payment shall credit the amount of such credit payment to the account in-information specified in the credit payment. If the financial organization is unable to credit the amount of a credit payment to the account indicated by the depositor account number information in the credit payment because such an account does not exist on its books, or because in processing the cerdit payment it has reason to believe that the account indicated by the depositor account number information in the credit payment is not the account designated by the recipient, it shall either:

(1) Return the credit payment to the Federal Reserve Bank with a statement identifying the reason therefor, or

(2) Credit the amount of the credit payment to the account designated by the recipient.

* * * * *

2. The existing § 210.10 is renumbered as § 210.11 and the following is the proposed text of the new § 210.10.

§ 210.10 Collection procedures.

The amount for which a financial organization is accountable under § 210.9 shall be collected as follows:

(a) The Department of the Treasury shall send a written notice ("first notice") to the financial organization specifying the name of the recipient and beneficiary (if any), the depositor account number, type of account, the date of death or legal incapacity, and a list of credit payments which have payment dates after the event of death or legal incapacity and which have not been returned pursuant to § 210.7(f)(3). On receipt of this notice, the financial organization shall immediately return to the Treasury Department the amount remaining in the account up to the total amount of credit payments listed in the notice. If the amount returned is less than the total amount listed in the notice, the financial organization shall provide the name and address of any person who withdrew funds from the account, subsequent to the date of credit of the first payment listed in the notice.

(b) Based on the information received pursuant to paragraph (a) of this section, the program agency shall attempt to collect the difference between the amount returned and the aggregate amount of all credit payments listed in the first notice from the person(s) who withdrew any monies from the account subsequent to the date of credit of the first payment listed in the first notice. To the extent permitted by law, this attempt shall include setting off this amount against any funds to be paid to such person(s) by the program agency.

(c)(1) If a financial organization has not complied with paragraph (a) of this section within 30 days from the date of the first notice, the Treasury Department shall send a follow-up notice to the first notice to such financial organization demanding that the first notice be complied with.

(2) If the financial organization has not complied with paragraph (a) of this section within 15 days from the date of the follow-up notice the Department of the Treasury shall send a second notice to such financial organization demanding prompt payment of the total amount of credit payments listed in the first notice. To comply with this demand, the financial organization shall return to the Department of the Treasury either the full amount demanded, or a lesser amount equal to its liability pursuant to § 210.9(a)(3)(i) and (ii), with evidence that the conditions in § 210.9(a)(1), (2) and (3) have been complied with.

(d) If a financial organization has complied with paragraph (a), but the total amount of credit payments listed in the first notice has not been returned by the financial organization pursuant to paragraph (a) of this section, or collected by the program agency pursuant to paragraph (b) of this section, the Department of the Treasury shall send a second notice to such financial organization demanding the prompt payment of the amount listed in the first notice less the amount returned and collected. To comply with this demand the financial organization shall return to the Department of the Treasury either the amount demanded or a lesser amount equal to the total amount of credit payments received within 45 days after the event of death or legal incapacity plus the amount, if any, recovered pursuant to § 210.9(a)(3). If the lesser amount is returned the financial organization shall also provide a statement to the effect that it has met the conditions of § 210.9(a)(2) and (3).

(e) If the amount demanded pursuant to paragraph (c) or (d) of this section is not returned within 30 days from the date of the second notice issued thereunder, the Department of the Treasury will instruct the appropriate Federal Reserve Bank that such amount is to be debited to the account on the Federal Reserve Bank's books maintained or utilized by the financial organization for the purpose of receiving credit payments under this Part, and is to be credited to the general account of the United States Treasury. By its action in receiving credit payments under this part, a financial organization shall be deemed to authorize such debit to the account it maintains or utilizes on the books of the Federal Reserve Bank for the purpose of receiving credit payments, as provided in the foregoing sentence. A designated correspondent, in authorizing a financial organization to utilize such designated correspondent's account on the books of the Federal Reserve Bank for the purpose of receiving the amount of credit payments under this part, shall be deemed to authorize the aforesaid debit to its account as provided herein.

Dated: July 29, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-22605 Filed 8-3-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 930]

HANDLING OF CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Approval of Expenses and Fixing of Rate of Assessment for the 1976-77 Fiscal Period

This notice invites written comments relative to proposed expenses of $94,245 and a rate of assessment of $1.50 per ton of first handled cherries to cover expenses of the Cherry Administrative Board for administration of Marketing Order 930 for the 1976-77 fiscal period. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration is being given to the following proposals submitted by the Cherry Administrative Board, established under Marketing Order No. 930 (7 CFR Part 930) which regulates the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland:

(1) Expenses that are reasonable and likely to be incurred by the Cherry Administrative Board, during the period May 1, 1976, through April 30, 1977, will amount to $94,245.

(2) The rate of assessment for such period, payable by each first handler in accordance with § 930.41 be fixed at $1.50 per ton of cherries.

Terms used in the order shall, when used herein, have the same meaning as is given to the respective term in said order and "ton of cherries" shall mean 2,000 pounds.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than August 20, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 29, 1976.

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

[FR Doc.76-22561 Filed 8-3-76;8:45 am]

[7 CFR Part 1207]

[Amdt. 1]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Increase in Expenses

Consideration is being given to a $260,000 increase in expenses recommended by the National Potato Promotion Board.

The Potato Board was established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207) issued under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same in duplicate with the Hearing Clerk, Room 112-A, U. S. Department of Agriculture, Washington, D.C. 20250, not later than August 20, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of consideration. On May 25, 1976, the Secretary approved Potato Board expenses of $2,109,000 for the fiscal period ending June 30, 1977 (41 FR 22072).

On July 23, 1976, the Administrative Committee voted to budget an additional $260,000 for a potato value advertising campaign to market the expected plentiful supplies of fall crop potatoes, by informing consumers that potatoes are a bargain as an economical source of nutrients.

This proposed increase would result in a Potato Board budget of $2,369,000 for the fiscal period ending June 30, 1977.

The proposal is as follows:

Revise § 1207.405 (41 FR 22072) as follows:

§ 1207.405 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1977, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,369,000.

Dated: July 30, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-22653 Filed 8-3-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Part 3-3]

PROCUREMENT BY NEGOTIATION

Noncompetitive Procurement

Notice is hereby given that the Office of the Secretary is considering an amendment to 41 CFR, Chapter 3, by revising Subsection 50, Noncompetitive Procurement, to § 3-3.802, Preparation for Negotiation, of Subpart 3-3.8, Price Negotiation Policies and Techniques.

The purpose of the proposed amendment is to strengthen the Department's rules against unnecessary noncompetitive procurement. It (a) sets forth revised illustrative definitions of circumstances that constitute availability of services or supplies from only a single source, (b) requires that where a test of the market is an appropriate method of ascertaining whether such circumstances exist the market be tested at an early stage of the procurement process, (c) requires that where a number of procurements totaling $100,000 or more conceived as an entity for planning and budgetary purposes is planned as including any noncompetitive procurement the whole project be reviewed at the outset for appropriateness of the contemplated noncompetitive aspects and (d) requires that justifications for sole-source procurements of $100,000 or over be approved by a chief administrative official or by a sole-source review board consisting of a chief administrative official, a key procurement official and two program officials.

More precise definitions of circumstances that constitute availability of services or supplies from only a single source. The present HEW rule on justification for noncompetitive procurement (41 CFR 3-3.802-50(c)) requires that the justification document reflect the degree of consideration given to other sources than the proposed contractor and the reasons why they lack the capability evidenced by the proposed one. It identifies as illustrative of the factors to be considered, as appropriate, such factors as unique capability or highly specialized experience of the proposed contractor; existence of patent rights, copyrights, secret processes or other proprietary information; continuation of previous effort performed by the proposed contractor; predominant expertise of the proposed contractor's personnel; specialized and vital facilities or equipment of the proposed contractor; the proposed contractor's substantial investment which another would have to duplicate at government expense; and involvement of Government owned facilities. In the proposed regulation, circumstances constituting availability of services or supplies from only a single source are illustrated and treated as follows:

(1) Only one source exists which can perform the contract. This criterion may not be used prior to testing the marketplace by issuance of a sources sought synopsis.

(2) One source controls copyrights, patent rights, trade secrets, technical data, secret processes or other proprietary data essential to performance. This criterion is substantially limited and made more precise than in the present regulation. In case of doubt a sources sought synopsis should be issued. Legal advice is required.

(3) One source has a truly unique idea, approach or equipment. (This does not include unsolicitated research and development proposals covered by 41 CFR 3-4.52.) Except in cases convincingly supported by a panel opinion or a consensus of experts, a sources sought synopsis, formulated so as not to compromise the unique idea or data, should be issued.

(4) A specific item or equipment must be obtained because of the agency's responsibility to test and evaluate certain kinds and types of equipment. Legislation citations and technical rationale should be provided in this case.

(5) Only one source has complex or specialized physical facilities or equipment, on which the success of the contract objective is critically dependent. A sources sought synopsis should be issued.

(6) Essential Government owned facilities are available to only one source. In this case efforts should be made to determine from the Government agency whether the facilities can be made available to more than one source.

(7) Full and free competition is precluded because of geographic, socioeconomic or epidemiologic considerations. This criterion may be used only where it can be shown that only one source can perform.

(8) The required services must be procured from a certain State, interstate or local government unit, or from a nonprofit organization composed of representatives of such, which is uniquely able to meet the contract requirements.

(9) Time is of the essence and only one known source can meet the Government's need in time or time would not permit the testing of another source's product. This criterion may not be used without a showing that a limited competition (at least) is impossible and that the proposed contractor is the only one able to perform the work on time.

(10) There is existing equipment which for reasons of capability and interchangeability requires an item which is manufactured by only one source. This criterion may not be used where an "or equal" will meet the Government's requirement or where other manufacturers may be able to produce acceptable items even though their products might require adjustments and modifications.

(11) The segments of the projects are so intertwined that success is not possible unless one contractor performs the whole project. This criterion cannot be used where segments of the project can be competed separately.

Requirement that where a test of the market is appropriate the market be tested at an early stage of the procurement process. The Federal Procurement Regulations provide (41 CFR 1-1.1003-2) that, with certain exceptions, all proposed civilian agency procurement actions of $5,000 and above be synopsized. That is, for each nonexcepted procurement, whether competitive or sole-source, a synopsis of the scope of work or description of the supplies being procured must be published in the "Commerce Business Daily", published by the Department of Commerce, before or at the time when a request for proposals is issued. Where the procurement is intended to be noncompetitive the synopsis, by so notifying possible sources other than the one intended, gives them opportunity, if they consider themselves able to fill the Department's need, to inform the Department of that fact for the purpose of having the procurement opened to competition. This procedure tests the market for availability of more than one source at a relatively late stage in the procurement process, and, in intended sole-source cases, after a determination that sole-source procurement is necessary has been made. It seems that this procedure may be inherently unconducive to transforming noncompetitive procurements into competitive ones in doubtful cases; by the time the initial determination in favor of sole-source procurement has been made and agency plans have progressed for a time on that basis, there probably is a disinclination to make the technical and planning changes that might be necessary to exploit a dubious possibility of competition. In preparing the present amendment the Department has taken these considerations into account and, accordingly, is requiring in the amended regulation that, where testing of the market is appropriate, a synopsis be published for this purpose before any determination is made that sole-source procurement is necessary. The synopsis to be used is a sources sought synopsis or field of interest synopsis. Such synopses inform potential suppliers of the Department need and invite them to notify the Department of their interest and to provide information about their ability to furnish the needed services or supplies. With the aid of such information the Department will, it is expected,

be able to judge more accurately whether more than one source is in fact available. Sources sought synopsis or field of interest synopsis, when used for this purpose, is to be used only where the Department believes that only one source exists and therefore expects noncompetitive procurement to be appropriate but there is some doubt that this is the case. The proposed amendment makes no change in the standard procedures for using such synopses to increase expected competition in the Department's procurement programs.

Requirements that where a number of procurements totaling $100,000 or more conceived as an entity for planning and budgeting purposes are planned as including any noncompetitive procurement the whole project be reviewed at the outset for appropriateness of the contemplated noncompetitive aspects. A substantial proportion in dollar amount of HEW procurements consists of noncompetitively negotiated renewal, follow-on, continuation or extension contracts. Noncompetitive negotiations of such a contract may be necessary where the initial contract is for part of a large project and skills, techniques, understanding or approaches to solution of problems involved, or investments in faciilties, equipment or learning, cannot be satisfactorily and economically transferred from the initial contractor to another. However, in some cases the necessity for noncompetitive, i.e., sole source, contracting for these reasons does not arise inevitably from the nature of the project or, at least, applies inevitably to only some part of the project that is susceptible of being separated from other parts for which competitive contracting is feasible. The Department believes that, in order to keep noncompetitive procurement at a minimum, projects that may appear originally to involve inevitable sole-source procurements at either their beginning or later stages should be examined in the procurement planning stage to see if the portions affected by transferability impediments can be isolated or if such impediments can be avoided by means of contract provisions. The proposed amendment uses the term "whole project buy" to denote a project consisting of any number of procurements which is conceived as a single entity for planning and budgetary purposes. Accordingly, in keeping with the thinking outlined above, the proposed amendment requires that any whole project buy which exceeds $100,000 in the aggregate and which contemplates any noncompetitive procurement during the project life shall be submitted to a noncompetitive review board, or to the agency official empowered to approve noncompetitive procurements over $100,000, for approval regardless of whether the initial procurement is to be competitive or noncompetitive. The board or official may approve those noncompetitive procurement actions explicitly contained in the submission, and procurement actions so approved need not be subsequently approved, except that whole project buys may not be approved in excess of three years before a subsequent review is required.

Requirement that justifications for sole-source procurements of $100,000 or over be approved by a chief administrative official or by a sole-source review board consisting of a chief administrative official, a key procurement official and two program officials. The HEW Procurement Regulations now require that justifications for sole-source procurements be approved at one or another organizational level depending on the dollar amount of the procurement. For procurements in excess of $100,000 the justification must be reviewed and approved at a level not lower than that of an assistant head of the procuring activity. The proposed amendment, however, reflects a view that, while such relatively high level review and approval is desirable, a more important consideration is that the proposed sole-source procurement over $100,000 be reviewed by the chief official of the agency who is responsible for administration (typically the deputy commissioner, director or administrator for administrative management) or, in the case of regional office procurements, the asssistant regional director for administration. That is because proposed decisions to procure on a sole source basis almost invariably originate with personnel responsible for the substantive aspects of the project in question rather than with procurement personnel and the question presented for review is, therefore, in essence, not whether approval of sole-source procurement would be consistent with substantive objectives but whether it would be consistent with good procurement management. Accordingly, the proposed amendment alters the review and approval requirement for justification of sole-source procurements in excess of $100,000 by substituting, for review and approval by an assistant head of the procuring activity, either of the following at the option of the HEW agency involved:

(a) Review and approval by the agency's chief official responsible for administration or, in the case of a regional office procurement, by the assistant regional director for administration and management or (b) review and approval, by majority vote, by a board appointed by the head of the principal operating component (an organizational component of the Department at a level at least as high as the agency level) and consisting of the chief official responsible for administration or the assistant regional director for administration and management, the chief of the contract office or procurement staff of the agency and two program officials. By "program officials" is meant officials at the agency level who have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research and the like or from the program divisions of the agency that sponsor contract projects. They are to be selected on the basis of their knowledge of a program as a whole but should not ordinarily be involved in the initiation and management of particular or single projects.

The proposed revision results from work done by the Secretary's Task Force on Grant and Contract Management which was established to increase the efficiency, effectiveness, economy, and integrity of the Department's processes for management of grant and procurement programs.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Deputy Assistant Secretary for Grants and Procurement Management, OASAM, Room 513 D2, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, on or before September 20, 1976. All comments submitted pursuant to this notice will be available for public inspection during business hours in the Office of Grants and Procurement Management.

Dated: July 23, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

As proposed, the revised section will read as follows:

§ 3-3.802-50 Noncompetitive procurements.

(a) *Purpose.*—This subsection states the policies and procedures applicable to all noncompetitive procurements. It describes the criteria for use in determining whether a procurement may be made noncompetitively, describes the justification documents required, and prescribes review and approval requirements.

(b) *Policy.*—(1) All negotiated procurements will be conducted competitively as required by FPR 1-1.301-1, 1-1.302-1(b), and 1-3.101(d) unless there are compelling and convincing reasons and/or circumstances which justify a noncompetitive procurement. Procurements should be conducted competitively to obtain the benefits of competitive prices and to stimulate bidders, offerors, and current contractors who desire contracts to exert their best efforts to deliver high quality physical and conceptual products. Although competition is the rule, it is recognized that there are certain instances where a noncompetitive procurement may be necessary. Where a noncompetitive procurement can be justified, affirmative action must be taken whenever possible to avoid the need for subsequent or continuing noncompetitive procurements.

(2) Submission of an unsolicited proposal can also lead to a noncompetitive procurement. In this circumstance, the initiating program office may recommend, for approval by the appropriate authority listed in paragraph (i) of this section, that a noncompetitive procurement be made to only one organization or individual to perform the required work or services. This recommendation shall be in writing and prepared as a document entitled "Justification for Acceptance of Unsolicited Proposal" that shall set forth information required by § 3-4.5203-3. A solicitation for a noncompetitive procurement shall not be issued,

and negotiations with a source that submitted an acceptable unsolicited proposal shall not be undertaken, in advance of approval in accordance with § 3-3.802-50(i).

(c) *Exceptions.*—The provisions of this subsection will apply to all negotiated procurements except:

(1) Procurements of $500, or less (see § 3-3.603-50(a));

(2) Procurements of professional services, e.g., for physician veterinarian, dentist, or legal services negotiated under the authority of 41 U.S.C. 252(c)(4), or where the foregoing kinds of services are for $10,000 or less and are negotiated under 41 U.S.C. 252(c)(3) (see § 3-3.603-50(b)(4));

(3) Procurement of architect-engineer services (see §§ 1-4.10 and 3-4.10);

(4) Procurements of utility services where the services are available from only one source;

(5) Acquisitions from or through other Federal Government agencies, e.g., interagency agreements, contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) *Competitive Procurement.*—A procurement is competitive when the Government provides the opportunity to more than one source to submit bids, offers, or quotations. If a procurement is announced in a presolicitation synopsis which states where copies of solicitations may be obtained, provides the opportunity for interested sources to submit bids, offers, or quotations, provides adequate time for requests for solicitations and submission of responses, and describes the procurement requirement without restrictions which would unavoidably result in only one source being responsive, the procurement will be classified as competitive.

(e) *Classification of procurements.*—(1) The issuance of a sources sought synopsis does not require classification of a procurement as competitive or noncompetitive. The data resulting from the sources sought synopsis must be evaluated to determine whether there is more than one source which can adequately perform the contract requirement. If there is more than one source, the procurement should be classified as competitive and a presolicitation synopsis making solicitations available should be issued. If there is only one source resulting from the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. (The term "sources sought synopsis" includes advance notices in accordance with § 1-1.1003-3, and other similar types of notices which are used to determine the availability of interested potential sources. A sources sought synopsis does not permit potential sources to request solicitations and therefore is merely an opportunity for the marketplace to indicate its interest in submitting bids, offers, or quotations for a future procurement.)

(2) The decision to classify a specific procurement as competitive should be made at the point in the procurement process prior to issuance of a presolicitation synopsis where required, or solicitation(s) where a presolicitation synopsis is not required. This classification is fixed throughout the procurement's life and may not be subsequently altered even though only one offer is received.

(f) *Criteria.*—Criteria are provided below for use in deciding whether a proposed noncompetitive procurement is justified. The critical question to be answered in each justification is why the opportunity to meet a procurement requirement cannot be made available to more than one source. It is critical to justify a noncompetitive procurement that reasonable, informed opinions supported by available facts be provided. Each of the criteria is illustrative of possible reasons. Short of giving the marketplace an opportunity to speak for itself with respect to its capabilities and available sources, the value of the supporting statements and opinions in a justification must be judged by the extent to which the opinions reflect accurate and knowledgeable judgments about the marketplace. The more facts that are offered and the more knowledgeable the opinions about the marketplace are, the greater is the support to conclude that a noncompetitive procurement is justified. If the contracting officer or approving officials conclude that support offered to justify a noncompetitive procurement is not convincing, or where there is some unresolved doubt, the doubt should be settled by permitting the marketplace to speak for itself by issuing a sources sought synopsis. As each justification for noncompetitive procurement is reviewed against these criteria, the reviewer should ask why the procurement cannot be completed, are there sufficient grounds for excluding all other actual or potential offerors, what action can be taken to obtain competition in the instant procurement, and what action is needed to avoid the need for a subsequent or a continued noncompetitive procurement?

(1) There is only one source in existence which can perform the contract requirements. The existence of one source for the purposes of this regulation should be a matter of fact, and not a matter dependent upon the relative and limited knowledge of sources known by the project or contracting officers. This criterion may not be used to justify a noncompetitive procurement prior to testing the marketplace by issuing a sources sought synopsis. Such a sources sought synopsis should state that the Government knows of only one source who can do the work, state the name of the source, and the work required. If only one source submits a response to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(2) One source controls copyrights, patent rights, trade secrets, technical data, secret processes, or other proprietary data which are essential to the performance of the contract requirements and the sources refuses to license or otherwise make the foregoing data available to other sources, and the requirement cannot be revised to allow other sources to compete who do not have access to the foregoing data. Factual information should be provided to support the use of this criterion such as the citation of copyrights, exactly what is covered by the copyright or other data which is necessary to the contract performance, and why the requirement cannot be revised to permit competition. The mere existence of such rights does not in and of itself justify noncompetitive procurement. It must be shown that the Government cannot meet its requirement(s) without the use of the proprietary data. Any doubts should be resolved by summarizing the procurement requirement and issuing a sources sought synopsis. When this criterion is to be utilized the approving official will obtain legal advice from the OGC (BAL).

(3) One source or individual has a truly unique idea, approach, or equipment which has no like or equal and is the only known item which can meet the Government's needs. Unsolicited proposals are excluded from the provisions of this paragraph and shall be processed in accordance with § 3-4.52. Except in very rare cases, the fact that a prosper submits a proposal containing a unique idea or approach does not, in itself, justify a noncompetitive procurement. Mere claims of uniqueness must not be pointed to in justifications for departures from regulatory requirements for cocmpetitive procurements. There may be other potential sources with equally suitable approaches or ideas which could accomplish the same end results. Except in cases which are convincingly supported by a panel opinion or a consensus of experts who are very familiar with the sources available in the marketplace, the opinion of uniqueness should be tested. The claim that the unique item is the only one which can meet the Government's needs should be based on the objective requirements of the Government not the personal preferences of the originator. Where a test of the claim of uniqueness becomes appropriate, the project officer should draft a description of the agency's requirement that does not compromise the unique idea or proprietary data of the proposer, and the procurement office shall issue a sources sought synopsis. If the only acceptable response to the sources sought synopsis is the organization or individual which the Government originally believed had a unique offering, this data may be used to support a justification for noncompetitive procurement.

(4) A specific item or equipment must be obtained as part of an agency's program responsibility to test and evaluate certain kinds and types of products. This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive procurements. Project officers should support the use of this criterion with citations from their agency's legislation and

the technical rationale for the item or equipment required.

(5) Only one source has complex or specialized physical facilities or equipment which by reason of exclusive use, access or ownership, or by reason of clear superiority to facilities and equipment available to other sources is capable of adequately meeting the technical requirements of the contract. The success of the contract objective is critically dependent upon the use of the facilities and equipment of this one source. Specific details should be provided as to why the facilities or equipment are mandatory for the contract performance and why the facilities and equipment of other contractors cannot meet the contract requirements. This criterion should not be used to justify a noncompetitive procurement without first defining what equipment or facilities is needed and issuing a sources sought synopsis asking for sources with comparable equipment and facilities. If no other qualified sources respond, then this data may be used to support the justification of a noncompetitive procurement.

(6) Government - owned facilities which are essential to performance of the contract are available to only one source. Efforts should be made to determine from the cognizant Government agency whether the Government-owned facilities can be made available to more than one source. Then a noncompetitive procurement may be justified.

(7) Full and free competition is precluded because of geographic, socioeconomic, or epidemiologic considerations necessarily associated with the procurement. This criterion is intended to recognize certain limits to achieving full and free competition which sometimes follow from certain program legislation and special program requirements. This criterion may not be used in the absence of such established limits and only where it can be shown that there is only one source which can perform the particular procurement.

(8) The required services must be procured from a certain State, interstate, or local government unit, or from a nonprofit organization comprised of representatives of such governmental units or of their officers, which organizations or units are unique bodies without like or equal in being able to meet the contract requirements. This criterion is intended to recognize that in certain cases where dealing with governmental entities or their representatives, there is in fact only one entity available to perform and/or the entity has a unique ability to accomplish the work. This criterion should not be used to obtain supplies or services which are or can be provided from the commercial marketplace. Where there is more than one such unit or organization which can meet the contract requirements, a noncompetitive procurement cannot be justified, unless a Federal or State statute dictates the source. The fact that the government units or other nonprofit organizations may offer a lower price or agree to cost share, is not adequate reason to justify a noncompetitive procurement to the exclusion of others.

(9) *Time is of the essence* and only one known source can meet the Government's needs within the required time frame or time would not permit the testing of a product offered by a source other than a sole source to meet the delivery schedule. However, the recognized extreme of public exigency in § 1-3.202 is not to be taken lightly. It contemplates a need which is compelling and of unusual urgency, as when the Government would be seriously injured financially or otherwise, if the property or services to be purchased or contracted for were not furnished by a certain time, and when they could not be procured by that time by means of formal advertising. This applies irrespective whether that urgency could or should have been foreseen. Examples are when property or services are needed at once because of a fire, flood, explosion, or other disaster. Public exigency or other reasons causing situations where time is of the essence, may not be used to justify noncompetitive procurement without first showing that a limited competition using abbreviated procedures is impossible. If a limited competition is impossible, it must be shown that the recommended contractor possesses the unique capability to perform the required work on time to the exclusion of all other firms. The considerable latitude of the contracting officer to determine the method best suited to satisfy the urgent need is limited by the need to try and achieve a limited competition if at all possible and, if not, to determine that one contractor is uniquely able to meet the Government's requirements in time.

(10) There is existing equipment which for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. This criterion is for use in procurements where a particular brand name item is required and an "or equal" will not meet the Government's requirements. This criterion may not be used where there are other manufacturers available who may be able to produce acceptable items even though their products might require some adjustments and modifications. Such other manufacturers must be given the opportunity to compete.

(11) The segments of the project are so intertwined that it is impossible to successfully accomplish the project objectives if all segments are not procured from the same contractor. This criterion is intended for use under research and development procurements as well as studies. It can only be used where there is a necessity to procure the project as a whole package in order to successfully complete the project. This criterion can not be used where segments of the project can be completed separately. The possibility, by itself, that additional work may be done more conveniently or even at less expense by the original contractor is not sufficient reason to justify a noncompetitive procurement using this criterion.

(g) *Procedure.*—(1) Program offices should discuss prospective noncompetitive procurement requests with the procurement offices as early as possible during the procurement planning stage (see § 3-3.50), preferably before submitting the requisition or request for contract. Such discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the procurement, and avoid delays which might otherwise occur should it be determined that noncompetitive procurement is unjustified.

(2) When a program office desires to obtain certain goods or services by contract without competition, it shall, at the time of forwarding the request for contract furnish the procurement office a "Justification for Noncompetitive Procurement" prepared in accordance with this subsection. All justifications shall be submitted initially to the contracting officer.

(3) A contracting officer who receives a justification for processing shall ascertain whether the document is complete; shall request advice from pricing, audit, legal, and other staff offices as appropriate; shall forward the justification including his recommendation and/or concurrence to the appropriate approving official. If noncompetitive procurement is disapproved, he shall promptly so notify the program office concerned.

(4) All required approvals shall be obtained prior to issuing a solicitation to, or commencement of contract negotiations with the proposed contractor. Preliminary arrangements or agreements with the proposed contractor not made by the contracting officer will have not effect or influence on the rationale to support a noncompetitive procurement.

(5) It is the responsibility of the approving official to determine whether a contract may properly be awarded without competition. Program offices and project officers are responsible for furnishing contracting officers and other approving officials with pertinent factual information and opinions necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

(h) *Format.*—(1) The justification for noncompetitive procurement in excess of $10,000 will be a separate, self-contained document. Justifications for noncompetitive procurements of $10,000 or less may be a statement in the requisition or request for contract.

(2) Justifications for noncompetitive procurement whether over or under $10,000 shall fully express what is to be procured and the reason why the requirement should not be competed. Justifications must offer reasons which go beyond inconvenience and must explain why it is impossible to obtain competition. The justification will be documented only with information that is based on facts rather than untested and unsubstantiated conclusions or opinions. Documentation in the justification should be

sufficient to permit an individual with technical competence in the area to follow the rationale.

(3) Justifications have two parts.

(i) Part I contains background information about the program and a description of the procurement. The following information should be included:

(A) Date.

(B) Agency, program office, and project officer (name, address, and telephone number).

(C) Project identification (Program legislation including citations or other internal program identification data such as title, contract number, etc.)

(D) Descriptive title of the project. Attach a full description of the contract requirement. This may be a specification, purchase description, or statement of work. If the "whole project buy" (see § 3-3.820-50(j) for explanation of "whole project buy" concept) as contemplated at the outset is expected to exceed $100,000, a procurement plan as required by § 3-3.50 shall be prepared by the project officer and attached to the justification. The description of the whole project buy must include what is being bought, the estimated cost of the whole or component parts, phases, options, continuations, etc., and the periods of time involved. The description is critical to the approving official's understanding of what he is being asked to approve, and subsequent use of the approval by the procurement or project offices.

(E) Explain whether the instant procurement is an entity in itself, whether it is one in a series, or part of a related group of procurements.

(F) Proposed contractor (name and address).

(ii) Part II includes the facts and reasons to justify a noncompetitive procurement. Part II should begin with the statement:

I recommend that this procurement be noncompetitively negotiated with _____ _____ in the amount
(Name of proposed contractor)
_____ for the following reasons:
(Amount)

Each of the applicable criteria listed in § 3-3.802-50(f) must be addressed and specific support for its use must be included.

At the end of Part II signatory lines should be provided as follows:

Recommended _____ Date _____
Project Officer
Concur _____ Date _____
Project Officer's Immediate Supervisor
Concur _____ Date _____
Contracting Officer
Approved _____ Date _____
Approving Officer

(i) *Review and Approvals.*—Justifications for noncompetitive procurement shall be reviewed as follows:

(1) For small purchases over $500, but not over $10,000, the "justification", which must address the criteria in § 3-3.802-50(f), may be in the form of a statement within the requisition or request for contract. The contracting officer may approve or disapprove the justification. If the contracting officer awards the contract or purchase order up to $10,000 as requested, such award shall constitute the contracting officer's approval of the justification.

(2) For procurements over $10,000, but not over $25,000, the justification shall be submitted to the contracting officer for approval.

(3) For procurements over $25,000, but not over $100,000 the justification shall be submitted through the contracting officer who will add a recommendation and forward to the chief of the procurement office for approval. Where the chief of the procurement office and the contracting officer are the same individual, the approval level will be at one administrative level above the chief of the procurement office.

(4) All procurements $100,000 or over shall be submitted through the contracting officer for approval by a Noncompetitive Procurement Review Board as described in § 3-3.802-50(k) unless the Head of the POC's, Agency Heads, or Regional Directors, as appropriate determine that the activity will not utilize a Noncompetitive Procurement Review Board. If a review board is not utilized, the justifications for $100,000 or over shall be submitted through the contracting officer for approval by the chief official of the agency responsible for administration or the Assistant Regional Director for Administration.

(5) Agencies may prescribe board reviews for procurements under $100,000, if reduced levels for review would be more consistent with the dollar ranges of contracts awarded.

(j) *Whole Project Buys.*—(1) A "whole project buy" is a project consisting of any number of procurements which is conceived as a single entity for planning and budgetary purposes. The whole project buy concept should not be limited to only that part of the whole project which is the subject of the current contract when contracts to be awarded in the future are part of the same project.

(2) Any whole project buy which exceeds $100,000 in the aggregate which contemplates any noncompetitive procurement actions of any dollar value at any time during the project life shall be submitted to the review board or approving official for approval.

(3) This requirement applies even if the first of a series of related procurements in a whole project buy is less than $100,000. This includes projects with several related procurement actions where the first part of the project is competitively or noncompetitively awarded, and there are to be subsequent noncompetitive procurements with the original contractor. This requirement applies to all procurements regardless of whether the noncompetitive procurement is called a renewal, follow-on, continuation, extension or the like, or is effected by means of a contract modification or is a new start.

(4) Justifications of whole project buys submitted to the review board or approving official shall fully describe what the whole requirement is, how the requirement will be divided into procurement actions, the total estimated cost of the project whole and each individual procurement action, the total period of time for the project whole and each procurement action, and whether all or only part of the project whole will be procured noncompetitively. For certain projects, as in the case of basic research, where an end point cannot be forecast with certainty, the whole project buy will be the circumscribed amount of time which the program office presently intends to continue a certain effort.

(5) If the review board or approving official clearly approves the noncompetitive procurement action(s) at the outset of a whole project buy, and the whole project buy results in an original contract followed by either a noncompetitive new contract, or noncompetitive modifications to the original contract for work, dollars, and time approved by the board or approving official at the outset, these subsequent noncompetitive procurement actions will not have to be resubmitted for approval. Once the noncompetitive procurement actions for the whole project buy are approved, no subsequent approvals of the individual procurement actions are required. Whole project buys may not be approved in excess of 3 years before a subsequent review is required. Approval is limited to that explicitly contained in the justification. If a part of the "whole project buy" is not included in the justification or there are changes in the project which change the whole project buy as approved, the excluded part and/or changes will require separate review and approval. Doubts as to what was approved shall be submitted to the review board or approving official for clarification. Noncompetitive increases for new work to contracts in effect at the time this regulation becomes effective which are part of a whole project buy exceeding $100,000 shall be submitted to the review board or approving official for approval prior to taking the noncompetitive action.

(k) *Noncompetitive Procurement Review Boards*—(1) *Purpose.* The purposes of the Noncompetitive Procurement Review Board, hereinafter referred to as "the Board," are to review the reasons given in certain justifications for noncompetitive procurement against the criteria in this section, and to make judgments as to the applicability of the policy requiring competition to specific procurements. If it is determined by the Head of the POC, Agency Head, or Regional Director, as appropriate, to utilize a board, such board shall comply with the requirement of this paragraph. The Board by virtue of its members being senior technical and administrative officials, with expertise at high levels within the agency, will ensure the making of balanced and responsible dicisions.

(2) *Establishment of Boards.* Boards shall be established at an organizational level not lower than agency head. The heads of the POC's: The Assistant Sec-

retaries for Health, Human Development, Education; the Administrator of the Social and Rehabilitation Service; and the Commissioner of the Social Security Administration are responsible for establishing Boards as needed in their POC's and their respective agencies. The Assistant Secretary for Administration and Management is responsible for establishing a Board in the Office of the Secretary. A Board shall be established in each Regional Office by the Regional Director. The number, geographical location, and organizational location in the POC and/or Agency level of Boards will be decided by the Heads of the POC's based upon the volume of noncompetitive procurements to be reviewed and the need for timely decisions.

(3) *Authority and responsibility.* The Board members shall be appointed by the Head of the POC's, Agency Heads, or Regional Directors as appropriate. The Board shall be established and delegated the authority by the appointing official to represent and make decisions on behalf of the appointing official with respect to approving or disapproving certain justifications for noncompetitive procurement.

(i) *Chairperson.* There will be a permanent chairperson of the Board who shall be the chief agency official responsible for administration. In the regional offices, the Assistant Regional Director for Administration will be the chairperson. The Board chairperson should represent the appointing official and be able to review actions submitted to the Board from an agency-wide point of view. The chairperson will designate which of the alternate members will attend individual board meetings and shall assure that the proceedings of each meeting are recorded.

(ii) *Procurement official.* There will be a key procurement official appointed to the Board. This official will be the chief of the contract office or procurement staff of the agency, whichever is organizationally higher. Where the agency has more than one contracting office, the chiefs of the respective contracting offices will be designated alternate members. In this case, a contracts chief will serve on the Board to review proposed noncompetitive procurements expected to be assigned to his office for procurement action. Whenever the chief of the contract office and the contracting officer are the same individuals, the official one administrative level above the chief of the contract office shall represent the procurement office in such Board actions.

(iii) *Program official(s).* Two representatives will be selected from officials at the agency level which have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research and the like and/or from the program divisions of the agency that sponsor contract projects. The members should be selected on the basis of their knowledge of a program as a whole, but should not ordinarily be involved in the initiation and mangement of particular or single projects.

(iv) *Contracting Officer.* The contracting officer responsible for the procurement to which the justification for noncompetitive procurement relates shall serve as a nonvoting member. When Board meetings consider justifications for procurements involving more than one contracting officer, each contracting officer may attend and offer opinions on the justification pertinent to him.

(v) *Project Officer.* The project officer is that individual in the program office who originated the justification and will be responsible for project mangement of the contract project. The project officer is not a member of or alternate member of the Board. The project officer may be invited by the chairperson to the Board meeting during which the justification will be discussed. The project officer should be prepared to answer questions raised by the Board.

(4) *Meetings.* (i) If the estimated amount of the procurement is more than $500,000, a formal meeting of the Board is required. If the estimated amount of the procurement is $500,000 or less, a formal meeting of the Board need not be held if the chairperson, procurement official and the contracting officer concur that a noncompetitive procurement is justified. If any one of these three persons is of the opinion that a noncompetitive procurement is not justified, a formal meeting must be held. Formal meetings will include all appropriate members and will be convened by the chairperson. No action shall be considered by the Board unless the chairperson, procurement official, and two program officials are present. Decisions of the Board will be by majority rule. In case of a tie vote the action will be resolved in favor of seeking competition.

(ii) The chairperson may seek independent counsel from any source inside or outside of the agency if he feels that additional advice is necessary for the Board to reach a sound decision.

(iii) The Board shall maintain a written record of the justifications reviewed and the decision made on each. If a justification is approved, only Board approval need be indicated. If a justification is disapproved, the reasons should be stated in writing and forwarded to the originator of the justification. The written decision of the Board should be made a part of the contract file.

(l) *Implementation.*—Each POC, Agency Head, and Regional Director is responsible for implementing this regulation. Implementing instructions and subsequent changes shall be furnished to the Deputy Assistant Secretary, Office of Grants and Procurement Management, OS, for review and approval prior to implementation.

[FR Doc.76-22642 Filed 8-3-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 223]

[EDR-302; Docket 29587; Dated July 29, 1976]

FREE AND REDUCED RATE TRANSPORTATION

Notice of Proposed Rulemaking

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Part 223 of its Economic Regulations (14 CFR Part 223) which would expand the categories of FAA personnel eligible for free air transportation.

The principal features of the proposed amendment are described in the attached Explanatory Statement and the proposed amendment is set forth in the Proposed Rule. The amendment is proposed under the authority of sections 204 (a), 301-314, 403, 404, 601-610, and 701 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 744, 747, 749, 750, 751, 752, 754, 758, 760, 775, 776, 778, 779, 780, and 781; (49 U.S.C. 1324, 1341-1355, 1373, 1374, 1421-1430, and 1441)) and the Department of Transportation Act (80 Stat. 931, (49 U.S.C. 1651)).

Interested persons may participate in the proposed rulemaking through the submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to the Docket 29587, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before September 3, 1976, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711 Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address indicated above, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT

Part 223 of the Board's Economic Regulations sets out our rules regarding free and reduced-rate air transportation. Under § 223.23, air carriers are permitted to provide free air transportation to traffic controllers and aircraft communicators of the Federal Aviation Administration (FAA) and to aviation weather forecasters of the National Weather Service. Such free transportation is authorized so that these persons may better acquaint themselves with inflight problems and procedures affecting their respective duties.

The FAA has requested that Part 223 be amended to make two additional categories of persons eligible for free transportation: engineering flight test pilots and aeronautical procedures specialists. Enginering flight test pilots are the FAA employees principally responsible for the development and conveyance to crewmembers of all operating limitations and operating information necessary for the safe operation of an aircraft. The FAA states that the most effective way for the enginering flight test pilot to obtain information necessary during the certification process is to periodically observe the aircraft while in flight.

Aeronautical procedures specialists are responsible for the design, development, and approval of flight procedures and aeronautical charts essential to the safe and efficient movement of aircraft. According to the FAA, the procedures specialist needs to periodically observe inflight operations during revenue flights in order to best acquaint himself with the problems associated with the use of aeronautical charts and instrument approach procedures. The agency adds that since the procedures specialist will be flying as an observer without enforcement responsibility, he will be in an environment conducive to the exchange of information with flight crews on the adequacy of the instrument procedures and on ways to improve the effectiveness of aeronautical charts.

We propose to grant the FAA request for aircraft access by these two classes of employees by amending § 223.23. We believe that the FAA has made an adequate showing that the requested free transportation will greatly facilitate the performance of these employees' official duties and thus serve to improve aviation safety. Moreover, we do not believe that significant burdens wil be imposed on any carrier. There are only approximately 50 engineering flight test pilots and 100 aeronautical procedures specialists who would become eligible for the free transportation. And each individual would be restricted to one request for free transportation per calendar year on any given air carrier, unless the FAA, pursuant to § 223.24(c) certifies that additional free transportation is essential to the performance of its functions.

It is proposed to amend Part 223 of the Economic Regulations (14 CFR Part 223) as follows:

1. Amend the Table of Contents of Part 223, by revising the title of § 223.23 to read as follows:

Sec.
223.23 Traffic controllers, aircraft communicators, engineering flight test pilots, aeronautical procedures specialists, and aviation weather forecasters.

2. Amend § 223.23, to read as follows:

§ 223.23 Traffic controllers, aircraft communicators, engineering flight test pilots, aeronautical procedures specialists, and aviation weather forecasters.

Any air carrier may carry without charge on any aircraft which it operates any traffic controller, aircraft communicator, engineering flight test pilot or aeronautical procedures specialist of the Federal Aviation Administration or any aviation weather forecaster of the National Weather Service (including supervising officers of such persons) for the purpose of more fully and adequately acquainting such persons with inflight problems and procedures bearing on their official duties: *Provided, however,* That no request for free transportation under this section shall be made for the same individual upon any one air carrier more than once in each calendar year (round trips are regarded as one trip for the purposes of this section) unless the individual is an air traffic controller who is a member of the Washington or Regional Air Traffic Service Evaluation Staff of the Federal Aviation Administration or unless the request for such additional transportation is accompanied by the statement in writing prescribed in § 223.24 (c)

[FR Doc.76-22651 Filed 8-3-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 416]

[FRL 589-7]

PLASTICS AND SYNTHETICS POINT SOURCE CATEGORY

Withdrawal of Notice of Proposed Rulemaking

In consideration of the matters discussed in the preamble to the Revocation and Suspension of Effluent Limitation Guidelines and New Source Standards published today elsewhere in this issue, the proposed pretreatment standards for existing sources published in the FEDERAL REGISTER on April 5, 1974 (39 FR 12523) and on January 23, 1975 (40 FR 3730) are hereby withdrawn.

Dated: July 28, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-22493 Filed 8-3-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

PRIVACY ACT OF 1974

Proposed Establishment of a New System of Records

In accordance with the requirements of the Privacy Act of 1974, subsection (o), 5 U.S.C. 552a(o), the Federal Law Enforcement Training Center (FLETC) proposes the establishment of a new system of records titled "Treasury/FLETC 00.004", containing information on employees and certain persons under contract to the Center.

The purpose of establishing this new system of records is to maintain records on employees and contract personnel beyond those required and provided by the Civil Service Commission. The reason for proposing the system is that the Center finds it necessary to maintain its own records on health services, personnel management and career development, equal employment opportunity, vehicle access and registration, equipment accountability, and personnel identification. Some records, such as vehicle registration, health, and personnel identification records, are needed because FLETC now conducts its operations on a large, campus-like, installation at Glynco, Georgia, instead of in an office building as it did before relocation in September, 1975. Other records, such as personnel, career development, equal employment, locator, and equipment control records, are standard for Federal agencies.

Notice of this proposal as required by subsection (o) of the Act, 5 U.S.C. 552a (o), was filed on March 12, 1976, with the Senate, the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Any interested person may submit written data, views, objections, or arguments on this proposed amendment to the Acting Departmental Disclosure Officer, Office of Administrative Programs, United States Department of the Treasury, 1331 G Street NW, 3rd floor, Washington, D.C. 20220 on or before September 5. All written comments received from the public by then will be considered by the Department before taking action on a final notice of adoption. Comments received will also be available for public inspection at the above address between the hours of 9:00 a.m. and 5:30 p.m., Mondays through Fridays, except public holidays. Further information is available by telephone at (202) 964-2792.

Dated: July 29, 1976.

ARNOLD J. LAU,
Acting Director, Federal Law Enforcement Training Center.

PROPOSED NEW SYSTEM NOTICE

TREASURY/FLETC 00.004

System name: FLETC Employee Records—Treasury/FLETC

System location: FLETC, Office of Administration, Administration Building, Glynco, Georgia 31520

Categories of individuals covered by the System: Employees, Past Employees, Employee Prospects, Contract Personnel.

Categories of records in the System: Personnel, Health, Training, Vehicle Registration, Equal Employment Opportunity, Locator Cards, Identification Records, and Equipment Control Rosters, consisting of records other than those described and reported by the Civil Service Commission on behalf of all agencies.

Authority for maintenance of the System: 5 U.S.C. 301, 5 U.S.C. 4101 et seq., Executive Order No. 11348, April 20, 1967, Treasury Order 217 (Revision 1), dated July 1, 1970.

Routine uses of records maintained in the System and the purposes of such uses: Personnel recruitment and management, management of health unit, vehicle control, equipment control, equal employment opportunity program. Disclosure to the individual himself and the individual's parent agency. Health records to the U.S. Department of Labor and the U.S. Department of Health, Education, and Welfare as required by regulation. To the Civil Service Commission concerning pay, leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions. For additional routine uses, see Appendix AA, 40 FEDERAL REGISTER 56419-56420, December 2, 1975.

Policies and practices for storing, retrieving, and disposing of records in the System:

Storage: Paper files.

Retrievability: Name.

Safeguards: Physical security, personnel screening and security check lists are all used to prevent unauthorized disclosure of records.

Retention and disposal: Disposition as prescribed by the schedules attached to Treasury Directives Manual chapter TD 80, Section 05.B, 5-12-76, except for health records covered by the General Service Administration's General Records Schedule 1 (GRS 1):

Personnel records	Schedule 1	Item 9	1 yr.
Health records	GRS 1	Item 21	6 yr.
Training records	Schedule 1	Item 25c	1 yr.
Vehicle records	Schedule 11	Item 4a	3 mo.
Equal employment opportunity records	Schedule 1	Item 20b	1 yr.
Locator records	Schedule 11	Item 4a	3 mo.
Identification records	Schedule 11	Item 4a	Do.
Equipment control records:			
Property pass files	Schedule 18	Item 10	3 mo.
Lost, stolen, and found files	Schedule 18	Item 13b	1 yr.
Key files	Schedule 18	Item 14b	3 mo.

System manager and address: Assistant Director for Administration, Office of Administration, Administration Building, FLETC, Glynco, Georgia 31520.

Notification Procedure: The individual must provide full name, date of birth, and dates of employment with the Center to the system manager.

Record access procedures: By written request to the system manager.

Contesting record procedures: By written request to the system manager.

Record source categories: The employee on whom the record is maintained, prior employers, and FLETC.

[FR Doc.76-22590 Filed 8-3-76;8:45 am]

PRIVACY ACT OF 1974

Proposed Change to a System of Records

On December 2, 1975, in accordance with the requirements of the Privacy Act of 1974 at 5 U.S.C. 552a(e)(4), a system of records maintained by the Federal Law Enforcement Training Center titled "Treasury/FLETC 00.002", and describing trainee records, was adopted by notice published in the FEDERAL REGISTER (40 FR 56017, 56419). The Center now proposes to amend this system of records.

The purpose of amending this system of records is to achieve greater administrative efficiency by combining certain instructor records with trainee records in order to provide a single electronic data processing capability. Computerizing trainee and instructor records at the Center will facilitate the prepartaion of trainee rosters and the scheduling of dormitory space, classes, classroom space, and instructors. Further, the trainee and instructor history files will be used to identify the curriculum and grades of trainees for purposes of college credit, to

provide information for use at court trials, and to prepare statistical reports for training evaluation.

Notice of this proposal as required by subsection (o) of the Act, 5 U.S.C. 552a (o), was filed on March 12, 1976, with the Senate, Th House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Any interested person may submit written data, views, objections, or arguments on this proposed amendment to the Acting Departmental Disclosure Officer, Office of Administrative Programs, United States Department of the Treasury, 1331 G Street NW, 3rd floor, Washington, D.C. 20220 on or before August. All written comments received from the public by then will be considered by the Department before taking action on a final notice of adoption. Comments received will also be available for public inspection at the above address between the hours of 9:00 a.m. and 5:30 p.m., Mondays through Fridays, except public holidays. Further information is available by telephone at (202) 964-2792.

Dated: July 29, 1976.

ARNOLD J. LAU,
Acting Director, Federal Law Enforcement Training Center.

PROPOSED REVISED SYSTEM NOTICE

TREASURY/FLETC 00.002

System name: FLETC Trainee Records and FLETC Instructor Records-Treasury/FLETC.

System location: FLETC Office of Administration, Administration Building, Glynco, Georgia 31520.

Categories of individuals covered by the System: Any person who officially attends a formal FLETC training program and all instructors engaged in teaching the FLETC training programs.

Categories of records in the System: Trainee records: personal background information supplied by the trainee; grades and performance evaluation, student advisory form and relevant public health records. Instructor records: personal background information supplied by the instructor, and teaching qualifications. All records described in this system are other than records described and reported by the Civil Service Commission on behalf of all agencies.

Authority for maintenance of the System: 5 U.S.C. 301, 5 U.S.C. 4101-4118, Executive Order 11348, Treasury Order No. 217 (Revision 1) dated July 1, 1970, and Memorandum of Understanding for the Sponsorship and Operation of the Consolidated Federal Law Enforcement Training Center, dated September 30, 1970.

Routine uses of records maintained in the System, including categories of users and the purposes of such uses: Disclosure upon request to the individual himself, the individual's parent agency, and to any other agency or organization at the request of the individual.

To the Civil Service Commission concerning pay leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions. For additional routine uses, see Appendix AA, 40 *Federal Register* 56419-56420, December 2, 1975.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Magnetic disc storage except for health records which are maintained on paper files.

Retrievability: Name and class number.

Safeguards: Access to these systems of records will be controlled by software and hardware procedures. Software will be used to ensure, in all technically feasibleways, that data cannot be made available to unauthorized persons. User—identifiers and passwords will be used where feasible to protect the data. Physical security will protect all terminals and magnetic disc files from access by unauthorized persons. Offices will be locked except when authorized persons are present.

Retention and disposal: Disposition not yet authorized by the National Archives and Records Service. A formal request is in progress, proposing destruction in annual increments five years from the end of the calendar year in which the record was created. Should the disposition ultimately approved be materially different from the one outlined here, further notice will be made in this publication.

System manager's address: Assistant Director for Administration, Office of Administration, Administration Building, FLETC, Glynco, Georgia 31520.

Notification procedure: The individual must provide full name, date of birth, parent agency, type of course and approximate dates of attendance to the system manager.

Record access procedures: By written request to the system manager.

Contesting record procedures: By written request to the system manager.

Record source categories: Trainees: The trainee himself and members of the staff responsible for grading, rating or evaluating the trainee. *Instructors:* The instructor himself and staff members responsible for upgrading the instructor's teaching qualifications.

[FR Doc.76-22591 Filed 8-3-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ROCKY MOUNTAIN ARSENAL, DENVER, COLORADO

Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on July 27, 1976, provided the Council on Environmental Quality, with a final environmental impact statement concerning the sale of Carbonyl Chloride at Rocky Mountain Arsenal, Denver, Colorado.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from the Project Manager for Chemical Demilitarization and Installation Restoration, Aberdeen, Proving Ground, Maryland 21010.

In the Washington area, inspection copies may be seen, during normal duty hours, in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310 (phone (202) 694-1163).

Dated: July 27, 1976.

CHARLES R. FORD,
Deputy Assistant Secretary of the Army (Civil Works).

[FR Doc.76-22613 Filed 8-3-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. ADDISON-WESLEY PUBLISHING COMPANY, ET AL.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of New York in Civil Action No. 74 Civ. 5176, *United States of America v. Addison-Wesley Publishing Company, et al.* The complaint charged that the defendants and co-conspirators engaged in a combination and conspiracy to divide illegally world markets among themselves for the sale of English-language books. The proposed judgment enjoins the defendants from all the activities alleged to have been carried out by the conspiracy. Public comment is invited on or before October 8, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: July 28, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section, Antitrust Division.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. Addison-Wesley Publishing Company; Bantam Books, Inc.; Columbia Broadcasting System, Inc.; Dell Publishing Co., Inc.; Doubleday & Company, Inc.; Grosset & Dunlap, Inc.; Harcourt Brace Jovanovich, Inc.; Harper & Row Publishers, Inc.; Houghton Mifflin Company; Intext, Inc.; Litton Educational Publishing, Inc.; Macmillan, Inc.; McGraw-Hill, Inc.; Oxford University Press, Inc.; Penguin Books, Inc.; Prentice-Hall, Inc.; Random House, Inc.; Simon & Schuster, Inc.; The Times Mirror Company; The Viking Press, Inc.;

and John Wiley & Sons, Inc. defendants. (Civil Action No. 74 Civ. 5176 (CES). Filed: July 27, 1976.)

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

Dated July 27, 1976.

For the Plaintiff: Thomas E. Kauper, Assistant Attorney General; William E. Swope, Charles F. B. McAleer, Elliott H. Moyer, Joel Davidow, Douglas E. Rosenthal, Stephen P. Kilgriff, *Attorneys, Department of Justice.*

For the Defendants: Addison-Wesley Publishing Company, Seward & Kissel. By Anthony R. Mansfield, a Member of the Firm, 63 Wall Street, New York, New York 10005.

Bantam Books, Inc., Weil, Gotshal & Manges. By Peter D. Standish, a member of the firm, 767 Fifth Avenue, New York, New York 10022.

Columbia Broadcasting System, Inc., by W. Mallory Rintoul, 51 West 52nd Street, New York, New York 10019. By Ronald E. Guttman, 51 West 52nd Street, New York, New York 10019.

Dell Publishing Co., Inc., Kaye, Scholer, Fierman, Hays & Handler. By Allan M. Pepper, a member of the firm, 425 Park Avenue, New York, New York 10022.

Doubleday & Company, Inc. Satterlee & Stephens. By George C. Shively, a member of the firm, 277 Park Avenue, New York, New York 10017.

Grosset & Dunlap, Inc. Engel & Miller. By Paul N. Hodys, a member of the firm, One Dag Hammarskjold Plaza, New York, New York 10017.

Harcourt Brace Jovanovich, Inc. Linden & Deutsch. By Edward Klagsburn, a member of the firm, 110 East 59th Street, New York, New York 10022.

Harper & Row, Publishers, Inc. By Edward A. Miller, General Cousel, 10 East 53rd Street, New York, New York 10022.

Houghton Mifflin Company, Cadwalader, Wickersham & Taft. By John Boyer, a member of the firm, One Wall Street, New York, New York 10005.

Intext, Inc. Greenbaum, Wolff & Ernst. By R. Andrew Boose, a member of the firm, 437 Madison Avenue, New York, New York 10022.

Litton Educational Publishing, Inc. By Theodore F. Craver, 369 North Crescent Drive, Beverly Hills, California 90210.

MacMillan, Inc. Linden & Deutsch. By Edward Klagsburn, a member of the firm, 110 East 59th Street, New York, New York 10022.

McGraw-Hill, Inc. By Robert N. Landes, Senior Vice President and General Counsel, 1221 Avenue of the Americas, New York, New York 10020. White & Case. By Edward Wolfe, a member of the firm, 14 Wall Street, New York, New York 10005.

Oxford University Press, Inc. Cravath, Swaine & Moore. By David Boies, a member of the firm, One Chase Manhattan Plaza, New York, New York 10005.

Penguin Books, Inc. Botein, Hays, Sklar & Herzberg. By Harry I. Rand, a member of the firm, 200 Park Avenue, New York, New York 10017.

Prentice-Hall, Inc. Townley, Updike, Carter & Rodgers. By Ronald S. Daniels, a member of the firm, 220 East 42nd Street, New York, New York 10017.

Random House, Inc. Schnader, Harrison, Segal & Lewis. By Arthur Kahn, a member of the firm, 1719 Packard Building, Philadelphia, Pennsylvania 19102.

Simon & Schuster, Inc. By Selig J. Levitan, 630 Fifth Avenue, New York, New York 10020.

The Times Mirror Company, Weil, Gotshal & Manges. By Peter D. Standish, a member of the firm, 767 Fifth Avenue, New York, New York 10022.

The Viking Press, Inc. Botein, Hays, Sklar & Herzberg. By Harry I. Rand, a member of the firm, 200 Park Avenue, New York, New York 10017.

John Wiley & Sons, Inc. Paskus, Gordon & Hyman. By Phillip H. Schaeffer, a member of the firm, 733 Third Avenue, New York, New York 10017.

Stipulation Approved For Filing.

Dated: July 27, 1976.

CHARLES E. STEWART, JR.,
United States District Court Judge.

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. Addison-Wesley Publishing Company; Bantam Books, Inc.; Columbia Broadcasting System, Inc.; Dell Publishing Co., Inc.; Doubleday & Company, Inc.; Grosset & Dunlap, Inc.; Harcourt Brace Jovanovich, Inc.; Harper & Row, Publishers, Inc.; Houghton Mifflin Company; Intext, Inc.; Litton Educational Publishing, Inc.; MacMillan, Inc.; McGraw-Hill, Inc.; Oxford University Press, Inc.; Penguin Books, Inc.; Prentice-Hall, Inc.; Random House, Inc.; Simon & Schuster, Inc.; The Times Mirror Company; The Viking Press, Inc.; and John Wiley & Sons, Inc.; Defendants. (Civil Action No. 74 Civ. 5176 (CES). Filed: July 27, 1976.)

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on November 25, 1974; defendants, having appeared by their respective attorneys and filed answers; and the plaintiff and consenting defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue:

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the plaintiff and consenting defendants, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Book" means a copyrighted, English language book;

(B) "Series of Books" means a set of Books with a similar or uniform format and interrelated on the basis of authorship or theme;

(C) "British Market Agreement" means the agreement executed by certain British members of the British Publishers Association, and any amendments or modifications thereof, which defines the British Traditional Market and which expresses the commitment generally to refrain from acquiring publication rights for Books, unless these include exclusive rights of publication for the British Traditional Market;

(D) "Publishers Association" means a membership association of publishing houses maintaining offices in the United Kingdom with its principal office located presently at 19 Bedford Square, London, England, and any successors thereof;

(E) "British Traditional Market" means that group of approximately seventy (70) countries, as defined in the British Market Agreement, comprising present and former members of the British Commonwealth;

(F) "Person" means any individuals, partnership, firm, association, corporation, or other business or legal entity;

(G) "United States" means the United States, any territory thereof, the District of Columbia and any insular possession or other place under the jurisdiction of the United States.

III

The provisions of this Final Judgment applicable to any consenting defendant shall apply to each of its officers, directors, agents and employees, its subsidiaries, successors and assigns, and also to all other Persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, each consenting defendant, its subsidiaries and companies under common control with such consenting defendant, and the officers, directors, agents and employees thereof, when acting in such capacity, shall be deemed to be one Person. Except for sales of Books to the plaintiff or any agency or public instrumentality thereof, this Final Judgment shall not apply to activities outside the United States which do not affect the foreign or domestic commerce of the United States.

After the date of entry of this Final Judgment, with regard to the acquisition, grant or other transfer of copyright rights thereafter between a consenting defendant and a United Kingdom publisher, such consenting defendant is enjoined and restrained, directly or indirectly, from entering into, adhering to, cooperating with, maintaining, enforcing or claiming any rights under:

(A) Any agreement or understanding, including the British Market Agreement, with any association, or group comprising two or more publishers of Books, to allocate, divide or assign territories or customers for the publication, sale or distribution of Books, or to assign or conform to exclusive or allocated territories or customers among publishers; provided that two or more publishers either under common control, or engaged in a bona fide joint arrangement for the publication of a specified Book or a specified Series of Books for a specified country or countries, shall be deemed one publisher under this Subsection (A) of this Section IV; provided further that acquisitions, grants or other bona fide transfers of copyright licenses between a consenting defendant and each of two or more publishers with respect to a specified Book or a specified Series of Books shall not constitute an agreement or understanding within the meaning of this Subsection (A) of this Section IV;

(B) Any agreement or understanding that the acquisition, grant or other transfer of territorially exclusive copyright rights for

a Book for an agreed, understood or specified group of countries be in return for a reciprocal agreement or understanding that the acquisition, grant or other transfer, of territorially exclusive copyright rights for any future Book not in the same Series be for an agreed, understood or specified group of countries.

V

Each defendant is enjoined and restrained, directly or indirectly, from preventing or restricting any purchaser of a lawfully published Book from importing or exporting such Book to or from the United States or such purchaser from selling, distributing or providing for the resale of such Book to customers in United States interstate or foreign commerce.

VI

Nothing in this Final Judgment shall prevent any defendant, in and of itself, from acquiring, granting, or otherwise transferring exclusive or non-exclusive copyright rights, or from exercising or authorizing the exercise of such rights under the copyright law of any country, including the United States, or from the assertion of such other statutory rights as such defendant may have, provided that no foreign copyright law or other foreign statutory right may be used by any defendant to exclude or restrict the importation or resale in the United States of a lawfully published Book.

VII

Defendant is ordered and directed, for a period of two years from the date of entry of this Final Judgment, to furnish a copy of this Final Judgment to each publisher or literary agent to whom it transfers or from whom it receives exclusive rights to the publication or distribution of any Book in any country within the British Traditional Market.

VIII

For the purposes of securing or determining compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege:

(A) Any authorized representative of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of an authorized representative of either, and on reasonable notice to any defendant made to its principal office, be permitted:

(1) Access, with defendant having a right to have counsel present, during office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of the defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of the defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of an authorized representative of either, made to such defendant's principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may, from time to time, be requested.

No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

Jurisdiction is retained for the purpose of enabling the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, carrying out or modification of any of the provisions of this Final Judgment and for the enforcement of compliance therewith and the punishment of the violation of any of the provisions contained herein.

X

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. Addison-Wesley Publishing Company; Bantam Books, Inc.; Columbia Broadcasting System, Inc.; Dell Publishing Co., Inc.; Doubleday & Company, Inc.; Grosset & Dunlap, Inc.; Harcourt Brace Jovanovich, Inc.; Harper & Row, Publishers, Inc.; Houghton Mifflin Company; Intext, Inc.; Litton Educational Publishing, Inc.; Macmillan, Inc.; McGraw-Hill, Inc.; Oxford University Press, Inc.; Penguin Books, Inc.; Prentice-Hall, Inc.; Random House, Inc.; Simon & Schuster, Inc.; The Times Mirror Company; The Viking Press, Inc.; and John Wiley & Sons, Inc.; defendants. (Civil Action No. 74-5176 (CES); filed: July 27, 1976.)

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16 (b)-(h) P.L. 93-528 (December 21, 1974)], the United States of America hereby files this competitive impact statement relating to a proposed consent judgment in the above entitled action to be entered against all the named defendants.

(1) *Nature and purpose of the proceeding.* This action was filed on November 25, 1975, against twenty-one major American publishing houses charging that the defendants and certain co-conspirators engaged in an unlawful combination and conspiracy to restrain foreign and interstate trade and commerce in the distribution and sale of books in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). Named as co-conspirators were The Publishers Association, a British organization whose membership includes virtually all major United Kingdom publishing houses, and the members of the Association.

The defendants and many members of the Publishers Association publish copyrighted, English-language hardboard and paperback books, professional books, elementary, high school and college textbooks, religious books and mass market paperback books. Whenever the term "books" is used in this statement it refers to any of these categories of books. Sales in the United States of such books total more than two billion dollars a year, less than ten percent of which are imported from foreign sources. United States book exports are estimated to exceed $250 million dollars in sales. Most English-language books are published in the United States or in the United Kingdom, although other publishers are located throughout the world, especially in the larger English-language nations.

Most published books are copyrighted. A copyright protects the property interest of an author, or the one to whom he assigns his property interest, against the unauthorized publication of the work. Pursuant to international agreements, a copyright granted in one country is recognized in all other countries which are signatories to such agreements. Most countries of the world, including all or virtually all English-language countries, have signed such agreements. In current practice, many authors whose books are published secure a copyright in their home country and license or assign that copyright to a so-called prime publisher together with all rights to excerpt, translate, perform and sub-license.

The defendants are all publishers who often obtain copyright licenses from authors, usually Americans, for whom they act as prime publishers. Each such publisher either distributes or arranges for others to publish and distribute the books pursuant to licenses throughout the United States and in foreign countries. In some instances the defendants export books from the United States to foreign countries. In other instances, especially where there is a significant anticipated market for a particular book, foreign distribution is left to a foreign publishing house, which usually produces its own edition for the licensed book. Under current practice these license agreements usually provide that the licensee shall have the exclusive right to publish and distribute the licensed book in a defined market and, accordingly, that the licensor will neither itself distribute the licensed book in that market nor license any other publisher to do so. In return, the licensee agrees not to publish or sell the licensed book in the United States, and certain other markets the licensor wishes to retain for itself.

The publishing houses which belong to the Publisher's Association perform generally the same functions in the United Kingdom that the defendants perform in the United States. For many years American publishers have entered into license agreements with British publishers both as licensors and licensees of books. The books of many popular authors are published both in an American and a British edition.

When American and British editions of the same book are published pursuant to a license, American publishers are generally granted exclusive publication and selling rights for the United States and certain other markets, and British publishers are given exclusive publication and selling rights within a "British Traditional Market," a group of approximately 70 English-speaking countries comprising virtually all of the present and former members of the British Commonwealth. In its complaint, the Government alleged that this pattern or practice was the result of combinations and agreements—over and above the individual license agreements for particular books—entered into by certain American and British publishing houses with the purpose and effect of suppressing competition in the sale of books in United States interstate and foreign commerce.

One of the principal elements of the conspiracy charged in the complaint was an agreement of The Publishers Association, called the British Market Agreement (formerly the British Publishers' Traditional Market Agreement), whereby members agreed not to accept a copyright license for a book from a foreign author or publisher unless the licence included the exclusive rights for publication and distribution of the book in the "British Traditional Market." This agreement was, in effect, an undertaking to boycott non-complying foreign publishers and authors, including those of the United States. Although the Publishers Association and its

members were named as co-conspirators in the complaint, most were not named as defendants because of issues of personal jurisdiction.

The defendants, responding to the Government's complaint, asserted that so long as the British Market Agreement remained in effect that they had little choice but to grant licenses to members of the Publishers Association pursuant to the terms of that agreement, because otherwise they would be unable effectively to penetrate the Commonwealth markets with which the British were much more familiar and because they would be foreclosed from competing as licensees publishing the works of British authors for the United States market. The Department of Justice concluded that, indeed, effective termination of the illegal market allocation arrangement which had been established between American and British publishers required either of two measures: termination of the British Market Agreement, or a prohibition against any defendant dealing in exclusive licenses with any member of the British Publishers Association so long as the British Market Agreement remained in effect. This latter measure would impose heavy enforcement burdens on the Department and would not necessarily terminate the British Market Agreement, since other United States publishers and literary agents not named as defendants would not be enjoined from dealing with the British publishers unless they were added as defendants or sued in another action. Additionally, this rather draconian measure appeared less desirable in light of consideration of comity between the United States and the United Kingdom.

With these considerations as background, the Department opened negotiations with the Publishers Association to determine the possibility of a voluntary revocation of the British Market Agreement. Beginning in February, 1975, and continuing through June, 1976, a series of approximately eight meetings and numerous telephone conversations were held between Government staff attorneys and representatives of the Association or their United States counsel. Officials of the British Embassy attended two of these meetings and held one independent meeting with the Assistant Attorney General to express the concern of the British Government that British subjects not be treated in a discriminatory manner and that this case not be prosecuted in such a way as to encroach upon British sovereignty. These British officials were assured that the Government had no such intentions.

The Department emphasized during negotiations with the Publishers Association that the complaint and relief sought in this case in no way interfered with the legitimate exercise of specific copyright rights, but were aimed solely at certain abuses which go beyond the proper scope of the copyright grant. Proposed drafts of a consent judgment outlining the parameters of relief the Government would seek from defendants if the British Market Agreement were withdrawn were submitted to the Association. On September 24, 1975, the members of the Association adopted a resolution granting the Executive Council of the Association the authority to rescind the British Market Agreement upon notification by the Department of Justice that a significant number of defendants had agreed to the filing of a consent judgment substantially similar to the Department's proposed draft given to the Association in July, 1975. During the winter and early spring, counsel for defendants held several meetings with Government attorneys to negotiate mutually satisfactory terms within the parameters of relief discussed with the Publishers Association.

On May 14, 1976, the Publishers Association was notified that the Department and the defendants had agreed to a proposed consent judgment substantially similar to the one submitted to the Association. On July 6, 1976, the Department was officially notified that the British Market Agreement had been withdrawn, effective July 11, 1976. This proposed final judgment, along with this competitive impact statement, has now been filed with the Court.

(2) *Practices and events giving rise to the alleged violation of the antitrust laws.* The complaint alleges that from 1947 to the time of the filing of the complaint a combination and conspiracy existed among the defendants and co-conspirators to divide world markets among themselves for the publication and sale of books. The Government would have contended at trial that the defendants and co-conspirators:

(a) Entered an agreement that whenever a copyrighted book published in the United States by a defendant or co-conspirator company was also to be licensed for publication or distribution in any of the countries included in the "British Traditional Market," a group of countries comprising virtually all present and former members of the British Commonwealth, the American company would grant a license to a publishing house in the United Kingdom granting the exclusive right to publish or distribute the book in all the countries included in the British Traditional Market. In return, the United Kingdom publisher would agree not to publish or distribute the book in the American Market, consisting of the United States and certain other countries, usually the Dominion of Canada and the Philippine Republic.

(b) Entered an agreement that whenever a copy-righted book published in the United Kingdom by one of the co-conspirator companies was also to be licensed for publication or distribution in the American Market, the United Kingdom company would grant a license to a defendant or co-conspirator company in the United States to publish or distribute the book exclusively in the American Market. In return, the defendant or co-conspirator would agree not to publish or distribute the book in the British Traditional Market.

(c) Cooperated and participated in the monitoring, reporting and attempts to stop actual and attempted breaches of the aforesaid agreements.

(3) *The proposed consent judgment and its anticipated effects on competition.* As was the Complaint in this case, the proposed judgment is primarily directed to arrangements, exemplified by the so-called British Marketing Agreement, which constitute an overall pre-determination for the allocation of countries and markets between American and British publishers in connection with contracts and copyright licenses for the publication of English-language books.

The proposed judgment prohibits adherence to such group pre-determinations by each defendant in dealing with British publishers. Otherwise, except for injunctions against restrictions on resales and against certain reciprocal licensing practices, the judgment does not attempt to regulate comprehensively future bilateral dealings between individual publishers for the licensing of particular books nor to reach purely United States activities. Activities not prohibited by the judgment including exempted activities, of course, remain subject to the antitrust laws.

The proposed consent judgment enjoins the defendants from all the activities alleged to have constituted the conspiracy. It is anticipated that the conduct prohibited by the judgment and the affirmative duties imposed on the defendants will enhance competition and promote export trade in the sale and distribution of books.

If the proposed consent judgment is approved by the Court, the defendants will be enjoined in the future from agreeing with two or more publishers to allocate territories or customers for the publication, sale or distribution of English-language books in connection with any copyright licensing arrangement with a United Kingdom publisher. There are two exceptions to this broad injunction which apply to licensing practices involving a specific book or a specific "Series of Books." "Series of Books" is defined in the judgment to mean "a set of books with a similar format and interrelated on the basis of authorship or theme." The first exception exempts from the injunction a "bona fide joint arrangement" of two or more publishers for the publication or distribution of a specific book or series of books. This provision allows the defendants to enter into a valid joint venture in the publishing industry for the publication of a particular book or series of books. The second exception allows an agreeemnt among two or more publishers to transfer copyright rights when the agreement pertains solely to a specific book or series of books. This exemption will permit insofar as the judgment is applicable, a defendant publisher to license both a British publisher and, for example, an Australian publisher for the same book or series of books. Since the alleged conspiracy involved the allocation of world markets for English-language books among British and United States publishers, the licensing of publishers in other countries is to be encouraged as a means to eliminate the effects of the conspiracy.

Defendants are also enjoined from entering into any bilateral agreement with a British publisher which conditions the present grant of an exclusive copyright license to the British publisher upon a reciprocal grant by the British publisher to the defendant of an exclusive copyright license for a future book, or vice versa. This provision prohibits a classic form of cross-licensing or reciprocity whereby a publisher could agree to license exclusive rights for a book only if his licensee agreed to license the former on an exclusive basis for another book in the future. It does not, however, prohibit a defendant from entering an agreement whereby he conditions the acceptance of a copyright license for one book at the present time on the grant of the right to be licensed for another book at some future time. If such an arrangement in a particular instance constituted an antitrust violation it would be subject to a separate suit. It was inappropriate to spell out in this judgment permissible and impermissible conduct in this area, since this type of conduct was not alleged in the complaint as part of the conspiracy.

Defendants are also prohibited from enforcing any restriction on the resale of lawfully published books. Once a book has been sold to a purchaser, that purchaser cannot be restrained under United States law from reselling the work wherever he chooses. It is the position of the Department that the book publication copyright right is exhausted after the first sale of the work, and the copyright holder has no right to restrict resale of the books thereafter. See *United States* v. *Arnold, Schwinn & Co.* 383 U.S. 365 (1967). However, there is a limited exception to this prohibition contained in the United States copyright law. The so-called "Manufacturing Clause" (17 U.S.C. § 16), with certain exceptions, requires all copies of a work by a United States author to be printed from type set or plates made within the limits of the United States.

Under Section 107 of the Copyright Act (17 U.S.C. § 107), importation into the United States of copies of any work which have not been produced in accordance with the Manufacturing Clause is prohibited. Defendants are still free to exercise this right and any other statutory right they may have to exclude lawfully published books from abroad. However, under the present copyright law, they may not sue for infringement nor may they enforce contractual rights which contain resale restraints with respect to lawfully published books from abroad. Their remedy is limited to an in rem proceeding under the Manufacturing Clause against the books themselves, or any other statutory right they may have.[1]

The decree also orders the defendants, for a period of two years, to furnish a copy of the final judgment to each publisher or literary agent to whom it transfers or from whom it receives exclusive copyright rights for a book in any country within the British Traditional Market. The judgment also affirms the right of the defendants to exercise their copyright rights granted to them by law.

The consent judgment affords the Government methods of determining compliance with the judgment by interviewing employees, by securing reports or by inspection of documents and records in control of defendants. Such documents, reports, and records are required to be made available upon the Government's request.

The District Court retains jurisdiction of the case and may modify the provisions of the consent judgment. The District Court also retains jurisdiction for the purpose of enforcing compliance with the judgment or punishing violations of it.

(4) *Remedies available to potential private plaintiffs.* Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal equitable relief which they would have had, were the proposed judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

(5) *Procedures available for modification of the proposed consent judgment.* The proposed consent judgment is subject to a stipulation between the United States and the consenting defendants which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, for the sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the FEDERAL REGISTER such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) *Alternatives to the proposed judgment considered by the United States.* In view of the fact that the consent judgment provides for relief which does not differ from that sought in the complaint, full trial on the merits was not considered an appropriate alternative to settlement. In addition to considering provisions substantially similar to those contained in the proposed judgment, proposals considered by the Government and then rejected included the following:

(a) A provision prohibiting any defendant from granting or accepting from a member of the British Publishers Association any exclusive copyright license so long as the British Market Agreement remained in force. This provision was formulated prior to any negotiations with the Publishers Association when it was thought that the British would continue to adhere to the British Market Agreement. After negotiations with the British, the Government received assurances that the Publishers Association would terminate the agreement if an appropriate judgment not including this provision could be negotiated with the defendants, and thus this provision became unnecessary. The Government received formal notification that the British Market Agreement had been revoked prior to the filing of this proposed consent judgment.

(b) A provision prohibiting any defendant for a period of three years from agreeing with any other person to grant or acquire an exclusive license for a particular country, which was conditioned on the grant or acquisition of exclusive rights for another country, provided that an agreement could be made for more than one country if each country was independently bargained for and specified in the agreement. This was an attempt to force country-by-country negotiations of copyright rights to help break up established territorial marketing patterns. The proposal was dropped because with the termination of the British Market Agreement, it was judged inappropriate at the present time to impose the administrative burdens involved in enforcing and complying with such a provision.

(c) A provision which would have allowed the Government the right to petition the Court to "reopen" the judgment and grant further relief if the basic territorial market allocation patterns persisted even as a result of parallel, independent action by the defendants and co-conspirators. Defendants resisted this notion as exposing them to an open-ended liability with little recourse once the initial judgment was filed. They insisted that they had to know the full parameters of the relief to which they were agreeing in order to settle. After reconsideration, the Department decided to drop this concept because of the opposition of the defendants and the enforcement options open to the Government even without such a provision. If the marketing patterns of the alleged conspiracy persist, the Department has the options of a contempt action if it can show violative conduct, possible modification of the judgment, or an independent suit. The Department believes the availability of these options is sufficient to discourage continuation of the market allocation patterns; if not, its freedom of action is preserved.

(d) The Department's original proposal made the major injunctive provisions of Section IV applicable to all licenses entered into by defendants. Later proposals limited the application of this Section to licenses between any defendant and a United Kingdom publisher. Since the complaint did not allege the existence of any conspiracy involving licensing with non-British publishers, the scope of relief is considered sufficiently broad for this case. Of course, a broader conspiracy would itself be subject to independent attack under the antitrust laws, and any aspect of such a conspiracy enjoined by this judgment could be held a contempt of court.

(7) *Determinative documents.* There are two documents which may be considered determinative in this case. Attached as Appendix A to this competitive impact statement is a resolution of The Publishers Association, dated September 24, 1975, directing the Council of the Association to withdraw the British Publishers Traditional Market Agreement as soon as the Department of Justice notifies the Council that the Department has obtained written agreement of a significant number of the defendants in this case to entry of a consent judgment in a form substantially similar to the one shown to them at that meeting. This enabled the Department to go forward with negotiations with the defendants with the knowledge that the element of the conspiracy represented by the British Market Agreement would be terminated.

The second document, attached as Appendix B to this competitive impact statement is the official notice of The Publishers Association that the Agreement has in fact been withdrawn and that notice of withdrawal has been sent to its members. It was understood between the defendants and the Department that this proposed final judgment would not be filed until such notification was received.

JOEL DAVIDOW,
DOUGLAS E. ROSENTHAL,
STEPHEN P. KILGRIFF,
Attorneys, Department of Justice.

This is the resolution referred to in the Statutory Declaration of Ronald Ernest Barker made this 25th day of September 1975 before me

L. J. ROSE,
A Commissioner for Oaths.

This Special General Meeting of members of the Publishers Association, held in London on 24 September 1975,

Recalling that the British Publishers' Market Agreement, sometimes referred to as the British Publishers' Traditional Market Agreement, consists of undertakings by individual members of the Association to observe the recommendation of the Council of the Association, conveyed in the Association's Secretary's circular letter to the membership, ref: 77/66, dated 14 June 1966, and subsequently published as Appendix VIII of the Association's Guide To Royalty Agreements (5th edition, 1972) pp. 63–65;

Taking Account of the Complaint filed by the United States Department of Justice, Antitrust Division, against twenty-one American publishers, on 25 November 1974;

Accordingly resolve, That the Council of the Association be and is hereby directed to withdraw the aforementioned recommendation of the Council and to release Members from their undertaking to observe said recommendation, such action by the Council to take place as soon as the United States Department of Justice advises the Council that the Department has obtained the written agreement of a significant number of the defendants (approximately two-thirds

[1] The Department of Justice, in Congressional testimony, has opposed the continued existence of the Manufacturing Clause. See Statement of the Deputy Assistant Attorney General, Civil Division, before the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Judiciary Committee concerning H.R. 2223 on May 8, 1975. The inclusion of this restriction in our copyright law, he stated, is unnecessary and inappropriate today in light of the competitive strength of the United States and our nation's commitment to eliminate nontariff barriers to international trade and to ensure vigorous competition.

thereof) in *United States* v. *Addison-Wesley Publishing Co., et al.* Civil Action No. 74 Ci 5176 (United States District Court for the Southern District of New York) to entry of a consent decree which the Council considers to be in a form substantially similar to that presented to the Members at a meeting of Members held on 10 September 1975, as altered by any clarifications deemed necessary. The Council and the Officers of the Association are also hereby directed to circulate notice of the withdrawal of the aforementioned recommendation to all Members of the Association and to publish notice of such withdrawal in the Bookseller.

I certify that this is the Resolution referred to in the covering declaration.

R. E. BARKER,
Secretary, Publishers Assn.

25 September 1975.

EXHIBIT A

RESOLUTION

U.S. of America v. *Addison-Wesley Publishing Co. and others* Civil Action No. 74 Civ. 5176 (CES).

Whereas a Special General Meeting of the members of the Publishers Association (hereafter called 'the Association') held in London on 24 September 1975 approved a resolution to the effect that the Council of the Association should be directed to withdraw the recommendation of the Council known as the British Publishers' Market Agreement as soon as the United States Department of Justice advises the Council that a significant number (approximately two-thirds) of the defendants in the case of *U.S.* v. *Addison-Wesley Publishing Co. et al* have given their written agreement to the entry to the United States District Court for the Southern District of New York of a consent decree for the settlement of the action in a form substantially similar to that presented to members at a meeting held on 10 September 1975 (a certified true copy of the minutes of which Special General Meeting with the full text of the resolution are attached hereto);

And whereas the Council of the Publishers Association has been advised that all the defendants in the aforementioned case have given their written stipulation to the entry of the consent decree;

And whereas the Council of the Association has received a copy of the revised consent decree dated 21 April 1976, being the decree to which the defendants have given their written stipulation, which in the opinion of the Council is substantially similar to the draft decree presented to the meeting of members held on 10 September 1975;

Now it is resolved by the Council of the Publishers Association, meeting in London on 6 July 1976, in pursuance of the resolution of the Special General Meeting held in London on 24 September 1975, that the recommendation of the Council known as the British Publishers' Market Agreement is revoked with effect from 11 July 1976 and that the members of the Association are released from their undertakings to observe this recommendation, so that the recommendation is of no further force or effect;

And the Council instructs the Secretary of the Association to attest in writing to the U.S. Department of Justice that this resolution has been made by the Council in valid form such attestation to be sworn before a solicitor of the Supreme Court of England and Wales;

And further instructs the Secretary of the Association to circulate notice of the revocation of the agreement and of the release of members from their undertakings with regard to that agreement to all members of the Association and to publish notice of the revocation and release in the first edition of the Bookseller in which such notice can practicably be published, and to notify the U.S. Department of Justice in writing that such notices have been issued;

And further instructs the President of the Association to attest in writing to the U.S. Department of Justice that Mr. Clive Bradley has been appointed by the Council as Secretary of the Association;

EXHIBIT B

[FR Doc.76-22618 Filed 8-3-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Joseph M. Kulina, South Lake, RD 3, Carmel, New York 10512.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☑ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To be able to buy, sell & trade Palawan Peacock Pheasants and to be able to buy other Endangered Species.
To propagate to insure their survival in captivity

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Joseph M. Kulina
South Lake. R.D.3.
Carmel, N.Y. 10512
PH. 914-225-3159

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☑ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'8" WEIGHT: 170
DATE OF BIRTH: March 2. 1916 COLOR HAIR: Blonde COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED:
SOCIAL SECURITY NUMBER: 112-03-6095
OCCUPATION: Self Employed
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Does not apply

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION: COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION. Does not apply
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Does not apply
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: Does not apply

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
a/ Breeding Palawans, also other species of Pheasants at my Aviary South Lake, Carmel, N.Y.
b/ Buying and selling Endangered Pheasants interstate. Primarily New York to West Coast + Texas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☑ YES ☐ NO
(If yes, list license or permit number)
I hold Propagator permit issued by the State of New York

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☑ YES ☐ NO
(If yes, list jurisdictions and type of documents)
to possess

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: June 15-1976

11. DURATION NEEDED: 2 yrs or as long as possible

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR part 17.22 Permits for propagation purposes, for the enhancement + survival

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Joseph Kulina
DATE: 5/24-1976

3-200 (6/74)

Information Requested by Section 17.33
File No. PRT 2/23-07

1. Mainly Palawan Peacock pheasant, Polyplectron Emphanum or Polyplectron Napoleonis. Would like to be able to buy and sell to get new blood for propagation purposes.

2. Drawing of the building, where Palawan Peacock pheasants are housed is included.

3. More than 10 years experience raising all kinds of pheasants, namely Palawan Peacock pheasants.

4. Applicant will fully cooperate in breeding and stud program, and to keep accurate records, it is the only way to save the species.

5. The containers in shipping are crates with 1" foam padding on the top, lined with burlap, and water and feed

containers are securely placed in each crate. Duration; the birds would stay in the crates, perhaps 24 hours.

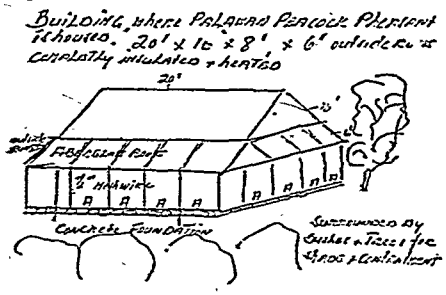
6. I have lost very few birds, mostly of old age. My birds seem very hardy and happy. They get once a week medication in the drinking water. The whole building with pens are completely disinfected before and after the breeding season.

7. The only reason as I stated before is to get new blood to my breeding stock.

8. I plan on keeping, breeding, buying and selling Palawan Peacock Pheasants for propagation purposes only.

(ii), (iii) I'll supply good housing, loving care to insure this beautiful bird long life in captivity, to save this bird for the future generation.

(iv) If I should decide to quit raising birds, I would sell them only to the dedicated breeders, who are capable of raising them and to give them the same loving care, I have given them. However, since my love for the bird is great, I feel, that this is a very remote possibility.



Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-231-25; please refer to this number when submitting comments. All relevant comments received on or before September 3, 1976, will be considered.

Dated: July 28, 1976.

LOREN K. PARCHER,
Deputy Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-22581 Filed 8-3-76;8:45 am]

Bureau of Land Management

[Utah—U-33869]

UTAH

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 17 S., R. 23 E.,
Sec. 34;
Sec. 35.
T. 18 S., R. 23 E.,
Sec. 3.
T. 17 S., R. 24 E.,
Sec. 19.

The right-of-way needed is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

JULY 26, 1976.

[FR Doc.76-22615 Filed 8-3-76;8:45 am]

[NM 28417]

NEW MEXICO

Application

JULY 28, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 24, SE¼SE¼.

This pipeline will convey natural gas across 0.039 of a mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-22616 Filed 8-3-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-513]

CHIPPEWA COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Chippewa Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 2, Feds Creek, Kentucky.

30 CFR 75.1710 provides:

> An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

> * * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:
>
> (1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;
>
> (2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;
>
> (3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;
>
> (4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;
>
> (5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and
>
> (6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. In its mine described below, operations are proceeding in seams of coal of heights which, when mined, do not permit clearances between the top of operated equipment and the roof adequate to allow installation of canopies for protection of operators without the creation of additional hazards. In this mine, seam height varies significantly within all entries and from section to section, and within each section. Therefore, hazards from roof contact exist in all sections covered by this petition at areas where low seams, or rolls, dips, and other seam variations drop to the vicinity of equipment height. Petitioner has installed canopies on all equipment where repeated contact with the roof does not occur, and has re-equipped sections where possible.

2. Petitioner has consulted with MESA Technical Support Center, and continues to experiment with canopy installations. In this regard, Petitioner's greatest problem in extending use of canopies has been operator acceptance, and it has been able to gain no significant experience with

prototype canopies at the mine covered by this petition because of refusal of miners to operate the equipment. This subjective reaction is predictable in situations of seams 42 inches in height and under, but is extremely difficult to deal with because of the provisions of Article III, section (i) of the National Bituminous Coal Wage Agreement of 1974, which allows individual miners to withdraw from conditions which he believes to be abnormal and dangerous by following certain procedures.

3. Chippewa Mine No. 2 is located at Feds Creek, Kentucky. The mine operates with one working section, in seam heights of 38 to 41 inches, using conventional equipment with associated roof bolters.

4. Petitioner submits that the application of the aforementioned provisions of the regulations, if applied to Petitioner's mines, will result in a diminution of safety and is impossible to apply, as described herein below.

a. Petitioner is constantly encountering undulations in the height of its coal seam.

b. As a result of the undulations in seam height the likelihood of jamming the canopy against the roof is increased. Moreover, safe clearance from the roof is not assured in that roof bolts have been and will continue to be sheared or dislodged thereby creating a greater risk of roof fall and injury to operator, by dislodged material and uncontrolled equipment.

c. Technology in the industry is not available to design and install canopies on existing (most equipment has been in operation for over 20 years) equipment which will protect the operators in the conditions described above, insure visability and safe operability, and prevent the hazards described herein. Instead, results of attempts to do so have included the following:

1. Cramped and awkward operator positions cause operators to leave cabs more frequently, and in situations which expose him to hazards of mining equipment.

2. Obstructed vision causes operator to put his head outside of the equipment, thus exposing himself to habards of moving equipment and collision with other objects.

3. Changes in conditions after installations of canopies, caused by variations in seam height and undulations causes equipment clearance to be inadequate and causes collisions with the top, shearing roof bolts, damaging cross beams, destroying equipment and roof support.

d. In an effort to solve problems of equipment modification, Petitioner knows of consultations with MESA Technical Support Center, which it believes to be considering the type of problems described herein. Petitioner does not know of results from such consultations. In addition, Petitioner, as is common in the industry, is in repeated and frequent consultations with vendors on equipment problems, and knows that vendors with whom it has consulted are unable to solve the problems described herein.

e. Existance of the cab itself becomes a hazard in seams, or in portions of seams in which the Petitioner as described above, because present equipment known to the Petitioner limits the paths of escape to an operator faced with a roof or rib fall in a confined space.

f. The mine covered by petition is in an area which has been in operation for thirty (30) years and most of the equipment was not manufactured or designed for the installation of canopies, and Petitioner has been unable to construct or purchase suitable canopies without encountering all of the foregoing problems.

g. In petitioning for modification of the mandatory standard herein, Petitioner is forced to request relief from all time limits set forth in 30 CFR 75.1710-1, as applied to date because of the variations described above within each section. The standard prescribes time limits for use of canopies based upon maximum height within a mine. If the standard becomes immediately applicable throughout the mine, Petitioner is being forced to install canopies in the lower reaches of coal before other coal mine operators in like situations. If the different time limits are to apply to the separate mining sections or other areas in the mines, then Petitioner is faced with a vague situation as mining uncovers new conditions and it is forced with little time to comply, or where compliance is impossible as described herein, its mine may be rendered worthless.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 3, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JULY 27, 1976.

[FR Doc.76-22617 Filed 8-3-76;8:45 am]

[INT FES 76-44]

GREENLEE COUNTY, ARIZONA TO EL PASO, TEXAS, 345 KV TRANSMISSION LINES

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed rights-of-way for construction of two (2) 345 KV transmission lines from Greenlee County, Arizona to El Paso, Texas.

The proposal involves approximately 158 miles of 300 ft. wide right-of-way which will contain both lines and two separate 150 ft. wide rights-of-way each being approximately 46 miles long. A total construction route of approximately 250 miles is proposed.

Copies are available for inspection at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343-5717.

New Mexcio State Office, Bureau of Land Management, U.S. Post Office Building, North Federal Place, Santa Fe, New Mexico 87501, Telephone: (505) 988-6214.

Las Cruces District Office, Bureau of Land Management, 1705 North Valley Drive, Las Cruces, New Mexico 88001, Telephone: (505) 523-5571.

A limited number of single copies may be obtained from the New Mexico State Director, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: July 30, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-22535 Filed 8-3-76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

Correction to Determinations Under Title III of the Voting Rights Act Amendments of 1975

The Director of the Bureau of the Census has determined that the list of political subdivisions covered under Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973, et seq., as modified by the Voting Rights Act Amendments of 1975, Pub. L. 94-73) should be amended. Revisions to the list published in the FEDERAL REGISTER on September 9, 1975 (40 FR 41827) and September 18, 1975 (40 FR 43044) are shown in the attached table. For reference to other listings of States and/or political subdivisions that meet the coverage requirements for Section 203 (Title III), see the FEDERAL REGISTER of March 1, 1976 (41 FR 8817).

Dated: July 30, 1976.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

Corrections to listing of Political Subdivisions covered under Title III of the Voting Rights Act Amendments of 1975:

Political subdivision	*Specified language minority*
MAINE:	
Delete:	
Perry Town, Washington County.	American Indian.
Add:	
Passamaquoddy Pleasant Point Indian Reservation, Washington County.	Do.
MINNESOTA:	
Delete:	
Mahnomen County	Do.

WASHINGTON:
Delete:

Ferry County..... Do.

[FR Doc.76-22562 Filed 8-3-76;8:45 am]

Domestic and International Business Administration

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Friday, September 17, 1976, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5 (c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) (Supp. IV, 1974) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has six parts:

General Session

(1) Opening remarks by the Chairman, Mr. Larry L. Hansen.

(2) Presentation of papers or comments by the public.

(3) Progress reports from the Subcommittee Chairmen:

(a) Pattern Generation and Image Transfer and Inspection Subcommittee—Aubrey C. Tobey, Chairman.

(b) Wafer Processing Subcommittee—George A. Stephan, Chairman.

(c) Assembly, Packaging and Test Subcommittee—William K. Russell, Chairman.

(d) Materials Preparation Subcommittee—Larry L. Hansen, Acting Chairman.

(4) Comments by other Committee members.

(5) Establishment of time schedules for completion of our program.

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statement to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written report addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on January 30, 1976 (41 Fed. Reg. 4623).

Date: July 30, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-22592 Filed 8-3-76;8:45 am]

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

The meeting of the Computer Systems Technical Advisory Committee scheduled for Thursday, August 12, 1976, has been rescheduled for Wednesday, August 25, 1976. The agenda and other information relating to the Committee meeting, as published in the FEDERAL REGISTER, (41 Fed. Reg. 29457), on Friday, July 16, 1976, remain unchanged.

Date: July 30, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-22593 Filed 8-3-76;8:45 am]

National Oceanic and Atmospheric Administration

NORTHWEST FISHERIES SERVICE

Issuance of Marine Mammal Permit

On April 12, 1976, notice was published in the FEDERAL REGISTER (41 FR 15356), that an application had been filed by the Northwest Fisheries Center, National Marine Fisheries Service, Seattle, Washington 98112, for a permit to take by killing, 100 ice breeding harbor seals (*Phoca vitulina largha*), 100 Pacific harbor seals (*Phoca vitulina richardii*), 100 ringed seals (*Pusa hispida*), 100 bearded seals (*Erignathus barbatus*), 250 northern sea lions (*Eumetopias jubatus*), and 100 ribbon seals (*Histriophoca fasciata*); and to capture, tag, and release 2,500 harbor seals (*Phoca vitulina richardii*) and 2,500 northern sea lions (*Eumetopias jubatus*), over a period of five years.

Notice is hereby given that, on July 28, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking and importing to the Northwest Fisheries Center subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: July 28, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-22537 Filed 8-3-76;8:45 am]

MRS. DIANNA WILSON ALLEN

Issuance of Permit To Take Marine Mammals

On April 12, 1976, notice was published in the FEDERAL REGISTER (41 FR 16676) that an application had been filed with the National Marine Fisheries Service by Mrs. Dianna Wilson Allen, P.O. Box 971, Donna, Texas 78537, for a permit to take two California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on July 28, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Mrs. Allen, subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 28, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22538 Filed 8-3-76;8:45 am]

BALTIMORE ZOO

Issuance of Permit To Take Marine Mammals

On April 21, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 16676) that an application had been filed with the National Marine Fisheries Service by Baltimore Zoo, Druid Hill Park, Baltimore, Maryland 21217, for a permit to take five (5) Atlantic harbor seals (*Phoca vitulina concolor*) for the purpose of public display.

Notice is hereby given that, on July 28, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Baltimore Zoo, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: July 28, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22539 Filed 8-3-76;8:45 am]

POINT REYES BIRD OBSERVATORY

Issuance of Permit To Take Marine Mammals

On May 21, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 20903) that an application had been filed with the National Marine Fisheries Service by Point Reyes Bird Observatory, Mesa Road, Bolina, California 94924, for a permit to conduct scientific research on California sea lions (*Zalophus californianus*) on Southeast Farallon Island, California. The project will cause a minimum of disturbance to the animals while collecting naturally regurgitated material remains.

Notice is hereby given that on July 26, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above described research to Point Reyes Bird Observatory, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 26, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22540 Filed 8-3-76;8:45 am]

DR. BRUCE MATE

Permit To Take Marine Mammals

On April 21, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 16676), as amended on May 10, 1976 (41 F.R. 20605), that an application had been filed with the National Marine Fisheries Service by Dr. Bruce Mate, Oregon State University, Newport, Oregon 97365, to take eighty (80) California sea lions (*Zalophus Californianus*) and forty (40) Pacific harbor seals (*Phoca vitulina richardii*) over a 2½ year period, with no more than forty (40) sea lions and twenty (20) harbor seals to be taken annually, in order to study the feeding habits of these species.

Notice is hereby given that on July 22, 1976, and as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit to Dr. Bruce Mate to take 20 harbor seals and 80 sea lions over a period of two years, subject to certain conditions set forth therein.

The permit is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington; and
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: July 22, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22541 Filed 8-3-76;8:45 am]

LOS ANGELES COUNTY MUSEUM OF NATURAL HISTORY

Permit To Take and Import Marine Mammals

On June 3, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 22394) that an application had been filed with the National Marine Fisheries Service by the Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, California 90007, for a permit to take and import marine mammal specimen materials for the purpose of scientific research.

Notice is hereby given that on July 26, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to the Los Angeles County Museum of Natural History subject to certain conditions set forth therein.

The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 26, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-22542 Filed 8-3-76;8:45 am]

AMERICAN TUNABOAT ASSOCIATION

Receipt of Application for a General Permit

Notice is hereby given that the following applicant has applied in due form for a General Permit to take marine mammals incidental to the course of commercial fishing operations during 1977 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

The American Tunaboat Association, 1 Tuna Lane, San Diego, California, has applied for a general permit, category 2, "Encircling Gear, Yellowfin Tuna Purse Seining."

Copies of the application are available for review as follows:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (telephone 202/634-7283); Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Interested parties may submit written data or views on this application or request a hearing in connection therewith, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The views or hearing requests may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, who within sixty days following the date of publication of this notice, may afford

such parties an opportunity for such a hearing.

Dated: July 27, 1976.

ROBERT J. AYERS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-22543 Filed 8-3-76;8:45 am]

DR. JAMES H. W. HAIN

Marine Mammals and Endangered Species Permit

On June 11, 1976, notice was published in the FEDERAL REGISTER (41 F.R. 23741) that Dr. James H. W. Hain, Sea Education Association, Box 6, Woods Hole, Massachusetts 02543, had applied for a Permit for Scientific Research under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), a 'd for Scientific Purposes under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) to take all species of cetaceans and pinnipeds (except walruses), including the following species listed under the Endangered Species Act of 1973: blue whale (*Balaenoptera musculus*), fin whale (*Balaenoptera physalus*), sei whale (*Balaenoptera borealis*), humpback whale (*Megaptera novaeangliae*), right whale (*Eubalaena* spp.), sperm whale (*Physeter catodon*), and gray whale (*Eschrichtius robustus*).

The research project will be conducted on the above mentioned species by means of aerial, surface vessel, and underwater surveys, which may involve harassment to individual animals of the population stocks. Also, the collection and importation of an unspecified number of dead marine mammals, or parts thereof, found stranded, will be taken from all parts of the world.

Notice is hereby given that, on July 28, 1976, the National Marine Fisheries Service issued a Permit for Scientific Research as authorized by the Marine Mammal Protection Act of 1972, and for Scientific Purposes as authorized by the Endangered Species Act of 1973, to Dr. James H. W. Hain for the above described taking and importing, subject to certain conditions set forth therein. Issuance of the Permit is based, as required by the Endangered Species Act of 1973, on a finding that such permit (1) was applied for in good faith; (2) if granted and exercised, will not operate to the disadvantage of the endangered species sited under the Permit application; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Speries Act of 1973.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: July 28, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-22544 Filed 8-3-76;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, DC 20314.

Patent 3,933,034: Hydrostatic Stress Gauge System; filed 25 March 1974; patented 20 January 1976; not available NTIS.

Patent 3,933,615: Fluid Flow Stripping and Plating System; filed 9 June 1969; patented 20 January 1976; not available NTIS.

Patent 3,934,846: Device to Reduce Flow Induced Pressure Oscillations in Open Cavities; filed 8 October 1974; patented 27 January 1976; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

Patent application 598,493: In-Field Boll Weevil Trap; filed 23 July 1975; PC $3.50/MF $2.25.

Patent application 604,851: Chicken Coop Lifting Device; filed 14 August 1975; PC $3.50/MF $2.25.

Patent application 604,853: Improved Durable Press Treatment by Addition of Sodium Dihydrogen Phosphate to Aluminum Sulfate Catalyst; filed 14 August 1975; PC $3.50/MF $2.25.

Patent application 611,373: Polyester Grafts and Crosslinks to Cotton by Reaction with Heterocyclic Carbonate, Glycol, and Dibasic Acid; filed 8 September 1976; PC $3.50/MF $2.25.

Patent application 611,460: Tris(Ureidomethyl)Phosphine Oxides and Their Use in Flame Retarding Cellulosic Materials; filed 8 September 1975; PC $3.50/MF $2.25.

Patent application 614,934: Durable Press Finishing with Catalysis by Triazaphosphaadamantane Derivatives; filed 19 September 1976; PC $3.50/MF $2.25.

Patent application 615,015: 2,4,6-Tris(Carbamoylmethylamino)-1,3,5-s-Triazine; filed 19 September 1975; PC $3.50/MF $2.25.

Patent application 615,034: Process for Producing Gelled and Textured Cottonseed Protein Products; filed 19 September 1975; PC $3.50/MF $2.25.

Patent application 615,035: Air Dropped Bait Dispensers for Attracting and Killing the Cotton Boll Weevil; filed 19 September 1975; PC $3.50/MF $2.25.

Patent application 615,039: Centrifugal Filtration Tube for Removal of the Mother Liquor from the Crystals in the Purification of a Chemical Compound by Recrystallization; filed 19 September 1975; PC $3.50/MF $2.25.

Patent application 618,183: Flame Retardant Blend Materials; filed 30 September 1975; PC $3.50/MF $2.25.

Patent application 618,971: Furrow Opener and Apparatus for No-Tillage Transplanters and Planters; filed 2 October 1975; PC $4.00/MF $2.25.

Patent application 625,722: Cellulose Reagents Incorporating t-Amino Groups; filed 23 October 1975; PC $3.50/MF $2.25.

Patent application 627,325: Milk-Like Products from Peanuts; filed 30 October 1975; PC $3.50/MF $2.25.

Patent application 629,478: Flame Retarded Textiles via Deposition of Polymers from Oligomeric Vinylphosphonate and Polyamino Compounds; filed 5 November 1975; PC $3.50/MF $2.25.

Patent application 633,067: Durable-Press Properties in Cotton Containing Fabrics Via Polymeric N-Methylol Reagents; filed 18 November 1975; PC $3.50/MF $2.25.

Patent application 633,069: Textiles Flame Retarded with Hydroxymethylphosphorus Compounds in Combination with Poly (Ethyleneureas) and Poly(N-Methylolethyleneureas); filed 18 Novemebr 1975; PC $3.50/MF $2.25.

Patent application 656,033: Aluminum Chlorhydroxide-Phosphoric Acid Catalyst System for Flash Cure Treatments to Give Improved Durable-Press Properties in Cellulose Containing Textiles; filed 6 February 1976; PC $3.50/MF $2.25.

Patent application 656,038: A Single-Treatment Process for Imparting Durable Soil-Release Properties to Cotton and Cotton-Polyester Blend Fabrics of Several Constructions and Compositions; filed 6 February 1976; PC $4.00/MF $2.25.

Patent application 660,882: Imparting Paramagnetic Susceptibility to Cotton Fibers; filed 4 February 1976; PC $3.50/MF $2.25.

Patent 3,877,818: Photo-Optical Method for Determining Fat Content in Meat; filed 28 January 1974; patented 15 April 1975; not available NTIS.

Patent 3,902,224: Fiber Distribution and Ribbon Forming System; filed 10 October 1973; patented 2 September 1975; not available NTIS.

Patent 3,914,106: Process for Treating Organic Textiles with Flame Retardant Polymers Made from Hydroxymethylphosphorus Compounds and Guanazoles; filed 31 January 1973; patented 21 October 1975; not available NTIS.

Patent 3,926,709: Glassy Materials from Plumbites and Cellulosics; filed 22 August 1974; patented 16 December 1975; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, MD 20014.

Patent application 663,127: Laminated Carbon-Containing Silicone Rubber Membrane for Use in Membrane Artificial Lung; filed 1 March 1976; PC $4.00/MF$2.25.

Patent 3,914,400: Stable Antigen-Erythrocytes for Measuring Antibodies against Toxoplasma Organism; filed 21 May 1973; patented 21 October 1975; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, BRANCH OF PATENTS, 18TH AND C STREETS, NW, WASHINGTON, DC 20240.

Patent application 652,347: Receiver System for Locating Transmitters; filed 26 January 1976; PC $3.50/MF $2.25.

Patent application 657,894: Eelctrodeposition of Copper; filed 13 February 1976; PC $3.50/MF $2.25.

Patent application 660,192: Undervoltage Release with Electrical Reset for Circuit Breaker; filed 23 February 1976; PC $3.50/MF $2.25.

Patent application 660,942: Desorption of Gold from Activated Carbon; filed 24 February 1976; PC $3.50/MF $2.25.

Patent 3,940,265: Recovery of Lead from Battery Scrap; filed 25 June 1975; patented 24 February 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, ASSISTANT CHIEF FOR PATENTS, OFFICE OF NAVAL RESEARCH, CODE 302, ARLINGTON, VA 22217.

Patent 2,996,946: Optical Device Including Gating Circuits, Adjustable in Time and Duration; filed 20 January 1956; patented 22 August 1961; not available NTIS.

Patent 3,783,258: FFT Processor Utilizing Variable Length Shift Registers; filed 3 November 1971; patented 1 January 1974; not available NTIS.

Patent 3,866,234: Shaped Ceramic Dielectric Antenna Lens; filed 26 December 1973; patented 11 February 1975; not available NTIS.

Patent 3,909,297: Lithium-Chlorine Battery Design; filed 10 May 1968; patented 30 September 1975; not available NTIS.

Patent 3,910,190: Hand-Held Signaling Device Having Manual Firing Means; filed 22 April 1974; patented 7 October 1975; not available NTIS.

Patent 3,913,094: County Sequence Test Set for a Disc Type Digital Encoder; filed 20 March 1974; patented 14 October 1975; not available NTIS.

Patent 3,917,412: Advanced Helmet Tracker Using Lateral Photodetection and Light-Emitting Diodes; filed 11 April 1972; patented 4 November 1975; not available NTIS.

Patent 3,931,589: Perforated Wall Hollow-Cathode Ion Laser; filed 21 March 1974; patented 6 January 1976; not available NTIS.

TENNESSEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, AL 35660.

Patent 3,928,015: Manufacture of Urea-Ammonium Sulfate from Sulfuric Acid, Ammonia, and Urea; filed 9 June 1975, patented 23 December 1975; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, DC 20546.

Patent application 390,049: Hydrogen Rich Gas Generator; filed 20 August 1973; PC $3.50/MF $2.25.

Patent application 462,424: Improved Method of Making Reinforced Composite Structurers; filed 19 April 1974; PC $3.50/MF $2.25.

Patent application 553,687: Improved Hydrogen-Rich Gas Generator; filed 27 December 1975; PC $3.50/MF $2.25.

Patent application 643,895: Insulation for Piping; filed 23 December 1975; PC $3.50/MF $2.25.

Patent application 645,500: Method and Apparatus for Controlling the Contrast of a Photographic Transparency; filed 30 December 1975; PC $3.50/MF $2.25.

Patent application 645,503: Pyrolysis System and Process; filed 30 December 1975; PC $3.50/MF $2.25.

Patent application 645,510: Pseudo Noise Code and Data Transmission Method and Apparatus; filed 30 December 1975: PC $4.00/MF $2.25.

Patent application 645,571: Miniature Biaxial Strain Transducer; filed 30 December 1975; PC $3.50/MF $2.25.

Patent 3,924,068: Low Distortion Receiver for Bi-Level Baseband PCM Waveforms; patented 2 December 1975; not available NTIS.

Patent 3,924,176: Magnetometer Using Superconducting Rotating Body; patented 2 December 1975; not available NTIS.

Patent 3,924,183: Frequency Measurement by Coincidence Detection with Standard Frequency; patented 2 December 1975; not available NTIS.

Patent 3,924,267: Scan Converting Video Tape Recorder; patented 2 December 1975; not available NTIS.

Patent 3,928,708: Transparent Fire Resistant Polymeric Structures; patented 23 December 1975: not available NTIS.

Patent 3,929,364: Clock Setter; patented 30 December 1975; not available NTIS.

Patent 3,930,628: Deploy/Release System; patented 6 January 1976; not available NTIS.

Patent 3,931,132: Utilization of Oxygen Difluoride for Syntheses of Fluoropolymers; patented 6 January 1976; not available NTIS.

Patent 3,931,447: Fused Silicide Coatings Containing Discrete Particles for Protecting Niobium Alloys; patented 6 January 1976; not available NTIS.

Patent 3,931,456; High Voltage Distributor; patented 6 January 1976; not available NTIS.

Patent 3,931,516; Moving Particle Composition Analyzer; patented 6, January 1976; Thermoelectric Power System; patented 6, January 1976; not available NTIS.

[FR Doc.76-22546 Filed 8-3-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

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DOUGLAS J. CAMPION,
Patent Program Coordinator

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

Patent application 665,588: Doctoring Apparatus and System; filed 10 March 1976; PC $3.50/MF $2.25.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 509,200: Impedance Standard Apparatus; filed 25 September 1974; PC $3.50/MF $2.25.

Patent application 525,337: Boron Coated with Ammonium Perchlorate; filed 20 November 1974; PC $3.50/MF $2.25.

Patent application 638,210: Debris Catcher for Thrust Temination Ports; filed 5 December 1975; PC $3.50/MF $2.25.

Patent application 642,048: Toroidal Tail Structure for Tethered Aeroform Balloon; filed 18 December 1975; PC $3.50/MF $2.25.

Patent application 642,525: Aircraft Seat Cushion; filed 19 December 1975; PC $3.50/MF $2.25.

Patent application 647,528: Holographic High Resolution Contact Printer; filed 8 January 1976; PC $3.50/MF $2.25.

Patent application 647,530: Flat Layup Venting; filed 8 January 1976; PC $3.50/MF $2.25.

Patent application 649,108: Variable Orifice Gas Metering Assembly for Aircraft Bomb Rack Gas System; filed 14 January 1976; PC $3.50/MF $2.25.

Patent application 649,761: Flexible Recording Head Mounting Assembly; filed 16 January 1976; PC $3.50/MF $2.25.

Patent application 649,765: Nozzle Ejection System; filed 16 January 1976; PC $4.00/MF $2.25.

Patent 3,933,572: Method for Growing Crystals; filed 11 December 1973; patented 20 January 1976; not available NTIS.

Patent 3,933,573: Aluminum Nitride Single Crystal Growth from a Molten Mixture with Calcium Nitride; filed 27 March 1975; patented 20 January 1976; not available NTIS.

Patent 3,935,479: Dynamic Damping Apparatus; filed 20 December 1974; patented 27 January 1976; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

Patent application 545,291: Process for Making Animal Feed Blocks from Whey; filed 30 January 1975; PC $3.50/MF $2.25.

Patent application 604,857: Composite Silver Forming Assembly; filed 14 August 1975; PC $3.50/MF $2.25.

Patent application 610,472; Vaccine Production Process; filed 4 September 1975; PC $3.50/MF $2.25.

Patent application 616,212: Insect Antenna Vibrating Frequency Modulator and Resonating Maserlike IR Emitter; filed 24 September 1975; PC $3.50/MF $2.25.

Patent application 629,479: New Holding Device for Tensile Testing Fabrics; filed 5 November 1975; PC $3.50/MF $2.25.

Patent application 633,066: Self-Cleaning Open-End Yarn Spinning Apparatus; filed 18 November 1975; PC $3.50/MF $2.25.

Patent application 647,244: Fiber Blending, Subdividing, and Distributing System; filed 7 January 1976; PC $3.50/MF $2.25.

Patent application 656,031: Retracting Tooth Processing Cylinder Apparatus; filed 6 February 1976; PC $3.50/MF $2.25.

Patent application 665,586: Apparatus and Method for Treating Waste Products; filed 10 March 1976; PC $3.50/MF $2.25.

Patent 3,403,172: Hard, High-Melting Waxes from Long-Chain N-Allylamides; filed 3 January 1964; patented 24 September 1968; not available NTIS.

Patent 3,405,149: Direct Cleavage of Epoxides to Produce Aldehydes; filed 24 March 1965; patented 8 October 1968; not available NTIS.

Patent 3,408,373: Alpha-Sulfo Branched Chain Fatty Acids and Method for Preparing Them; filed 11 August 1964; patented 29 October 1968; not available NTIS.

U.S. Department of Transportation, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent 3,760,415: Microwave Crash Sensor for Automobiles; filed 23 December 1971; patented 18 September 1973; not available NTIS.

Patent 3,786,458: Non-Contacting Angular Position Detector; filed 1 March 1972; patented 15 January 1974; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, MD 20014.

Patent application 660,349: Birefringent Crystal Thermometer; filed 23 February 1976; PC $3.50/MF $2.25.

Patent 3,915,017: Portable Ultrasonic Radiometer; filed 30 August 1973; patented 28 October 1975; not available NTIS.

Patent 3,915,651: Direct Digital Control Pipette; filed 22 September 1972; patented 28 October 1975; not available NTIS.

Patent 3,939,823: Esophageal Transducer; filed 28 January 1975; patented 24 February 1976; not available NTIS.

Patent 3,941,356: Method and Apparatus for Continuous Mixing of Blood Plasma and Additives; filed 13 November 1974; patented 2 March 1976; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and G Streets, NW., Washington, D.C. 20240

Patent application 647,309: Steelmaking by the Electroslag Process Using Prereduced Iron Ore Pellets; filed 8 January 1976, PC $3.50/MF$2.25.

Patent application 647,522: Unitary Drill Bit and Roof Bolt. Filed 8 January 1976, PC $3.50/MF$2.25.

Patent application 650,640: Detection of Potential on High-Voltage Transmission Lines. Filed 20 January 1976, PC$3.50/MF $2.25.

Patent application 653,315: Flexible Shaft Drilling System. Filed 29 January 1976, PC$3.50/MF$2.25.

Patent application 661,580: A High-Pressure Injection Hydraulic Transport System with a Peristaltic Pump Conveyor; filed 26 February 1976, PC$3.50/MF$2.25.

Patent application 662,665: Cold Crucible. filed 1 March 1976, PC$3.50/MF$2.25.

Patent 3,932,170: Use of Scavenger in Recovery of Metal Values; filed 19 August 1974, patented 13 January 1976; not available NTIS.

Patent 3,934,219: Acoustic Method and Apparatus for Determining Effectiveness of Mine Passage Seal; filed 11 September 1974; patented 20 January 1976; not available NTIS.

Patent 3,935,006: Process for Eluting Adsorbed Gold and or Silver Values from Activated Carbon; filed 19 March 1975; patented 27 January 1976; not available NTIS.

Patent 3,938,006: Active Negative Sequence Cable Monitor; filed 5 February 1975; patented 10 February 1976; not available NTIS.

Patent 3,939,676: Adhesive Guard Hair Removal; filed 25 September 1970; patented 24 February 1976; not available NTIS.

Patent 3,942,329: Flexible Rock Bolt; filed 11 February 1975; patented 9 March 1976; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 615,264: Swimmer Protective Helmet; filed 22 September 1975, PC$3.50/MF$2.25.

Patent application 616,786: Decometer; filed 25 September 1975, PC$4.00/MF$2.25.

Patent application 627,637: Drift-Compensated Free-Rotor Gyro; filed 31 October 1975, PC$3.50/MF$2.25.

Patent application 642,880: Direct Fire Weapon Trainer Incorporating Hit and Data Delay Responses; filed 22 December 1975, PC$3.50/MF$2.25.

Patent application 645,161: Method of Isolating and Cryopreserving Human White Cells from Whole Blood; filed 30 December 1975, PC$4.00/MF$2.25.

Patent application 655,928: Ejectable Fuze; filed February 1976, PC$3.50/MF$2.25.

Patent application 658,146: Electrostatic Field Sensor; filed 13 February 1976; PC $3.50/MF $2.25.

Patent 3,574,605: Weldable, Nonmagnetic Austenitic Manganese Steel; filed 24 June 1968; patented 13 April 1971, not available NTIS.

Patent 3,871,228: Permeable Membrane Gas Saturometer; filed 14 May 1973; patented 18 March 1975; not available NTIS.

Patent 3,875,796: Apparatus for Continuously Recording Sea-Floor Sediment Corer Operations; filed 13 June 1974; patented 8 April 1975, not available NTIS.

Patent 3,893,115: Sweep and Memory Control Circuit; filed 25 January 1974; patented 1 July 1975; not available NTIS.

Patent 3,896,731: Explosive Initiator Device; filed 22 September 1970; patented 29 July 1975; not available NTIS.

Patent 3,897,592: Voiced-Operated Transmit System; filed 11 May 1973; patented 29 July 1975; not available NTIS.

Patent 3,898,570: High Speed Control Circuit; filed 23 October 1973; patented 5 August 1975; not available NTIS.

Patent 3,899,145: Laser Transmitting and Receiving Lens Optics; filed 20 July 1973; patented 12 August 1975; not available NTIS.

Patent 3,904,269: Fiber Optic Cable Connector; filed 28 January 1974; patented 9 September 1975; not available NTIS.

Patent 3,906,926: Heat Source for Curing Underwater Adhesives; filed 19 September 1974; patented 23 September 1975; not available NTIS.

Patent 3,907,028: Concentric Cylinder Heat Exchanger; filed 2 May 1974; patented 23 September 1975; not available NTIS.

Patent 3,908,457: High Energy Laser Power Meter; filed 7 June 1974; patented 30 September 1975; not available NTIS.

Patent 3,908,552: Fuze Signal Processing Circuit; filed 7 July 1964; patented 30 September 1975; not available NTIS.

Patent 3,909,322: Solid Gas Generating and Gun Propellant Compositions Containing a Nitroaminotetrazole Salt; filed 3 August 1970; patented 30 September 1975; not available NTIS.

Patent 3,911,345: Adaptive Control System Using Command Tailoring; filed 4 June 1973; patented 7 October 1975; not available NTIS.

Patent 3,911,746: Time and Condition Data Logger; filed 27 April 1973; patented 14 October 1975; not available NTIS.

Patent 3,913,319: Low Drag Flameholder; filed 2 February 1972; patented 21 October 1975; not available NTIS.

Patent 3,914,053: Ice Nuclei Counter; filed 9 December 1974; patented 21 October 1975; not available NTIS.

Patent 3,914,846: High Density INSB PV IR Detectors; filed 15 June 1972; patented 28 October 1975; not available NTIS.

Patent 3,915,379: Method of Controlling Weather; filed 22 March 1971; patented 28 October 1975; not available NTIS.

Patent 3,916,353: Electrically Controllable Microwave Bipolar Attenuator; filed 27 March 1972; patented 28 October 1975; not available NTIS.

Patent 3,916,759: Rocket Launcher; filed 29 October 1968; patented 4 November 1975; not available NTIS.

Patent 3,918,100: Sputtering of Bone on Prostheses; filed 13 May 1974; patented 11 November; not available NTIS.

Patent 3,920,199: Rate-Gyro Stabilized Platform; filed 3 May 1974; patented 18 November 1975; not available NTIS.

Patent 3,929,072: Mild Detonating Fuse End Termination; filed 26 November 1974; patented 30 December 1975; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 646,704: A Length Controlled Stabilized Mode-Lock Nd: YAG Laser; filed 5 January 1976; PC $3.50/MF $2.25.

Patent application 648,700: A 2 Degree/30 Degree Laboratory Scattering Photometer; filed 13 January 1976; PC $3.50/MF $2.25.

Patent application 651,009: Tantalum Modified Ferritic Iron Base Alloys; filed 21 January 1976; PC $3.50/MF $2.25.

Patent application 653,316: Photon Excited Catalysis; filed 29 January 1976; PC $3.50/MF $2.25.

Patent application 653,681: A Machine for Use in Monitoring Fatigue Life for a Plurality of Elastomeric Specimens; filed 29 January 1976; PC $3.50/MF $2.25.

Patent 3,929,119: Self-Energized Plasma Compressor; patented 30 December 1975; not available NTIS.

Patent 3,929,306: Space Vehicle System; patented 30 December 1975; not available NTIS.

[FR Doc.76-23547 Filed 8-3-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

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Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent 3,944,537: Preparation of Alpha-Amylase Inhibitor; filed 26 November 1974; patented 16 March 1976; not available NTIS.

U.S. DEPARTMENT OF AGRI' JLTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

Patent application 527,335: Method a d Compounds for Disrupting Normal Insect Maturation; filed 26 November 1974; PC $3.50/MF $2.25.

Patent application 554,052: Preparation and Uses of Stable, Bound Stationary Phases; filed 27 February 1975: PC $3.50/MF $2.25.

Patent application 561,585: Arthropod Maturation Inhibitors; filed 24 March 1975; PC $3.50/MF $2.25.

Patent application 561,586: Arthropod Maturation Inhibitors; filed 24 March 1975; PC $3.50/MF $2.25.

Patent application 565,890: Preparation of Enol Esters; filed 7 April 1975; PC $3.50/MF $2.25.

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GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

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GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

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DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

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U.S. DEPARTMENT OF AGRICULTURE, RESEARCH AGREEMENTS AND PATENT MANAGEMENT BRANCH, AGRICULTURAL RESEARCH SERVICE, HYATTSVILLE, MD 20782.

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Patent application 671,752: Micro Mixing Apparatus and Method; filed 30 March 1976; PC$3.50/MF$2.25.

Patent 3,666,781: Process for the Preparation of Isopropenyl Stearate; filed 7 May 1969; patented 30 May 1972; not available NTIS.

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U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENTS, WASHINGTON, D.C. 20545.

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Patent 3,894,912: Determination of Parameters of a Nuclear Reactor Through Noise Measurements; filed 21 December 1973; patented 15 July 1975; not available NTIS.

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Patent 3,900,034: Photochemical Stimulation of Nerves; filed 10 April 1974; patented 19 August 1975; not available NTIS.

Patent 3,904,500: Hydrogen Isotope Separation from Water; filed 17 December 1973; patented 9 September 1975; not available NTIS.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

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[FR Doc.76-22550 Filed 8-3-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S DEPARTMENT OF THE AIR FORCE, AF JACP, WASHINGTON, D.C. 20314

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Patent 3,942,320: Solid Boron Fuel Burner for Ramjet; filed 4 October 1974; patented 9 March 1976; not available NTIS.
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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

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Patent 3,430,643: Self-Cleaning Venting Orifice; filed 19 March 1968; patented 4 March 1969; not available NTIS.
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U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

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U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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[FR Doc.76-22551 Filed 8-3-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications, either paper copy (PC) or microfiche (MF), can be purchased at the prices cited from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, DC 20314.

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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

Patent application 592,688: Synthetic Hormones for Insect Control; filed 2 July 1975; PC $4.00/MF $2.25.
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U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, DC 20545.

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Patent 3,902,369: Measurement of the Differential Pressure of Liquid Metals; filed 2 May 1974; patented 2 September 1975; not available NTIS.
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Patent 3,893,201: Multi-Buoyancy Buoy; filed 25 January 1974; patented 8 July 1975; not available NTIS.

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Patent 3,923,118: Acoustic Baffle for Deep Submergence; filed 19 June 1972; patented 2 December 1975; not available NTIS.

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Patent 3,926,137: Deep Ocean Parachute Release; filed 3 March 1975; patented 16 December 1975; not available NTIS.

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Patent 3,930,718: Electro-Optic Modulator; filed 12 April 1974; patented 6 January 1976; not available NTIS.

Patent 3,931,395: Process for Generating Hydrogen Gas; filed 28 June 1974; patented 6 January 1976; not available NTIS.

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[FR Doc.76-22552 Filed 8-3-76;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for U.S. and possibly foreign licensing, in accordance with the policies of the agency sponsors.

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DOUGLAS J. CAMPION,
Patent Program Coordinator.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, DC 20310.

Patent 3,830,652: Hot Pressed, High Strength Silicon Nitride; filed 28 June 1973; patented 20 August 1974; not available NTIS.

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Patent 3,896,450: Hardened Antenna Element Cover; filed 23 September 1974; patented 22 July 1975: not available NTIS.

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U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, DC 20314.

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Patent 3,928,816: Far Infrared Waveguide Laser; filed 12 June 1974; patented 23 December 1975; not available NTIS.

Patent 3,928,817: Multiple-Selected-Line Unstable Resonator; filed 29 August 1974; patented 23 December 1975; not available NTIS.

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Patent 3,929,832: 2,3,7,8-Tetraaminodizenzothiophene 5,5-Dioxide and Process Therefor: filed 22 November 1974; patented 30 December 1975; not available NTIS.

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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, MD 20782.

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Patent 3,903,677: Opening and Gripping Mechanism for Automatic Produce-Bagging Machine that Uses Factory Roll Polyethylene Net Tubing; filed 28 June 1974; patented 9 September 1975; not available NTIS.

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Patent 3,929,755: Pyrolyzed Rosin Products as Synthetic Rubber Trackifiers; filed 1 June 1973; patented 30 December 1975; not available NTIS.

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U.S. DEPARTMENT OF COMMERCE, Assistant General Counsel for Administration, Washington, DC 20230.

Patent application 657,918: Satellite Controlled Digital Clock System; filed 13 February 1976; PC$3.50/MF$2.25.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW, Washington, DC 20240.

Patent application 605,395: Removal of Trace Copper Ions from Water; filed 19 January 1976; PC$3.50/MF$2.25.

Patent application 653,314: Method and System for a Continuous Radon Gas Monitor; filed 29 January 1976; PC$3.50/MF$2.25.

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Patent 3,933,608: Method for the Decomposition of Hydrogen Sulfide; filed 27 August 1974, patented 20 January 1976; not available NTIS.

Patent 3,933,635: Method for Removing Soluble Selenium from Acidic Waste Water; filed 15 July 1975, patented 20 January 1976; not available NTIS.

Patent 3,935,172: Regular Copolymides as 1974; patented 27 January 1976; not available NTIS.

Patent 3,942,524: Emergency Breather Apparatus, filed 8 November 1974; patented 9 May 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 516,540: Frequency Multiplier Circuit; filed 21 October 1974; PC $3.50/MF$2.25.

Patent application 519,312: Controlled Generation of Cool Hydrogen from Solid Mixtures; filed 30 October 1974; PC$3.50/MF $2.25.

Patent application 530,259: Gas Dynamic—Transfer Chemical Laser; filed 6 December 1974; PC$3.50/MF$2.25.

Patent application 530,260: Carbon Dioxide Laser Fuels; filed 6 December 1974; PC $3.50/MF$2.25.

Patent application 562,716: Gas Generating Compositions; filed 27 March 1975; PC $3.50/MF$2.25.

Patent application 571,152: Corner Fed Electric Microstrip Dipole Antenna; filed 24 April 1975; PC$4.00/MF$2.25.

Patent application 571,153: Notch Fed Electric Microstrip Dipole Antenna; filed 24 April 1975; PC$4.00/MF$2.25.

Patent application 571,154: Diagonally Fed Electric Microstrip Dipole Antenna, filed 24 April 1975; PC$4.00/MF$2.25.

Patent application 571,155: Coupled Fed Electric Microstrip Dipole Antenna, filed 24 April 1975; PC$3.50/MF$2.25.

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Patent application 616,795: Square Wave Light Generator; filed 25 September 1975; PC$3.50/MF$2.25.

Patent application 623,697: No-Voltage Meter; filed 20 October 1975; PC$3.50/ MF$2.25.

Patent application 635,201: Square Wave to Sine Wave Converter; filed 25 November 1975; PC$3.50/MF$2.25.

Patent application 636,233: Light Emitting Diode; filed 28 November 1975; PC$3.50/ MF$2.25.

Patent application 639,031: Digital Signal Synthesis System; filed 9 December 1975; PC$3.50/MF$2.25.

Patent application 640,504: Means for Near Real Time C-W Laser Source Characterization; filed 15 December 1975; PC$3.50/ MF$2.25.

Patent application 640,523: Means for Real-Time Laser Source Characterization; filed 15 December 1975; PC$3.50/MF$2.25.

Patent application 643,263: Optical Coupler for Single Fiber Optic Filament; filed 22 December 1975; PC$3.50/MF$2.25.

Patent application 643,271: Compound and Method; filed 22 December 1975; PC$3.50/ MF$2.25.

Patent application 643,981: Method for Machining Ceramics; filed 24 December 1975; PC$3.50/MF$2.25.

Patent application 643,982: Method for Removing Oxidized Iron From Ferrous Metal Surfaces; filed 24 December 1975; PC$3.50/ MF$2.25.

Patent application 644,289: Television Tracking Symbol Generator; filed 24 December 1975; PC$3.50/MF$2.25.

Patent application 644,410: Critical Parameter Receiver Tester; filed 29 December 1975; PC$3.50/MF$2.25.

Patent application 644,485: Overlay Line Coupler; filed 29 December 1975; PC$3.50/ MF$2.25.

Patent application 647,828: Multibeam Adaptive Array; filed 9 January 1976; PC$3.50/ MF$2.25.

Patent 3,900,870: Electronic Counter-Countermeasures System for Employment Against Enemy Jamming; filed 5 August 1965; patented 19 August 1975; not available NTIS.

Patent 3,900,875: FM-CW Fuze System; filed 29 March 1961; patented 19 August 1975; not available NTIS.

Patent 3,902,172: Infrared Gated Radio Fuzing System; filed 29 March 1962; patented 26 August 1975; not available NTIS.

Patent 3,906,493: Autocorrelation Type Spectral Comparison Fuze System; filed 27 March 1959; patented 16 September 1975; not available NTIS.

Patent 3,917,408: Navigation Aid; filed 12 February 1973; patented 4 November 1975; not available NTIS.

Patent 3,917,773: Method for Fabricating a Shaped Dielectric Antenna Lens; filed 3 October 1974; patented 4 November 1975; not available NTIS.

Patent 3,918,048: Apparatus for Testing the Resolution of an Analog to Digital Converter; filed 15 April 1974; patented 4 November 1975; not available NTIS.

Patent 3,919,012: Propellant Composition; filed 24 November 1970; patented 11 November 1975; not available NTIS.

Patent 3,924,130: Body Exposure Indicator; filed 12 February 1968; patented 2 December 1975; not available NTIS.

Patent 3,928,840: Tracking System for Underwater Objects; filed 19 April 1974; patented 23 December 1975; not available NTIS.

Patent 3,931,581: High-Efficiency, Switching, Power Amplifier; filed 30 September 1974; patented 6 January 1976; not available NTIS.

Patent 3,931,589: Perforated Wall Hollow-Cathode Ion Laser; filed 21 March 1974; patented 6 January 1976; not available NTIS.

Patent 3,931,598: Normal Reflective Array Compressor and Method; filed 17 December 1974; patented 6 January 1976; not available NTIS.

TENNESSEE VALLEY AUTHORITY,
Division of Law,
Muscle Shoals, AL 35660.

Patent 3,912,802: Ammonium Polyphosphates; filed 5 December 1973; patented 14 October 1975; not available NTIS.

[FR Doc.76-22545 Filed 8-3-76;8:45 am]

Office of the Secretary

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

Guide for Exporters and Investors

Official U.S. & International Financing Institutions: A Guide for Exporters & Investors has been issued by the Department of Commerce to provide information on sources of financing, insurance, and procurement for U.S. exports and investments. Included are the Export-Import Bank and affiliates, the Overseas Private Investment Corporation, the Agency for International Development, the Department of Agriculture, the World Bank Group, and regional development banks. The *Guide* contains information on program purpose and eligibility, supported export and investment values, interest rates and charges, procedures and contact points. Booklets are available at no charge and may be obtained from the U.S. Department of Commerce, International Finance Division, room 4424, Washington, D.C. 20230,

(202) 377-4434, or from any Commerce District Office.

Dated: July 30, 1976.

S. STANLEY KATZ,
Deputy Assistant Secretary, Bureau of International Economic Policy and Research.

[FR Doc.76-22527 Filed 8-3-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76F-0260]

UNIROYAL CHEMICAL

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3200) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Elm St., Naugatuck, CT 06770, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of 2,6-di(α-methyl benzyl)-4-methyl phenol as an antioxidant and/or stabilizer in olefin copolymers complying with § 121.-2501(c), item 3.4 in the tubular listing.

The environmental impact analysis report and other relevant material have been reviewed, and its has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours Monday through Friday.

Dated: July 28, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76-22531 Filed 8-3-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-76-452]

DEPUTY ASSISTANT SECRETARY FOR HOUSING—DEPUTY FEDERAL HOUSING COMMISSIONER

Delegation of Authority

By delegation of June 18, 1976, all of the authority and functions formerly exercised by the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner and the Assistant Secretary for Housing Management, with respect to programs and other matters, were delegated and assigned to the Assistant Secretary for Housing-Federal Housing Commissioner, (41 FR 24755).

Section B of that delegation order continued in effect certain delegations and redelegations. The new Office of Housing, referred to in that delegation, is being reorganized and the positions of the Deputy Assistant Secretaries named in Section B of the June 18, 1976 delegation and their functions are being substantially modified. A new position of Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner has been created. Thus, it is necessary to modify the authority reserved to the Deputy Assistant Secretaries referred to in Section B and effect a redelgation of certain authority to the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Accordingly, the Secretary of Housing and Urban Development takes action as follows:

SECTION A. *Authority delegated.* The Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner is authorized to exercise the power and authority of the Assistant Secretary for Housing-Federal Housing Commissioner, including the authority to issue rules and regulations.

SEC. B. *Supersedure.* The authority of the Deputy Assistant Secretary for Housing Production and Mortgage Credit-Deputy Federal Housing Commissioner and the Deputy Assistant Secretary for Housing Management to issue rules and regulations, which was continued in effect pursuant to Section B of the delegation order of June 18, 1976 (41 F.R. 24755), is terminated.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)).)

Effective date: This delegation shall be effective July 30, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-22663 Filed 8-3-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27573; Agreements CAB 25811, CAB 25903 R-1 through R-4, CAB 25904 R-2, R-3, R-8; Order 76-7-121]

INTERNATIONAL AIR TRANSPORT ASSOC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of July, 1976.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted at the April 1976 Geneva Composite Cargo Traffic Conference, by mail vote, at the 8th Meeting of the Cargo Traffic Procedures Committee, respectively, and have been assigned the above CAB agreement numbers.

Agreement CAB 25811 would amend IATA Resolution 507b (Use of Surface Transportation) now effective only within the TC3 (intra-Pacific) area, to make clear that the various circumstances permitting a member carrier to substitute surface transportation for air transportation at the through air rate relate to the inability of the carrier originally entitled to carry the shipment to move such shipment over its air services. Also, it stipulates that in addition to shipment size, the "weight or nature of the consignment" can be one of the considerations in any such determination.[1] In addition, the agreement would permit substitution to continue for a period of up to 12 months on sectors within the United States (Guam and American Samoa only) once a member carrier experiences the "frequent occurrence" of the circumstances defined in the resolution which prompted the initial substitution without further reference to the circumstances permitting that substitution.

Agreement C.A.B. 25903 would readopt for effect October 1, 1976 through September 30, 1977 that portion of the Nice North Atlantic cargo rates package establishing rates between U.S. points and points in the Middle East/Africa, thus closing rates which are now open in the affected markets.[2]

Finally, Agreement C.A.B. 25904 would make editorial and clarifying changes to existing resolutions governing airwaybill preparation charges and use of unit load devices as well as adopt a new resolution permitting a shipper to request changes in the method of shipment charges collection from prepaid to collect and vice versa.

We will approve Agreements C.A.B. 25903 and 25904 which in general either clarify existing resolutions or reflect agreements previously approved by the Board. We will likewise approve the changes in Resolution 507b set forth in Agreement C.A.B. 25811 since they would affect air transportation only insofar as traffic between American Samoa/Guam and other points in the Pacific is concerned and thus their impact would be minimal.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreements indicated, to be adverse to the public interest or in violation of the Act, subject, where applicable, to conditions previously imposed by the Board:

[1] The agreement was initially proposed to revalidate, as well as amend, Resolution 507b for use within the Western Hemisphere and over the North, Central, and South Pacific, but was tied to final carrier action in other remaining world areas. Due to several carrier negative votes and to the tie-in provision, the instant agreement will affect TC3 only.

[2] The Nice North Atlantic rates package was approved, with conditions, by the Board in Order 75-12-147, December 30, 1975, but has never been declared effective by IATA, with the result that North Atlantic rates remain open.

	IATA No.	Title	Application
Agreement CAB 25811:	507b	Use of surface transportation (amending)	3

Agreement CAB 25903:	IATA resolution
R-1	JT12 (mail 29)002aa (North Atlantic-Middle East/Africa).
R-2	JT12 (mail 29)002bb (North Atlantic-Africa).
R-3	JT12 (mail 29)01rr.
R-4	JT12 (mail 29)001y.

	IATA No.	Title	Application
Agreement CAB 25904:			
R-2	512c	Charge for preparation of air waybill (amending)	2; 3
R-3	520a	General rule for the use of unit load devices (amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3
R-8	612	Changes to transportation charges (new)	1; 2; 3

Accordingly, *it is ordered that:*

Agreements C.A.B. 25811; C.A.B. 25903, R-1 through R-4; and C.A.B. 25904, R-2, R-3, and R-8 be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22648 Filed 8-3-76;8:45 am]

[Docket 29478; Order 76-7-115]

AMERICAN AIRLINES INC. AND EASTERN AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July, 1976.

By Order 76-6-115, the Board suspended a proposal by American Airlines, Inc. (American) and Eastern Air Lines, Inc. (Eastern) to increase fares in the New York-San Juan market by three percent effective June 18, 1976, because such an increase produced a combined, adjusted return on investment (ROI) for the New York-San Juan subentity of 13.05 percent, and an ROI for the entire mainland U.S.-Puerto Rico/Virgin Islands ratemaking entity of 12.69 percent.

By tariff revisions[1] marked to become effective August 1, 1976, American and Eastern propose to increase fares in the New York-San Juan market by 1.6 percent. Using the same base period (year ended March 1976) and methodology employed by the Board in Order 76-6-115, updated to reflect May 1976 fuel costs and cost inflation to the tariff effective date, the carriers calculate the adjusted, combined ROI for the New York-San Juan subentity to be 11.68 percent with the requested increase, and 12.12 percent for the entire ratemaking entity.

The Commonwealth of Puerto Rico has complained against the proposal, asserting that there is no reason to permit a fare increase that results in an entity ROI exceeding 12.00 percent. It further alleges that fuel prices have been on the down trend through May 1976, and this trend should be recognized when computing the inflation factor to the tariff effective date.

Upon consideration of the filings, the complaint and answers thereto, and all other relevant matters, the Board has determined that the complaint does not set forth facts sufficient to warrant investigation and the request therefor, and consequently the request for suspension, will be denied and the complaint dismissed.

The Board's computations, which reflect May 1976 fuel prices (which were below April 1976 prices) and cost inflation from the base year to August 1, 1976, indicate an adjusted ROI of 11.68 percent for the New York-San Juan subentity, and an ROI of 12.11 percent for the entire ratemaking entity with the requested 1.6 percent fare increase. See Appendix A.[1] We are satisfied that the proposed increase will not produce an excessive rate of return. The carriers have indicated in their answers to the complaint that they have incurred increases in the cost of fuel beginning in June which are not reflected in the cost-inflation factor used in our computations.[2] The fuel increases would have the effect of increasing the expense level at the tariff effective date, and of lowering the ROI of both the ratemaking entity and the New York-San Juan subentity below 12 percent.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002 thereof,

It is ordered that:

1. The complaint in Docket 29478 be and hereby is dismissed; and

2. A copy of this order be served upon American Airlines, Inc., Eastern Air Lines, Inc., and the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 76-22649 Filed 8-3-76;8:45 am]

[Docket No. 29514; Order 76-7-122]

FLYING TIGER LINE, INC.

Order Dismissing Complaint[1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of July 1976.

By tariff revisions filed July 1, 1976 and variously marked for effectiveness August 15 and November 1, 1976,[2] The Flying Tiger Line Inc. (Tiger) proposes to establish new billing and collection periods for its domestic and international air freight customers, as detailed in Appendix A hereto. In its statement of justification accompanying its filings, Tiger states that its present 10-day billing plus 10-day-credit rule is unworkable and unrealistic; that the proposed 60-45-day rules are more in keeping with general business practices; and that it has not joined the recently developed industry Agreement[3] on these matters for the reasons that (a) international traffic is excluded; (b) only domestic shippers with annual billings of $250,000 or more are included; and (c) various administrative details and procedures are considered by Tiger to be highly questionable as a matter of law.

United Air Lines, Inc. (United) has filed a complaint against Tiger's domestic filing requesting suspension and investigation. In support of its request, United states that Tiger's proposed rules would not be subject to the self-enforcement embodied in Agreement CAB 24277; that Tiger is proposing an initial 60-day credit period (until November 1, 1976) and 45 days thereafter, as compared to a 25-day period in the cited Agreement; and that such a marked competitive advantage would probably spell the death knell of said Agreement. In response to United's complaint, Tiger has filed an answer alleging, inter alia, that United has not challenged the merits of its proposal but focused instead on the difference between that proposal and the industrywide credit agreement which is now before the Board.

Tiger characterizes this as nothing more than an attempt to persuade the Board to use its tariff suspension powers to coerce Tiger into adopting a position which it could not be persuaded to accept

[1] Revisions to American Airlines, Inc., Tariff C.A.B. No. 244; and Eastern Air Lines, Inc., Tariff CAB No. 417.

[1] Appendix A filed as part of original.

[2] On July 1, 1976, American's fuel price at New York increased 1.04 cents per gallon. Its fuel supplier at San Juan has notified the carrier of the following price increases: 1.5 cents June 26; 1.5 cents July 13; and 1.0 cents August 1. Eastern's system fuel prices were 1.03 percent higher in June than May, 1976.

[1] Appendices A and B filed as part of original.

[2] The tariffs are marked to expire with February 15, 1978.

[3] See Order 75-12-149, Agreement CAB No. 24277. Amendment A-1 thereto was filed with the Board on July 7, 1976. See also Appendix B hereto.

during prolonged industry negotiations. Tiger recognizes that the terms of its proposal are more liberal than existing tariff rules, but contends that they are substantially more restrictive than current carrier practices and that to suspend such proposal will only result in perpetuating a situation that the Board recognizes as unacceptable.[4]

Upon consideration of the proposed rules, the complaint and answer, and other relevant matters, the Board will dismiss United's complaint and permit Tiger's tariff rules to become effective.

The need for improved rules was clearly established in the Board's order on the initial industry Agreement, supra, e.g., a problem of sufficient magnitude exists with respect to all freight receivables as to have a potentially adverse economic impact upon carriers, and the carriers are not uniformly enforcing their present 10-day rules. Although Tiger's proposed rules may differ somewhat from the industry plan, they nevertheless constitute an acceptable response to the needs previously expressed by the Board.

We are not persuaded that even the difference between the 30- vs. 60/45-day credit extension periods in the Agreement versus the Tiger rule will affect to any appreciable degree the competitive balance in the limited number of markets served by Tiger compared to the markets served by the 23 carriers in the Agreement. Additionally, Tiger's rule appears reasonable in light of its credit experience which shows that Tiger has experienced an ageing of accounts receivable in the neighborhood of 65 to 78 days, or a 12-month ending March 1976 average of 70 days. In view of all of these considerations, the complaint will be dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that:

1. The complaint of United Air Lines, Inc. in Docket 29514 be and it hereby is dismissed; and

2. This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22650 Filed 8-3-76;8:45 am]

[Dockets Nos. 26412 and 26413; Order 76-7-119]

FRONTIER AIRLINES, INC.

Certificate Amendment and Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July, 1976.

Application of Frontier Airlines, Inc., for amendment of its certificate of public convenience and necessity for route 73—Docket 26412.

Application of Frontier Airlines, Inc., for exemption authority to provide service between Missoula and Kalispell, Mont.—Docket 26413.

ORDER TO SHOW CAUSE AND GRANTING TEMPORARY EXEMPTION

By order 74-7-11, dated July 24, 1974, the Board authorized Frontier Airlines to provide service between Missoula and Kalispell, Mont., subject to certain conditions.[1] The authority was to be effective for a period of 2 years.

On April 28, 1976, Frontier applied for an extension of the exemption granted in order 74-7-111 for a period of 2 years or until final action is taken on its certificate amendment application (docket 26412).[2] In support of its renewal request, Frontier states that: during the first stabilized year of operations, Frontier's Kalispell services benefited nearly 13,000 passengers;[3] Frontier's ability to improve its service at Bozeman and Missoula was enhanced by the short extension to Kalispell which has provided valuable traffic support and permitted more rapid service improvements for the western Montana cities;[4] during the 12 months ended April 30, 1976, Frontier's Kalispell service resulted in an operating profit of $153,000 and a gain of $76,000 after provision for return and taxes; and for the year ending June 1977, Frontier forecasts a $222,000 operating profit and a $146,000 gain after a full return and tax allowance.

The Flathead County Municipal Airport Authority filed an answer in support of Frontier's renewal application. No other answers have been received.

Upon consideration of the pleadings and all the relevant facts, we have decided to (a) extend the authority granted in order 74-7-111 until 60 days after Board action on the carrier's certificate amendment application in docket 26412, and (b) issue an order to show cause which proposes to grant the requested amendment to route 73. We note that no person has objected to the exemption renewal request. Moreover, the carrier's services to Kalispell pursuant to its exemption authority have provided significant public benefits with revenues sufficient to cover expenses and allow for return on investment and tax. Finally, the authority has permitted the carrier to improve service at other points on its system, with prospects for further improvement in the future. Accordingly, we find that enforcement of section 401 of the Act, to the extent that it would otherwise prevent the carrier from providing the services authorized herein, would be an undue burden on Frontier by reason of the limited extent of and unusual circumstances affecting its operations, and is not in the public interest.[5]

In addition, we tentatively find and conclude that the public convenience and necessity require the amendment of Frontier's certificate for route 73 so as to add Kalispell, Mont., as an intermediate point on said route. In support of our ultimate conclusion, we make the following tentative findings and conclusions. The Kalispell airport is located in the Flathead Valley, which provides a variety of tourist attractions and leisure activities. Glacier National Park is located only 25 miles from the airport and is the largest such attraction.[6] Several lakes in the area offer water sports of all types.[7] In addition, there are national and state forest areas, and summer as well as winter activities are abundant.[8] Airwest is certificated to serve Kalispell on its route 76, and presently provides direct service from that point to the west and south. However, Frontier's experience in providing service to the point by exemption indicates that there exists a need for direct service between Kalispell and points to the south and east,[9] which need

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[4] The balance of Tiger's answer consists of a detailed outline of the reasons why it did not participate in the industrywide agreement and has not been summarized.

[1] The original application, filed in February 1974, was opposed by Hughes Airwest and was denied by the Board in order 74-4-136, Apr. 26, 1974. However, in petitions for reconsideration Frontier and the Kalispell Parties stated that discussions with Airwest had resulted in agreement on conditions under which Airwest would not object to grant of exemption authority to Frontier, namely, that Frontier be prohibited from providing air transportation between Kalispell, on the one hand, and points in Arizona, California, and Nevada, on the other hand. In a consolidated answer to the petitions, Airwest stated that it would also want a condition requiring two intermediate stops between Kalispell and Salt Lake City. The Board therefore granted the petitions for reconsideration and authorized Frontier to serve Kalispell subject to the conditions requested by Airwest.

[2] Frontier has invoked the automatic extension provisions of 5 U.S.C. 558(c).

[3] Since Oct. 27, 1974, Frontier has operated a daily round-trip jet flight at Kalispell providing single-plane service to Missoula, Bozeman, Salt Lake City, Denver, and St. Louis with on-line connecting services to the major Frontier points of Dallas/Fort Worth, Albuquerque, Kansas City, and Omaha.

[4] Frontier states that it intends to continue providing improvements in its western Montana service as traffic develops. The carrier is considering a future flight whose itinerary might be over a Kalispell-Missoula-Bozeman-Denver routing.

[5] Flights between Kalispell and Salt Lake City will be required to make an intermediate stop. Airwest's realigned certificate gives that carrier unrestricted authority in the market; therefore, Frontier's authority will be improved from two-stop to one-stop.

[6] Frontier indicates that Glacier National Park is visited by over 1 million persons annually.

[7] Flathead Lake is the largest natural freshwater lake in the western section of the United States and offers swimming, boating, water skiing, and fishing, plus numerous resort accommodations. Several other large bodies of water are located within close proximity of the airport, including Whitefish Lake, Tally Lake, Ashley Lake, and Swan Lake.

[8] The ski area at Big Mountain has been the site of national ski championships on several occasions.

[9] The traffic Frontier carried to and from Kalispell during the first stabilized year of operations amounted to an average of 35 passengers per day.

cannot be met by the certificated services of Airwest. Furthermore, civic support for the proposed services indicates that such services result in significant public benefits. Finally, grant of the requested authority will provide increased revenues for Frontier, will give the carrier additional operating flexibility in providing service to other Montana points on its system,[10] and will require only a limited expenditure of additional resources.[11]

We also tentatively find and conclude that the proposed certificate amendment should be unrestricted. The conditions that were imposed on the exemption authority granted to Frontier in order 74-7-111 were designed to eliminate the possibility of diversion from Airwest. However, since we are proposed to add Kalispell to Frontier's route system, we believe that the same guidelines for determination of market restrictions that are applied in route alignments should be utilized here. Thus, there are several Kalispell markets in which both Airwest and Frontier will have single-carrier authority,[12] but in no case is the number of passengers involved significant. The Kalispell-Salt Lake City market, the largest of the competitive Kalispell markets, in which Frontier presently operates under its exemption authority with a two-stop restriction, generated less than 10 passengers per day during the 12 months ended September 30, 1975. Had Kalispell been a certificated point on Frontier's system at the time of its route realignment, no restrictions would have been placed on its authority to serve that point. Therefore, in keeping with our recent policy in route realignments of liberalizing route authority in monopoly markets or in small competitive markets by show-cause procedures, we tentatively find and conclude that Frontier's authority to serve Kalispell as an intermediate point on route 73 should be unrestricted.

Finally, Frontier has requested a waiver from the provisions of Part 312 of the Board's Procedural Regulations insofar as they would otherwise require it to file an environmental evaluation regarding the proposed services. In view of our tentative findings and conclusions herein, we will not grant the carrier's request for a waiver, and we will require Frontier to file the information set forth in Part 312 within 30 days of the date of adoption of this order.

[10] Frontier's "skip-stop" authority at Kalispell will permit the carrier to overfly the point after having provided one round trip 7 days per week.

[11] We further tentatively find that Frontier is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation pursuant to the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder. We also tentatively find that the proposed new authority should be granted on a subsidy-ineligible basis.

[12] These markets are as follows: Kalispell—Great Falls, Las Vegas, Phoenix, Salt Lake City, Tucson.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. Frontier Airlines, Inc., be and it hereby is temporarily exempted from the provisions of section 401 of the Act, insofar as they would otherwise prevent Frontier from providing service beyond Missoula, Mont., to Kalispell, Mont., on route 73: *Provided,* That Frontier may not engage in the air transportation of passengers traveling between Kalispell, on the one hand, and points in Arizona, California, and Nevada, on the other hand; *and Provided further,* That on flights between Kalispell and Salt Lake City, Utah, Frontier must schedule a minimum of one intermediate stop;

2. The portion of the flights between Kalispell and Missoula, Mont., shall be ineligible for subsidy;

3. The authority granted in 1 above shall be effective on the date of service of this order and shall continue in effect until 60 days after final Board decision in docket 26412;

4. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending Frontier Airlines' certificate of public convenience and necessity for route 73 so as to add Kalispell, Mont., as an intermediate point thereto;

5. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 9 below a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;[13]

6. 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;

7. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

8. Frontier Airlines, Inc., shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of this order;

9. A copy of this order shall be served on Frontier Airlines, Inc.; Hughes Airwest; Northwest Airlines, Inc.; Mayor, City of Kalispell; Mayor, City of Missoula; Governor, State on Montana; The Montana Aeronautics Commission; Airport Manager, Glacier Park International Airport (Kalispell); Airport Manager, Johnson-Bell Airport (Missoula); and the Flathead County Municipal Airport Authority; and

10. The exemption authorized herein may be amended or revoked at any time in the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22646 Filed 8-3-76;8:45 am]

[13] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket 29586; Order 76-7-120]

SURF-AIR, INC.

COD Minimum Charge: Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of July, 1976.

By tariff revision[1] issued July 6 and marked to become effective August 6, 1976, Surf-Air, Inc. (Surf-Air), an air freight forwarder, proposes, inter alia, to increase its C.O.D. collection service minimum charge from $2.50 to $5.00 per shipment.

In support of its proposal, Surf Air asserts, inter alia, that since the last time C.O.D. charge was increased it has experienced an increase in labor cost of 51 percent and postage and handling cost increases of 62 percent while the number of such shipments has increased approximately 25 percent, and that in order to continue to offer such service it must recover some of these increased costs. However, the forwarder has not supported its cost increase estimates nor shown that the cost increases would justify the $5.00 charge proposed. The Board has consistently suspended increases in C.O.D. charges proposed by both direct and indirect carriers in the absence of adequate justification, e.g., Order 76-6-9, June 2, 1976. Furthermore, Surf-Air's proposal would result in C.O.D. minimum charges significantly above those currently in effect for other freight forwarders, as well as direct carriers.

Upon consideration of the foregoing and all other relevant factors, the Board finds that the increased C.O.D. minimum charge proposed by Surf-Air may be unjust, unreasonable, unjustly discrimina-

[1] Revision to Surf-Air, Inc., Tariff C.A.B. No. 9.

tory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proopsal should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof.

It is ordered that: 1. An investigation be instituted to determine whether the charges and provisions in Rule No. 100 (C) on 4th Revised Page 7 of C.A.B. No. 9 issued by Surf-Air, Inc., and rules, regulations, or practices affecting such charges and provisions, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful charges and provisions and rules, regulations, or practices affecting such charges and provisions;

2. Pending hearing and decision by the Board, Rule No. 100(C) on 4th Revised Page 7 of C.A.B. No. 9 issued by Surf-Air, Inc., is suspended and its use deferred to and including November 3, 1976, unless otherwise ordered by the Board; and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 29586, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Surf Air, Inc., which is hereby made a party to Docket 29586.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22647 Filed 8-3-76;8:45 am]

[Dockets 25989 and 26838; Order 76-7-124]

WIEN AIR ALASKA, INC.

Air Freight Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of July, 1976.

By tariff revisions[1] issued July 1 and marked to become effective August 1, 1976, Wien Air Alaska, Inc. (Wien), proposes to increase all general and specific commodity bulk and container rates and charges, except the bulk minimum charge per shipment, by approximately 6 percent. Corresponding priority reserved general commodity rates are to be increased by an equal percentage.[2]

In support of its proposal, Wien asserts, inter alia that continued cost pressures have eroded its ability to maintain a reasonable and healthy financial posture; that its return on investment for the year ended March 1976, was 10.5 percent; that the impact of contracted-labor cost increases, applied to the same period, would reduce the return to 7.9 percent; that if a cost-inflation factor of 4.7 percent is applied to costs other than fuel, labor, depreciation, and B-737 rent expense, the rate of return is reduced to 7.2 percent; that the amounts payable under Workmen's Compensation have been increased to such high levels that its insurance carrier will be charging substantially higher premiums, estimated to be about $300,000 per year; and that the State of Alaska is currently negotiating with all carriers using airport facilities at Anchorage and Fairbanks, to increase fees paid for landing and fuel estimated to amount to between $50,000 and $370,000 additional expense. In addition, the carrier asserts that as a result of labor negotiations it faces labor increases in excess of $2,000,000 over the next twelve months; that, beginning in January 1975, it has been required to buy fuel at a rate per gallon 62 percent higher than during the previous year; and that the carrier has not had a freight rate increase since December 15, 1973. The proposed increase will amount to about $685,000 in added revenues annually.

Based upon Wien's actual financial results for the year ended March 1976, reconstructed to include a full year's effect of both the proposed freight and passenger rate increases, and the most recent experienced or contracted costs, the carrier's regulatory ROI (including subsidy) would be about 11.8 percent, below the 12.35 percent found by the Board to be reasonable for local service carriers.[3]

The proposed priority rates and charges come within the scope of the Priority Reserved Air Freight Rates Investigation (PRAFRI), Docket 26838, and their lawfulness will be determined in that proceeding. The remaining rates are not currently under investigation. Upon consideration of all relevant factors, the Board finds that the proposal to increase bulk general commodity rates and charges as they relate to exception-rated traffic, may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. Furthermore, the Board concludes that the aforementioned proposal as well as the proposed increase in priority reserved rates where they result in premiums in excess of 30 percent over the otherwise applicable rate should be suspended pending investigation.

Wien currently has effective exception ratings to the general commodity rates ranging between 200 and 250 percent on such commodities as aircraft, automotive vehicles, boats, snow machines, and human remains. In the lower 48 states, most carriers do not publish premium ratings on aircraft, automobiles, or boats (none have rates on snow machines), and the few carriers that do generally publish lower ratings than Wien. The other carriers' premiums on human remains are also lower. The high premiums charged by Wien have not been justified and consequently the increased rates will be suspended.[4]

Although the Board permitted Wien (as well as certain other carriers) to establish priority general commodity rates including minimum charges reflecting the 100-pound weightbreak priority rate, the Board subsequently decided that a 30 percent premium over the applicable rates (whether general or specific commodity rates) was the highest level that should be permitted pending decision in *PRAFRI*.[5] Wien's proposed priority rates and charges, however, exceed 130 percent of the regular general commodity minimum charges, or, as applicable, specific commodity rates and charges. Furthermore, we believe that Wien should publish an under-100 pound rate applicable to its priority freight service to help eliminate inequities in its current minimum charge structure.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that: 1. An investigation is instituted to determine whether the rates, charges, and provisions described in Appendix A hereto, and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendices A and B hereto are suspended and their use deferred to and including October 29, 1976, unless otherwise ordered by the Board; and that no changes be made therein during the period of suspension; except by order or special permission of the Board;

3. The proceeding herein designated Docket 25989, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Wien Air

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[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169 and 227.

[2] The carrier is also proposing a 6-percent increase in passenger fares to become effective on August 1.

[3] It should be noted that the Board, by Order 76-3-147, dated March 23, 1976, instituted an investigation to determine whether a revised subsidy mail rate should be established for Wien since the carrier's currently effective rate may have become excessive.

[4] If Wien can demonstrate that there are considerations peculiar to Alaskan operations which can justify such premiums, Wien is of course free to refile.

[5] Order 76-7-10, July 6, 1976; Order 76-2-108, February 27, 1976; Order 75-12-98, December 19, 1975; Order 75-12-28, December 5, 1975; and previous orders.

Alaska, Inc., which is hereby made a party to Docket 25989.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A—TARIFF C.A.B. No. 169, ISSUED BY AIRLINE TARIFF PUBLISHING COMPANY, AGENT

All increased rates and provisions applicable thereto on the following pages insofar as they would be used in determination of rates and minimum charges in conjunction with exception ratings to general commodity rates in Item Nos. 10, 240, 280, 340 and 390 on behalf of WC

13th Revised Page 1426
29th Revised Page 1427
29th Revised Page 1428
11th Revised Page 1429
11th Revised Page 1430
8th Revised Pages 1431
8th Revised Page 1432
16th Revised Page 1433
16th Revised Page 1434
11th Revised Page 1435
11th Revised Page 1436
10th Revised Page 1437
10th Revised Page 1438
6th Revised Page 1439
6th Revised Page 1440
5th Revised Page 1441
5th Revised Page 1442

APPENDIX B—TARIFF C.A.B. No. 169, ISSUED BY AIRLINE TARIFF PUBLISHING COMPANY, AGENT

1. The increased rates and charges as described on the following pages:

13th Revised Page 1426:

From Anchorage to Aniak, Barrow and Bethel, all increased priority reserved general commodity (PRF) rates and the increased minimum charges in connection therewith.

29th Revised Page 1427:

From Anchorage to Dillingham, Galena, King Salmon, Kodiak, and St. Mary's, all increased priority reserved general commodity (PRF) rates and the increased minimum charges in connection therewith; from Anchorage to Fairbanks, Kotzebue, and Nome, the increased priority reserved general commodity (PRF) rates, subject to a minimum weight of 100 pounds, and the increased minimum charges in connection therewith; from Anchorage to Homer, the increased priority reserved general commodity (PRF) rate, subject to a minimum weight of 100 pounds; and from Anchorage to Prudhoe Bay, the increased minimum charge shown in connection with the priority reserved general commodity (PRF) rate.

29th Revised Page 1428:

From Anchorage to Unalakleet, the increased priority reserved general commodity (PRF) rate, subject to a minimum weight of 100 pounds and the increased minimum charge in connection therewith; and to Barrow from Fairbanks, the increased minimum charge shown in connection with the priority reserved general commodity (PRF) rate.

16th Revised Page 1433:

From Fairbanks to Galena, Juneau and Prudhoe Bay and between Fairbanks and Whitehorse, the increased minimum charge shown in connection with the priority reserved general commodity (PRF) rates; and from Fairbanks to Kotzebue and Nome, the increased priority reserved general commodity (PRF) rates, subject to a minimum weight of 100 pounds, and the increased minimum charge in connection therewith.

[FR Doc.76-22645 Filed 8-3-76;8:45 am]

[Docket 29278]

STAFF TASK FORCE REPORT

Service to Small Communities

JULY 30, 1976.

On May 18, 1976, the Civil Aeronautics Board announced that public comment on the Staff Task Force Report on Service to Small Communities should be received at the Board on or before June 18, 1976. By notice dated June 4, 1976, the Board extended the date for the submission of public comments on the report until July 19, 1976.

A number of public comments on the report have been received. Notice is hereby given that any member of the public who wishes to respond to any comments filed in this docket may do so. Reply comments should be received at the Board on or before August 18, 1976.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-22644 Filed 8-3-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 4203, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on September 16, 1976, at 10 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the reporting of business firms to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C., 20503, Telephone 202-395-3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.76-22639 Filed 8-3-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 592-8; OPP-180072A]

CALIFORNIA DEPARTMENT OF HEALTH

Issuance of Specific Exemption To Use DDT To Suppress Flea Vectors of Plague

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Health (hereafter referred to as the "Applicant") to use five (5) or ten (10) percent DDT dust in a program to suppress fleas vectoring plague on wild rodents. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, there is a strong possibility that situations will arise in California during 1976 necessitating the use of DDT to control flea vectors of plague. This concern stems from the apparent failure of carbaryl to suppress flea populations vectoring plague in Plumas County, California, in 1975 and in April 1976. In view of the low level of control exercised by carbaryl, the Applicant promulgated a crisis exemption under section 18 of the amended FIFRA, and applied forty-seven (47) pounds of a ten percent DDT dust to rodent burrows on 80 acres of two affected campgrounds. Notice of this crisis exemption was published in the FEDERAL REGISTER on June 8, 1976 (41 FR 22979). A comparison of pre- and post-treatment flea indices (No. fleas/No. rodents) indicated that plague vectoring flea populations were reduced on chipmunks, white-footed deer mice, and golden-mantled ground squirrels to a level which was adequate to protect the public health.

The scope of the public health problem is the plague endemic area of California, which generally encompasses the mountains and foothills of the State. When plague epizootics occur among rodents, infected fleas may transmit the plague bacillus to people. Epizootics occur most frequently during the spring, summer, and fall. Flea control must be initiated promptly to protect human health. Current evidence indicates carbaryl dust to be reasonably efficacious in controlling fleas of the ground squirrel (*Spermophilus beecheyi*), but to be undependable in controlling fleas of chipmunks and other rodents of similar habits. The Applicant stated that DDT was available and is of demonstrated efficacy against fleas of wild rodents.

The maximum amount of actual DDT required will be less than fifty (50) pounds to be used throughout California until the end of November, according to the Applicant. The areas treated with DDT will be limited to those situations where, without flea control, the public health would be endangered. All applications will be made by public health biologists in the Applicant's Vector Control Section, all of whom possess a minimum of a baccalaureate in the biological sciences and several years of professional

experience. In instances where other persons might be called upon to assist the Vector Control Section staff, they will work under the direct supervision of a public health biologist.

The Applicant stated that no significant adverse effects on the environment are anticipated from the DDT application, because the dosage rate will be about 0.1 pound of actual DDT per acre or less, and the pesticide will be carefully introduced into the burrows by hand-operated dusters, as was the procedure in Plumas County, California.

This application was endorsed by the Center for Disease Control (CDC) of the Department of Health, Education, and Welfare. The Chief of the Plague Branch, CDC, located in Fort Collins, Colorado, has advised EPA that widespread but localized plague epizootics are presently sweeping through wild rodent populations in Colorado and New Mexico. He stated that a potentially serious threat of a plaque epizootic exists also in Arizona and California.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fleas vectoring plague has or is about to occur; (b) there is no pesticide presently registered and available for use to control the flea populations in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant health problems may result if the fleas vectoring plague are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A pesticide product containing either five (5) or ten (10) percent DDT as the active ingredient may be used;
2. The total amount of DDT used may not exceed fifty (50) pounds actual insecticide;
3. The DDT will be applied directly to wild rodent burrows with hand-powered dusting equipment;
4. Areas of California to be treated are limited to those where, without flea control, the public health will be endangered;
5. Personnel of the Vector Control Section, California Department of Health, will supervise all pesticide applications;
6. Dr. Allan M. Barnes, Chief, Plague Branch, CDC, Fort Collins, Colorado, will be kept advised of all flea population suppression activities;
7. Areas treated with DDT should be surveyed to ensure that no endangered species that could be adversely affected are present;
8. Every precaution will be taken to avoid adverse effects on the American peregrine falcon; and
9. Liaison will be established with the California Fish and Game Department prior to applying DDT in any area.

Dated July 28, 1976.

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

[FR Doc.76-22494 Filed 8-3-76;8:45 am]

[FRL 593-2; OPP—30108A]

PESTICIDE PROGRAMS

Application To Register Pesticide Product Containing New Active Ingredient

On February 27, 1976, the Environmental Protection Agency announced (40 FR 8532) that Fisons Corp., Agricultural Division, 2 Preston Court, Bedford MA 01730, had submitted an application to register the pesticide product NORTRON HERBICIDE (EPA File Symbol 10065-L), containing 19% of the active ingredient 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate, which has not been included in any previously registered pesticide product. The application proposed that the product be classified for general use in the selective control of weeds in sugar beets. Fisons Corp. has amended this application to include the product's use in the selective control of weeds in grass seed crops.

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application and subsequent amendment does not indicate a decision by the Agency on the application. Specific questions concerning the application should be directed to Product Manager (PM) 24, Registration Division (WH-567), Office of Pesticide Programs, at the address below, or by telephone at 202/755-2196.

Any Federal agency or other interested persons are invited to submit written comments on the application, as amended, to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before September 3, 1976 and should bear the EPA File Symbol 10065-L. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying of processing of the application. Notice of approval or denial of the application to register NORTRON HERBICIDE will be announced in the Federal Register. The labels furnished by the applicant as well as all written comments filed pursuant to the February 27 notice and this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: July 28, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-22496 Filed 8-3-76;8:45 am]

[FRL 593-5; OPP—50212]

S. B. PENICK AND CO.

Issuance of Experimental Use Permit and Solicitation of Public Views

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to S. B. Penick & Company, Orange, New Jersey 07050. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 432-EUP-32) allows the use of 240 pounds of an insecticide which is a mixture of (5-benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate, related compounds, and aromatic petroleum hydrocarbons applied at ultra-low-volume applications outdoors to control various species of adult mosquitoes in recreational and residential areas, swamps, marshes, roadsides, and overgrown waste areas. A total of 34,284 acres is involved, which provides for 5,000 acre blocks of land in Minnesota, Louisiana, Texas, and California, and smaller blocks of land in the States of Florida, New Jersey, Delaware, Massachusetts, Connecticut, and Maryland. The experimental use permit is effective from July 15, 1976, to July 15, 1977.

There has been considerable interest shown recently on the subject of mosquito abatement programs similar to this one. Accordingly, all parties interested in such programs are invited to submit written comments pertinent to the general subject to the Federal Register Section, Room E-401, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received on or before September 3, 1976 and should bear the identifying notation OPP-50212. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division

(WH-569), Office of Pesticide Programs, EPA, at the same address mentioned above. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated July 28, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-22497 Filed 8-3-76;8:45 am]

AMERICAN CYANAMID CO.

[FRL 593-3; PP6G1740/T74]

Establishment of a Temporary Tolerance N - (1 - Ethylpropyl) - 3,4 - Dimethyl - 2,6 - Dinitrobenzenamine

American Cyanamid Co., PO Box 400, Princeton NJ 08540, has submitted a pesticide petition (PP 6G1740) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for residues of the herbicide N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine and its metabolite 4-[(1-ethylpropyl) amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on the raw agricultural commodities peanuts, peanut forage, and peanut hay, at 0.1 part per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerance will protect the public health. The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 28, 1977. Residues not in excess of 0.1 ppm remaining in or on peaunts and peanut forage and peanut hay after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

Dated: July 28, 1976.

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-22498 Filed 8-3-76;8:45 am]

[FRL 593-4; OPP 33000/441]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administration in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of the Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-7012
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 4, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: July 28, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/441)

EPA Reg. No. 8590-321. Agway, Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. KAPCO NO-WEED TURF FOOD. Active Ingredients: Sodium 2,4-Dichlorophenoxyacetate, Monohydrate 0.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for re-registration. PM23

EPA Reg. No. 1145-129. Amoco Oil Co., 200 E. Randolph Dr., Chicago IL 60601. AMOCO 2,4-D LV6-M. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 94.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM 23

EPA Reg. No. 5481-144. Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. TECHNICAL ISOPROPYL ESTER OF 2,4-D. Active Ingredients: Isopropyl Ester of 2,4-Dichlorophenoxyacetic Acid 98.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 14775-9. Asgrow Florida Co., Subsidiary of the Upjohn Co., PO Drawer "B", Plant City FL 33566. ASGROW METHOMYL DUST NO. 1. Active Ingredients: S - Methyl-N-[(methylcarbamoyl) oxy] thioacetimidate 2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 7969-28. BASF Wyandotte Corp., Agricultural Chemicals Dept., 100 Cherry Hill Rd., Parsippany NJ 07054. U-46 D6 B ESTER HERBICIDE 2,4-D HIGH VOLATILE ESTER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7969-26. BASF Wyandotte Corp. U-46 D4-ESTER-LV HERBICIDE 2,4-D LOW-VOLATILE ESTER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Ester 69.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7969-25. BASF Wyandotte Corp. U-46 D6 HERBICIDE 2,4-D NON-VOLATILE AMINE SALT. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 7969-UT. BASF Wyandotte Corp. U-46 D6-RR HERBICIDE 2,4-D NON-VOLATILE AMINE SALT. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acide 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7969-24. BASF Wyandotte Corp. U-46 D-4 ESTER LV-BP HERBICIDE 2,4-D LOW-VOLATILE ESTER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxypropyl esters 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7969-17. BASF Wyandotte Corp. U-46 D-ESTER-LV HERBICIDE 2,4-D LOW-VOLATILE ESTER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Ester 94.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7969-22. BASF Wyandotte Corp. U-46 D ACID MANUFACTURERS CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 100%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5719-38. Chacon Chemical Corp., 2600 Yates Ave., City of Commerce CA 90040. BROAD-LEAF WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 20.0%; 2,4-Dichlorophenoxyacetic Acid Equivalent 12.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-2334. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO WEED-3-GON JET WEEDER. Active Ingredients: Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 0.75%; Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-2335. Chevron Chemical Co. ORTHO POISON IVY CONTROL. Active Ingredients: Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 0.75%; Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-1257. Chevron Chemical Co. ORTHO 2,4-D AMINE 4. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 49.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715-349. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVICE BRAND 2,4-D ISOOCTYL ESTER TECHNICAL. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715-170. Colorado International Corp. BEST 4 SERVICE BRAND LO-VOL 400 2,4-D WEED KILLER. Active Ingredients: Mixed octyl ester of 2,4-Dichlorophenoxyacetic Acid 69.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715-169. Colorado International Corp. BEST 4 SERVICE BRAND LO-VOL 600 2,4-D WEED KILLER. Active Ingredients: Mixed octyl ester of 2,4-Dichlorophenoxyacetic acid 94.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 33108-2. Continental Peat Co., PO Box 7368, Toledo OH 43617. TURF TREATMENT 12-4-4 WITH 2,4-D STOPS WEEDS FEEDS GRASS TREATS 5,000 SQ. FT. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM 23

EPA Reg. No. 7273-90. Crown Chemicals, 4995 N. Main St., Rockford IL 61101. FLORA TOX 4 LB. LV 2,4-D WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 69.70%. Method of Support: Application proceeds under 2(b) of interim policy. Applications for reregistration. PM23

EPA File Symbol 13437-T. Du Cor Chemical Y Corp., PO Box 13298, Orlando FL 32809. DU COR CHINCH BUG E-RAD. Active Ingredients: O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate) 12.18%; Aromatic Petroleum Derivative solvent 81.26%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 3770-187. Economy Products Co., Inc., PO Box 427, Shenandoah IA 51601. 2,4-D Isooctyl Ester 4-E. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 68.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 3770-283. Economy Products Co. 2,4-D ISOOCTYL ESTER 6-E LOW VOLATILE WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 93.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 912-52. Farmers Union Central Exchange, Inc., PO Box "G", St. Paul MN 55165. LV. 6 ESTER WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Ester 94.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 912-34. Farmers Union Central Exchange, Inc. LV. 4 ESTER WEED KILLER. Active Ingredients: 2,14-Dichlorophenoxyacetic Acid, Butoxy Propyl 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279-2862. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. FURADAN 75 BASE INSECTICIDE. Active Ingredients: Carbofuran 75.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 279-2712. FMC Corp. FURADAN 10 GRANULES INSECTICIDE-NEMATICIDE. Active Ingredients: Carbofuran 10.0% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA File Symbol 279-GNRR. FMC CORP. CORN BORER GRANULES INSECTICIDE. Active Ingredients: Carbofuran 10.00% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA Reg. No. 32802-3. Howard Johnson's Enterprises, Inc., Box 67, Railroad Ave., Viroqua WI 54665. WEED & FEED. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic Acid 1.20%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA File Symbol 1182-EL. Hubman Chemicals, 1123 W. Goodale Blvd., Columbia OH 43212. IOLEX. Active Ingredients: alpha-(p-Nonylphenyl) - omega - hydroxypoly (oxyethylene)-iodine complex 18.05%; Phosphoric Acid 16.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 1182-EU. Hubman Chemicals. SOMADINE. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 8378-5. Knox Fertilizer & Chemical Co., Inc., PO Box 116, Knox IN 46534. GRO-FINE HI N WEED & FEED 22-6-6 KILLS WEEDS & FEEDS GRASS. Active Ingredients: Diethanolamine Salt of (2-(2-Methyl-4-Chlorophenoxy propionic acid) 0.86%; Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8378-6. Knox Fertilizer & Chemical Co., Inc. SHAWS PREMIUM WEED & FEED WITH 2,4-D AND MCPP 23-4-9. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.75%; Diethanolamine Salt of (2-(2-Methyl-4-Chlorophenoxy) propionic acid) 0.86%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1180-19. Midland Cooperatives, Inc., 2021 E. Hennepin Ave., Minneapolis MN 55413. LOW-VOLATIVE 2,4-D WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 70.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524-260. Monsanto Co., Agricultural Products, 800 N. Lindberg Blvd., St. Louis MO 63166. TECHNICAL GRADE 2,4-D ISOBUTYL ESTER. Active Ingredients: Isobutyl Ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524-03. Monsanto Co. 2,4-D ACID. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 100%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 358-142. Nott Co., Pleasant Valley, NY 12569. SUPER CHEW-NOT ANIMAL REPELLENT. Active Ingredients: Thiram (Tetramethylthiuram Disulfide) 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM11

EPA Reg. No. 2217-633. PBI/Gordon Corp., 300 S. Third St., Kansas City, KS 66118. AMINE 2,4-D TURF HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-632. PBI/Gordon Corp. AUS 90 WET TECHNICAL 2,4-DICHLOROPHENOXYACETIC ACID. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 90%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-621. PBI/Gordon Corp. DM-MIX #1 TURF HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 26.90%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 26.97%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-468. PBI/Gordon Corp. 600 LV 2,4-D WEED KILLER A LOW VOLATILE ESTER. Active Ingredients: Mixed octyl ester of 2,4-Dichlorophenoxyacetic acid 94.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-354. PBI/Gordon Corp. LAWN WEED KILLER GRANULES. Active Ingredients: Mixed Octyl Ester of 2,4-Dichlorophenoxyacetic Acid 30.17%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-314. PBI/Gordon Corp. 20% GRANULAR 2,4-D LOW VOLATILE. Active Ingredients: Mixed Octyl Ester of 2,4-Dichlorophenoxyacetic acid 30.17%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-85. PBI/Gordon Corp. BUTYL ESTER 600 2,4-D WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic Acid 77.48%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-77. PBI/Gordon Corp. LV 400 2,4-D. Active Ingredients: Mixed octyl ester of 2,4-Dichlorophenoxyacetic acid 69.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-76. PBI/Gordon Corp. BUTYL ESTER 400 2,4-D WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic acid 57.0%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-41. PBI/Gordon Corp. LAWN WEED KILLER (AMINE TYPE). Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 26.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-3. PBI/Gordon Corp. BUTYL ESTER 40% 2,4-D WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic acid 40.1%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2217-2. PBI/Gordon Corp. AMINE 400 2,4-D WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 10444-A. Super-Mol Div., Huco, Inc., Route 3, Box 498, Tampa FL 33619. SUPER FLI BLOCK. Active Ingredients: 2-Chloro-1-(2,4,5-trichlorophenyl) Vinyl dimethyl phosphate. 0.498%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 449-86. Techne Corp., c/o Regulatory Affairs Dept., Farmland and Industries, Inc., PO Box 7305, Kansas City MO 64116. TECHNE NO. 4 BUTYL ESTER WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, Butyl Ester 58.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 449-138. Techne Corp. TECHNE LOW-VOL 2,4-D. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, isooctyl ester 70.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 449-17. Techne Corp. TECHNE 40% BUTYL ESTER WEED KILLER. Active Ingredients: 2,4- Dichlorophenoxyacetic acid, Butyl Esters 42.0%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM23

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FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20871, 20872; FCC 76-647]

MAHAFFEY MESSAGE RELAY INC. AND MEMPHIS MOBILE TELEPHONE, INC.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

In the matter of Mahaffey Message Relay, Inc., Memphis, Tennessee, Docket No. 20871, File No. 8331-C2-P-(8)-73, 8557-C2-P-(4)-73, 21635-CD-P-75; Memphis Mobile Telephone, Inc., Memphis, Tennessee, Docket No. 20872, File No. 20003-CD-P-76; for construction permits for facilities in the Domestic Public Land Mobile Radio Services to operate in Memphis, Tennessee.

1. The Commission has under consideration the above-captioned mutually exclusive applications of Mahaffey Message Relay, Inc., (Mahaffey) and Memphis Mobile Telephone, Inc. (MMT) for construction permits in the Domestic Public Land Mobile Radio Service (DPLMRS) in the Memphis, Tennessee metropolitan area. Also before the Commission are various pleadings filed by MMT directed against Mahaffey[1] and two of the other applicants[2] for frequencies in this area; a "Motion for Reconsideration" filed by MMT August 28, 1975; and an "Application for Review" filed by MMT November 3, 1975.

2. MMT alleges that during the spring of 1973—soon after it informed Mahaffey of its intention to seek state certification to provide radio common carrier service—Mahaffey and Otis Hale d/b/a Mobilfone filed applications for the available 450 MHz frequencies in the Memphis service area,[3] and that both applicants knew that before MMT could receive state certification the 60-day cut-off provisions of our rules[4] would prevent it from filing any subsequent competing 450 MHz applications. MMT alleges further that Mahaffey's motivation and lack of good faith in filing its applications is evidenced by a subsequent agreement among all of the other Memphis applicants for radio common carrier frequencies which eliminated frequency conflicts while still blocking MMT's possibility of applying for 450 MHz frequencies. In that agreement, Mahaffey abandoned six of the twelve 450 MHz frequencies applied for in its original applications but maintained its later-filed one-way applications for the only remaining spectrum space available for radio common carrier use in the Memphis area. Finally, MMT alleges that all of Mahaffey's filings did not satisfy the need provisions

[1] Petition for Leave to Intervene, Petition to Deny and Petition for Waiver of the Cut-Off Rules filed by MMT May 19, 1975; Complaint, Petition to Deny and Motion to Dismiss Applications filed by MMT October 21, 1975; Mahaffey's Oppositions and MMT's replies. MMT's various pleadings do not fully satisfy our procedural rules and have been challenged on this ground; however, as indicated in our subsequent discussion, they treat matters of concern. Consequently, we accept them as informal objections pursuant to Section 1.41 of the Commission's Rules, and will deal with them on their merits.

[2] Against AAA Anserphone, Inc.—Jackson, a Complaint, Petition to Deny and Motion to Dismiss Applications filed November 3, 1975, and against Airsignal International, Inc., a Motion to Dismiss as amended March 18, 1976. Both respondents filed timely oppositions.

[3] Mahaffey currently operates both a one-way paging facility (KRS-656), and a two-way facility (KDT-223) in Memphis, Tennessee, as well as two-way facilities in Munford (KUO-621) and Collierville (KUC-870), Tennessee. It appears that all of Mahaffey's stations provide service primarily to Memphis metropolitan area subscribers.

[4] Sections 21.30(b) and 1.227(b)(3) of the rules provide essentially that in DPLMRS, no application will be considered mutually exclusive with another application unless such application is tendered for filing within 60 days after the public notice listing the first prior-filed application, with which subsequent applications are in conflict, as having been accepted for filing.

of § 21.516 of the rules,[5] and should therefore be rejected without a hearing.

3. For reasons set forth below, we are concerned that Mahaffey may have filed applications to protect and benefit its existing licenses. Therefore, the evidentiary hearing required by the mutually exclusive applications will be expanded to include an appropriate issue (issue 2) relating to Mahaffey. Questions have also been raised about the possible involvement of other applicants in this area. Accordingly, we will make the other Memphis-area applicants (Otis Hale d/b/a Mobilfone; AAA Anserfone, Inc.—Jackson; and Airsignal International, Inc.)[6] respondents to this proceeding (issue 1). We assume that these applicants will take advantage of this opportunity to participate in the present hearing. In the event that they do not participate, it would be difficult to avoid drawing adverse inferences about the bonafides of their applications.

THE CONFLICTING APPLICATIONS

4. Between May and July, 1973, Mahaffey, Otis Hale, AAA and Airsignal filed 450 MHz applications proposing new and additional facilities to serve areas contiguous to the Memphis metropolitan service area; additionally, AAA filed for a low-band paging frequency (33.58 MHz) in the same general area. In December, 1975, the applicants requested that various proposals for conflicting frequencies be deleted from their applications (see para. 6 below). Meanwhile, on May 4, 1975, MMT had received its Tennessee state certification, and on May 19, 1975, Mahaffey filed two applications for the only remaining frequencies in the service area (43.58 and 43.22 MHz). On July 1, 1975, MMT filed a competing application for 43.58 MHz, Airsignal also filed an application for this frequency, but dismissed it in December, 1975.

5. On May 19, 1975, MMT tendered an application for four of the 450 MHz frequencies Mahaffey had applied for in May, 1973. At the same time, MMT Petitioned for Leave to Intervene, to Deny Mahaffey's 450 MHz applications, and requested a waiver of the cut-off rules. MMT's application was returned as untimely filed after preliminary staff review (see footnote 4). On August 28, 1975 MMT resubmitted its 450 MHz application with a "Petition for Reconsideration". The application was again returned, and on November 3, 1975, MMT submitted an "Application for Review" apparently under the misconception that the second return of its application was the dismissal by delegated authority of its reconsideration request.[7] Because we grant part of the relief requested in MMT's May 19, 1975 "Petition to Intervene", it is included in our discussion of MMT's other informal pleadings directed at Mahaffey's filings. Other than this, there is no reason to grant MMT's requests and they will therefore be denied.

THE AGREEMENT

6. On December 8, 1975, AAA, Airsignal, and Mahaffey amended their pending applications by deleting various frequency conflicts in order to avoid a Commission hearing. On February 4, 1976, MMT filed an informal protest which questioned whether these amendments were "major" amendments requiring Public Notice pursuant to § 21.26(c) of the rules. The amended applications were not placed on Public Notice nor were they treated as "major" amendments by our staff. We affirm this ruling since these amendments did not materially alter the nature of the service proposed by the amending applicants, and are not otherwise "major" within the terms of § 21.23 of the rules.

7. We have been concerned that predesignation agreements between mutually exclusive applicants to withdraw one or more competing applications could be improperly motivated. As we stated in the notice of proposed rulemaking in Docket No. 19905.[8]

> Close review of such agreements is considered important in discouraging the filing of 'strike' applications or unreasonable 'buy outs' of competition. Consequently, we propose to dismiss an application withdrawn pursuant to an agreement and to continue processing the remaining application only if the withdrawal agreement is found to be consistent with the public interest.[9]

The applicants participating in the present agreement submitted a recitation of the circumstances leading to the agreement; nonetheless, the circumstances which require hearing to examine the anti-competitive questions raised by MMT necessarily concern any agreements between Mahaffey and the other radio common carrier applicants. And the consideration of avoiding a hearing voiced by the 450 MHz applicants must be considered in the context of MMT's allegations regarding their alleged cooperation in blocking MMT's possibility of entry into this market. Accordingly, we are adding an appropriate issue to explore the background of the agreement.

AAA

8. On November 5, 1975, MMT filed a "Petition to Deny" AAA's application stating that although AAA's application represents that it intends to locate and serve the residents of DeSoto County from Southaven, Mississippi, AAA in fact intends to extend its marketing efforts into the Memphis service area in violation of Tennessee law and its Mississippi Public Service certification. Further, MMT contends, AAA does not show a need for four new 450 MHz frequencies and its proposed one-way paging frequency on the basis of the small service area of DeSoto County, Mississippi. AAA opposed the MMT filing as untimely since it came nearly two years after acceptance of AAA's applications for filing. Further, AAA contends that it intends to serve only the Northern Mississippi service area (the population of which is approximately 42,000). If AAA decides to serve any other state, it contends, it will obtain the necessary certificates to ensure compliance. MMT's filing is procedurally defective; moreover, the contemplated hearing will investigate AAA's participation in alleged anti-competitive conduct. Accordingly, we will deny MMT's "Petition to Deny" in all other respects.

AIRSIGNAL

9. On March 18, 1976, MMT filed an amended "Petition to Deny" Airsignal's application. MMT contends that Airsignal misrepresented its intended service area when it filed for frequencies at West Memphis, Arkansas, since it fully intended to serve Western Tennessee and Memphis; that Airsignal has sought by filing competing applications to restrain trade in this service area; and that Airsignal did not have an Arkansas Public Service Commission (APSC) certificate when it filed its application in June, 1973, and that a subsequent application before the APSC has been dismissed for failure to prosecute. Airsignal relies upon its original representation that it would provide two-way service to the Memphis-West Memphis service area on a non-interconnect basis, which does not require Arkansas state certification, and states that the dismissal of its application by APSC was the result of its decision not to prosecute the application rather than an attempt to defraud this Commission. MMT's petition is insufficient to raise character issues against Airsignal; however, as with AAA, we desire a further investigation into Airsignal's participation in the alleged anti-competitive conduct. Therefore, we will deny MMT's "Petition to Deny" except to the extent indicated above.

MAHAFFEY

10. MMT filed protests against both Mahaffey's paging and 450 MHz applications. MMT states that Mahaffey, in collusion with other radio common carrier applicants, has persistently blocked the entry of any potential competition into the Memphis metropolitan market by

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[5] Section 21.516 requires an applicant for additional facilities to show that there is an unsatisfied need for the additional service, and that the applicant's present facilities are inadequate to serve that need.

[6] The applications are: AAA—F.C.C. File No. 20032-C2-P-(4)-74; Airsignal—F.C.C. File No. 20076-C2-P-(4)-74; Otis Hale—F.C.C. File No. 8942-C2-P-(2)-73.

[7] Section 21.28(d) of the Rules provides for the return without prejudice of applications received after the dates prescribed in Section 21.30(b) of the Rules. This application will be eligible for refiling only after a final decision is rendered by the Commission with respect to the present applications or after the dismissal or removal of the present applications from this hearing.

[8] 44 F.C.C. 2d 556 (1973).

[9] *Id* at 558.

using the cut-off provisions of the Commission's rules in conjunction with the Commission's requirement that an applicant obtain a valid state authorization before filing. MMT alleges that Mahaffey violated § 21.516 of the Commission's Rules which requires justification for the additional applications by providing a valid channel loading survey and evidence of need for the additional service. MMT contends Mahaffey has not done this, and that the only basis for the Mahaffey filings was to block MMT. MMT requests denial of Mahaffey's applications or, in the alternative, that it be allowed intervention pursuant to § 1.223 (d) of the rules[10] as a competing applicant with Mahaffey's 450 MHz applications by granting its request for a waiver of the cut-off provisions of the rules. MMT complains further that Mahaffey's applications also violate § 1.726 of the rules[11] and deliberately committed acts of discrimination and unreasonable preference. Moreover, MMT urges that Mahaffey disregarded § 21.516 of the rules when it filed for the two additional one-way frequencies for Collierville and Munford with so few subscribers using those channels.

11. Aside from the limited intervention we are allowing with regard to Mahaffey's 450 MHz applications (see footnote 9), MMT's pleadings have not shown good cause to justify either the denial of Mahaffey's applications or a waiver of the cut-off provisions of the rules. MMT's request essentially rely upon alleged violations of § 21.516 of the rules, and Mahaffey's participation in the alleged anticompetitive activity. As indicated, these matters will be explored in the hearing ordered herein, and MMT will be able to participate thereon. Finally, we will deny MMT's request for a waiver of the cut-off provisions of the rules since we are not as yet satisfied that MMT has been the victim of anti-competitive conduct. Moreover, if we granted MMT's request it in turn would be cut off from other possible applications, and thereby could obtain an unjustified preferred position. Compare "Fort Harrison Telecasting Corporation v. Federal Communications Commission", 297 F. 2d 779. (D.C. Cir. 1961)

CONCLUSIONS

12. We agree with MMT that Mahaffey's channel-loading surveys should be scrutinized in the hearing and if they are found insufficient, the applications should be denied. In light of the small number of subscribers on its existing two-way facilities and the events MMT alleges which preceded the Mahaffey filings, we will require Mahaffey under issue (3) to support further the need for additional two-way facilities.

Empire Communications Co., 40 F.C.C. 2d 329 (Rev. Bd. 1974).

13. Additionally, we are not persuaded that sufficient need exists for the additional low-band one-way facility proposed at Collierville, Tennessee by Mahaffey. And we note that Mahaffey, has been granted the additional use of one-way facilities in the same general service area.[12] Therefore, we will require that Mahaffey under issue (3) support the need for this additional one-way facility and demonstrate the incapability of the existing one-way and two-way facilities to provide the proposed service.

14. We question Mahaffey's good faith in originally filing for nearly all the 450 MHz frequencies available, and especially the filing of the two additional applications for the only remaining RCC spectrum space available immediately after MMT obtained its required state authorization. Consequently, we will include an issue to determine the facts and circumstances surrounding Mahaffey's filing of additional applications for nearly all of the available 450 MHz frequencies and the lowband one-way frequencies in the Memphis metropolitan market.

15. In view of the foregoing, the Commission finds that Mahaffey Message Relay, Inc., and Memphis Mobile Telephone, Inc., are legally, technically, financially, and otherwise qualified to receive a grant of their above-captioned applications except for the issues set forth below.

16. *Accordingly, it is ordered,* That pursuant to sections 309(d) and (e) of the Communications Act of 1934, as amended, the above-captioned applications of Mahaffey Message Relay, Inc., and Memphis Mobile Telephone, Inc., are designated for hearing in a consolidated proceeding upon the following issues:

(1) To determine whether Mahaffey Message Relay, Inc., AAA Anserphone-Jackson, Airsignal International, Inc., and Otis Hale d/b/a Mobilephone have jointly engaged in conduct intended to prevent the filing of competing applications for radio common carrier frequencies in the greater Memphis, Tennessee metropolitan area.

(2) To determine the facts and circumstances surrounding Mahaffey's filing of applications for 450 MHz and lowband one-way frequencies in the Memphis metropolitan market subsequent to January 1, 1973.

(3) To determine the nature and extent of the services now rendered by Mahaffey Message Relay, Inc., and the capacity of its existing facilities in light of § 21.516(b) of the Commission's rules and regulations.

(4) To determine the nature and extent of the services proposed by Mahaffey Message Relay, Inc., and Memphis Mobile Telephone, Inc.

(5) To determine the total area and population to be served by Mahaffey Message Relay, Inc., and Memphis Mobile Telephone, Inc., within the 43 dbu contour of each proposed station based upon the standards set forth in § 21.504 of the Commission's rules and regulations, and to determine the need for the proposed service in that area.

(6) To determine, in light of the evidence adduced pursuant to issues (1), (2) and (3) above, whether the public interest, convenience and necessity will be served by a grant of any or all of the applications of Mahaffey Message Relay, Inc., in whole or in part.

(7) To determine, in consideration of all the evidence adduced under the proceeding issues, whether the public interest, convenience or necessity will be served by a grant of either the application of Mahaffey Message Relay, Inc., or the application of Memphis Mobile Telephone, Inc., for authority to operate on 43.58 MHz.

17. *It is further ordered,* That the burden of proof on issues (1), (2) and (3) is placed on the respective parties named therein, and on issues (4) and (5) the burden of proof is placed jointly on the competing applicants named under those issues.

18. *It is further ordered,* That the hearing ordered herein shall be held at a place and time to be specified in a subsequent order of the Chief Administrative Law Judge.

19. *It is further ordered,* That the Chief, Common Carrier Bureau is made a party to the proceeding.

20. *It is further ordered,* That AAA-Answerphone Inc.—Jackson; Airsignal International, Inc.; and Otis Hale d/b/a Mobilephone ARE MADE respondents to this hearing for the purpose of participating with respect to issue (1) above.

21. *It is further ordered,* That the parties herein may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within twenty (20) days of the release date of this Memorandum Opinion and Order, a written notice stating an intention to appear on the date set for hearing and present evidence on the issues specified.

Adopted: July 7, 1976.

Released: August 4, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[13]
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-22607 Filed 8-3-76;8:45 am]

[10] Section 1.223(d) applies to intervention by parties in interest after applications have been designated for hearing. Rather than require MMT to request formal intervention after this Order is released, we will waive the requirement and allow MMT to intervene and present evidence relating to Mahaffey's 450 MHz applications.

[11] Section 1.726 requires that formal complaints alleging such matters as discrimination or unreasonable preference must specify the carrier and a description of the particular acts relied upon which constitute a violation of the Communications Act.

[12] Mahaffey was granted potential shared use of frequency 158.72 MHz with Airsignal in Docket 19801 (FCC 75M-1695, released October 3, 1975, recon. denied FCC 75R-434, released Nov. 25), and its application for 43.22 MHz at Munford was granted July 8, 1975 (KNT-893).

[13] Commissioner Robinson absent.

FEDERAL ENERGY ADMINISTRATION

OFFICE OF EXCEPTIONS AND APPEALS

Cases Filed During the Week of June 14 Through June 18, 1976

Notice is hereby given that during the week of June 14 through June 18, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Larkin, Hoffman, Daly & Lindgren, Ltd.; Minneapolis, Minn.; FEA-0852; Freedom of Information

The law firm of Larkin, Hoffman, Daly & Lindgren, Ltd. (Larkin) appealed from an Order issued to it by the Information Access Officer of the FEA which denied in part a Request for Information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552. In its Request for Information, Larkin sought certain documents pertaining to the manner in which the Union Oil Company of California had applied customary price differentials and the class of purchaser doctrine in its sales of motor gasoline. In previous decisions, the FEA has held that an appeal must identify with particularity the alleged errors in fact or in law which occurred in the determination being appealed, and that specific arguments must be advanced by the appellant in support of those contentions. Since Larkin's Appeal failed to satisfy these requirements, it was dismissed. The firm was however given an opportunity to file an amended Appeal which conformed to the FEA Procedural Regulations within 15 days.

Naph-Sol Refining Co.; Washington, D.C.; FEA-0811; Motor Gasoline; No. 2 Fuel Oil

The Naph-Sol Refining Company (Naph-Sol) appealed from a Decision and Order which the FEA issued denying the firm's Application for Exception. Naph-Sol Refining Co., 3 FEA Par. 83,134 (March 19, 1976). The Appeal, if granted, would result in the assignment of a new supplier to replace the Koch Refining Company and the Osceola Refining Company as Naph-Sol's base period suppliers of motor gasoline and fuel oil. In considering Naph-Sol's Appeal, the FEA noted that despite repeated explicit requests from the FEA, Naph-Sol had failed to provide the factual material which was essential to an assessment of the impact of the FEA Regulations on the firm. In the absence of this data the FEA had properly denied the firm's exception request. The FEA also determined that there was no merit to Naph-Sol's contention on Appeal that the data which it had previously submitted was sufficient to enable the FEA to conclude that exception relief was warranted. After analyzing the firm's further contention that specific factual errors occurred in the prior analysis, the FEA concluded that any such error resulted from Naph-Sol's failure to provide appropriate data. However even if the corrections which Naph-Sol contends should be made were in fact made there would still be no proper basis for concluding that a significant price disparity existed which warranted exception relief. Accordingly, Naph-Sol's Appeal was denied.

Northern Illinois Gas Co.; Aurora, Ill.; FEA-0778—General Motors Corp.; Detroit, Mich.; FEA-0779—Petrochemical Energy Group; Washington, D.C.; FEA-0777; Natural Gas Liquids

Northern Illinois Gas Company (NI-Gas), General Motors Corporation (GM) and the Petrochemical Energy Group (PEG) filed Appeals from a Decision and Amended Order which the FEA Assistant Administrator for Regulatory Programs issued to NI-Gas on February 5, 1976. In that determination the FEA assigned NI-Gas an allocation of natural gas liquids for use during the period February 5, 1976 through March 31, 1977 as a feedstock in its Aux Sable, Illinois synthetic natural gas (SNG) plant. As a prerequisite to receiving an SNG feedstock allocation for a period subsequent to March 31, 1977, NI-Gas was required to furnish data to the FEA as to (i) the customers which it serves that have alternate fuel capability on a continuing basis; (ii) its efforts to implement an incremental pricing program for the SNG it supplies; and (iii) the growth in service, if any, which it has experienced subsequent to February 1, 1976. Since the three Appeals involved similar issues, they were consolidated into the current proceeding. In considering the Appeals, the FEA made the following findings:

(i) contrary to NI-Gas' assertions that the Amended Order contains various factual errors, the Order has ample factual support in the record;

(ii) the FEA in accordance with Special Rule No. 1 and the accompanying Statement of Policy properly included provisions in the Amended Order which require NI-Gas to take steps to implement incremental pricing and to provide certain data to the FEA;

(iii) the amended Order did not violate Special Rule No. 1 or the Statement of Policy by failing to include provisions requiring the immediate implementation of incremental pricing or the immediate curtailment of NI-Gas' customers. The Regulations governing the allocation of SNG feedstocks do not require that SNG be incrementally priced on an immediate basis, nor do they categorically prohibit allocated feedstocks from being used to produce SNG which is then used by persons who do have alternate fuel capability;

(iv) neither the manner in which the FEA defined the term "alternate fuel capability on a continuing basis" for purposes of the Amended Order, nor the FEA's failure to provide for curtailment of service to NI-Gas' customers which use SNG as boiler fuel, was unreasonable;

(v) contrary to PEG's assertions, the approval of an allocation of SNG feedstock to NI-Gas is supported by the record;

(vi) all appellants were provided a meaningful opportunity to participate at all stages of the proceeding and existing procedural standards had therefore been adequately observed by the FEA; and

(vii) certain issues raised by the appellants, including the FEA's statutory authority to regulate natural gas liquids and compliance with the National Environmental Policy Act of 1969, have already been raised by the parties and addressed by the FEA in a similar case, Consumers Power Company, 3 FEA Par. 80,624 (April 30, 1976), and the determinations made in that case are controlling.

On the basis of these findings, the FEA affirmed the February 5 Order insofar as it concerned the decision to allocate sufficient feedstocks to NI-Gas to permit it to operate its SNG plant at capacity during 1976 while simultaneously requiring that NI-Gas gather data as to incremental pricing, alternate fuel capability and growth. However, in accordance with a recent decision issued by the United States District Court for the Eastern District of Michigan, the FEA deleted and modified certain provisions of the February 5 Order regarding the information which NI-Gas was required to obtain from customers which might be subject to eventual curtailment. In all other respects, the FEA denied the Appeals.

Port Arthur Towing Co.; Palmer Midstream Service, Inc.; Houston, Tex.; FEA-0823; Refined Petroleum Products

Port Arthur Towing Company and its subsidiary, Palmer Midstream Service, Inc., appealed from a denial by the FEA Region VI of a Motion to Quash or Modify a Subpoena issued to Port Arthur. In considering the Appeal, the FEA determined that neither the issuance of a subpoena nor the denial of a Motion to Quash or Modify a Subpoena is an FEA action from which a formal administrative appeal may be taken pursuant to the FEA procedural regulations. However, the FEA concluded that if Port Arthur had made a prima facie showing in its submission that FEA Region VI had abused its investigatory authority or had imposed an inordinate or unreasonable burden on the firm, the Office of Private Grievances and Redress would have reviewed the firm's submission and considered it on its merits as a Petition for Special Redress. The FEA found that Port Arthur had failed to make even a preliminary showing that the issuance to it if the subpoena constituted an abuse of the FEA's discretion. In the subpoena the FEA sought only information relevant to the prices which Port Arthur has charged for covered petroleum poducts. The information is of a type which it is reasonable and proper to require a firm which is subject to federal pricing regulations to provide in order to determine whether it has in fact complied with those regulatory requirements. The FEA also found that Port Arthur should experience no significant inconvenience in assembling the requested information and that there was no basis for the firm's contention that the subpoena violated its procedural rights to due process of law. On the basis of these findings, the FEA dismissed Port Arthur's Appeal.

PRC Computer Center, Inc.; McLean, Va.; FEA-0841; Freedom of Information

PRC Computer Center, Inc. (PRC) appealed from an Order issued to it by the Information Access Officer of the FEA which denied in part a Request for Information filed by the firm under the Freedom of Information Act, 5 U.S.C. 552 (the Act). The Information Access Officer stated that he was withholding two documents from public disclosure as exempt material under the Act. The two documents which were withheld, a March 12, 1976 memorandum and Attachment V to that memorandum, set forth various findings of an intra-agency board regarding the performance of a firm which had previously received a "cost plus award fee contract" and the firm's eligibility to receive a subsequent contract. In considering PRC's Appeal, the FEA determined that Attachment V to the March 12 memorandum and certain portions of the memorandum itself were pre-decisional, intra-agency materials which were intended to assist the FEA's contracting officer in making his final, independent award fee determination. The FEA therefore concluded that these materials were exempt from public disclosure under Section 552(b)(5) of the Act. However, the FEA also determined that the March 12 memorandum contained statements which embodied the agency's effective policy with respect to the evaluation of firms which had received cost plus award fee contracts and other statements of a factual nature which merely described certain attachments to the memorandum. These portions of the March 12 memorandum were held not to be within

the purview of Section 552(b)(5) or otherwise exempt from public disclosure under the Act, and PRC's Appeal with respect to these portions was granted. The Appeal was denied in all other respects.

West Penn Power Co.; Greensburg, Pa.; FEA-0755; No. 2 Fuel Oil

West Penn Power Company (West Penn) filed an Appeal from a Decision and Order issued to it by the Federal Energy Administration. West Penn Power Company, 2 FEA Par. 83,272 (August 29, 1975). In that determination the FEA denied West Penn's request for a permanent exception from the provisions of 10 CFR 215.3, but granted the firm temporary exception relief which permitted it to burn No. 2 fuel oil in the electrical generating units of its Milesburg plant for a period of one year. West Penn's Appeal, if granted, would reverse the August 29, 1975 Decision and grant West Penn permanent exception relief from the requirements of Section 215.3. In considering West Penn's Appeal, the FEA determined that the firm had demonstrated that it was unable to obtain a variance to use coal at its Milesburg plant, and that if it were required to shut that plant down, West Penn and its customers would experience severe adverse consequences. Accordingly, the FEA concluded that West Penn had made the threshold showing with respect to the inequity and unfair distribution of burdens criteria set forth in Iowa Southern Utilities Company; West Penn Power Company, 3 FEA Par. 80,510 (November 17, 1975). The FEA then considered the additional costs which West Penn would experience if its request for permanent exception relief were denied. The FEA determined that West Penn would incur costs in excess of $4.5 million for pollution control equipment if the Milesburg plant were converted to utilize coal as a fuel in compliance with State air pollution regulations. Based on the firm's projections that it would save 311,238 barrels of oil under these circumstances, the incremental cost to West Penn of each barrel of oil saved would be approximately $14.67 per barrel. The FEA concluded that when this cost was viewed in relation to the short remaining life of the Milesburg plant, West Penn's size and resources and the nature of the firm's operations, the costs involved were so disproportionate to the benefits obtained in furthering national energy policy objectives that a gross inequity resulted. On the basis of these findings, the FEA granted West Penn permanent exception relief from the provisions of 10 CFR 215.3 and permitted it to burn No. 2 fuel oil at its Milesburg plant through 1985.

REQUESTS FOR EXCEPTION

Anadarko Production Co.; Houston, Tex., FEE-2376; Crude Oil

Anadarko Production Company (Anadarko) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Its request, if granted, would permit Anadarko to sell at upper tier ceiling prices the crude oil produced from the Herrin-Burson Harris Sand Unit located in Creek County, Oklahoma. In considering the exception application, the FEA determined that: (i) due to the rapidly declining production from the Unit, the operating cost per barrel of crude oil produced has increased significantly between 1973 and 1975 and now exceeds the lower tier ceiling price which Anadarko is permitted to charge; (ii) consequently, Anadarko lacks an economic incentive to continue secondary recovery operations at the Unit; (iii) if Anadarko abandons secondary operations at the Unit, approximately 56,900 barrels of crude oil otherwise recoverable from the reservoir would be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule to Anadarko resulted in a gross inequity and that exception relief should be granted in this case. An analysis of the specific financial and operating data which Anadarko submitted led to the further conclusion that Anadarko should be permitted to sell at upper tier ceiling prices, 41.116 percent of the crude oil which it produces for the benefit of the working interest owners.

R. A. Campbell Co.; Vidalia, La.; FEE-2399; Crude Oil

The R. A. Campbell Company (Campbell) filed an Application for Exception from the provisions of 10 CFR 210.32 which, if granted, would retroactively permit the Nolan-Henderson No. 1 Unit which Cambell operates to be classified as a stripper well lease. In considering Campbell's exception request, the FEA noted that on the basis of a preliminary audit of Campbell's pricing activities FEA auditors have stated to the firm that it may be required to refund $4,997.96 to its customers to compensate for overcharges which resulted from Campbell's classification of its Nolan-Henderson Unit as a stripper well lease. The FEA pointed out, however, that the preliminary data which Campbell submitted to the FEA suggests that there is a substantial question as to whether the auditors applied the appropriate definition of stripper well lease in making calculations for the period prior to November 27, 1973, and the initial conclusions of the FEA compliance staff might therefore be revised. Nevertheless, the financial and operating data which Campbell submitted in support of its exception application indicates that even if the firm is required to remit the full $4,997.96 to its customers it will not significantly affect the firm's operations or cause it to experience an irreparable injury. The FEA therefore denied Campbell's application for retroactive exception relief.

Fletcher Oil & Refining Co.; Wilmington, Calif.; FEE-2432; Crude Oil

Fletcher Oil and Refining Company (Fletcher) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements during the months of June, July and August 1976 to account for its crude oil runs and receipts of old oil during the period April through June 1976. In support of its exception request, Fletcher submitted financial statements for its fiscal year ended April 30, 1976, and specified the volumes of crude oil runs to stills and receipts of old, new and imported crude oil which the firm experienced for the month of April 1976. On the basis of this information, Fletcher requested exception relief for a three month period while it gathered data for its current fiscal year in support of a new exception application which the firm intends to file. In considering Fletcher's exception request the FEA determined that the firm's entitlement purchase obligations in June produced a situation in which Fletcher will not be able to achieve its historic profit margin or return on invested capital for its fiscal year ending April 30, 1976. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975), and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore approved in order to relieve Fletcher of its entitlement purchase obligation in June 1976. The financial and operating material which Fletcher submitter and the firm's prior experience under the Entitlements Program led to the further conclusion that it was very likely that Fletcher would qualify for exception relief in the months of July and August 1976. In order to avoid any disruption in the firm's business activities, additional exception relief was approved relieving Fletcher of any obligation to purchase entitlements during July and August as well. However, the FEA noted that the relief granted to Fletcher for June 1976 will be reviewed in the very near future and the relief approved for July and August will be reevaluated if the firm requested an extension of the exception relief beyond August 1976. In addition, as is the case with all Entitlemen's Program exception decisions, the relief granted to Fletcher will be reevaluated as a matter of course at the conclusion of the firm's fiscal year and appropriate adjustments will be made to correct any discrepancy between the firm's financial projections and the actual financial results which it achieves.

Good Hope Industries, Inc.; Springfield, Mass.; FEE-2369; Crude Oil

Good Hope Industries, Inc. (Good Hope) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Good Hope submitted projected financial statements for its current fiscal year ending July 31, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Good Hope's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Good Hope's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the decision which it issued that the relief approved to Good Hope would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Good Hope will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Husky Oil Co. of Delaware, Inc.; Denver, Colo.; FEE-2442; Crude Oil

Husky Oil Company of Delaware, Inc. (Husky) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would have relieved the firm of any obligation to purchase entitlements. After reviewing the financial and operating data which Husky provided, the FEA determined that Husky will be a net seller of entitlements during the final three quarters of its fiscal year ending December 31, 1976. In view of the fact that Husky will obtain significant benefits under the Entitlements Program the FEA concluded that the firm had failed to substantiate its contention that the Program will produce a serious hardship. The

Husky exception request was therefore denied.

Kern County Refinery, Inc.; Bakersfield, Calif.; Fee-2454; Crude Oil

Kern County Refinery, Inc. (Kern) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April, 1976. In support of its exception request, Kern submitted projected financial statements for its fiscal year which ends on December 31, 1976, as well as projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. The FEA found that because of the unusual factors that were present in this case as a result of the fact that Kern purchased the refinery which it operates from the Charter Oil Company (Charter) effective January 1, 1976, the determination of whether exception relief is appropriate should be based solely on a profit margin analysis. On the basis of the refinery's contribution to the total financial and operating results of its former owner during the fiscal years 1972 through 1975, the FEA determined an historic profit margin for the firm and compared that historic profit margin with the profit margin which the firm projected it would achieve for the current fiscal year in the absence of exception relief. The comparison indicated that the firm's current profit margin would be significantly below its historic profit margin as a direct result of its substantial entitlement purchase obligtaions. Accordingly, Kern was granted an exception which relieved the firm of a portion of its entitlement purchase obligations. The exception relief was granted for the six month period June through November 1976 to account for the firm's crude oil runs to stills and old oil receipts during the period April through September 1976. The FEA noted, however, that the relief approved to Kern would be reevaluated if the firm requested an extension of the exception beyond November 1976 and at the conclusion of the firm's fiscal year. The Decision further noted that an adjustment will be made which will require the firm to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. On the basis of that reevalaution, adjustments may also be made permitting Kern to sell additional entitlements.

Little America Refining Co.; Evansville, Wyo.; FEE-2455; Crude Oil

Little America Refining Company (Little America) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Little America submitted projected financial statements for its current fiscal year ending September 30, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Little America's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ---- (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Little America's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the decision which it issued that the relief approved to Little America would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Little America will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Lunday-Thagard Oil Co.; South Gate, Calif.; FEE-2434; Crude Oil

Lunday-Thagard Oil Company (Lunday-Thagard) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Lunday-Thagard submitted projected financial statements for its current fiscal year ending June 30, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Lunday-Thagard's exception request the FEA determined that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during its current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ---- (June 8, 1976), exception relief was therefore warranted for the firm's fiscal year ending June 30, 1976. The FEA also determined that the financial material which Lunday-Thagard submitted indicated that it would be entitled to exception relief during the early part of its 1977 fiscal year. In accordance with the FEA's previous determination that exception relief from the provisions of the Old Oil Entitlements Program would be generally granted for a period of six months (41 Fed. Reg. 20394), the FEA granted Lunday-Thagard's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. The FEA noted, however, that the relief granted to Lunday-Thagard would be reevaluated if the firm requested an extension of the exception beyond November 1976 and at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Lunday-Thagard will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Midland Cooperatives, Inc.; Cushing, Okla.; FEE-2452; Crude Oil

Midland Cooperatives, Incorporated (Midland) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements. After reviewing the financial and operating data which Midland provided, the FEA determined that Midland will be a net seller of entitlements during the final two quarters of its current fiscal year ending December 31, 1976. In view of the fact that Midland will obtain significant benefits under the Entitlements Program the FEA concluded that the firm had failed to substantiate its contention that the Program will produce a serious hardship. Midland's exception request was therefore denied.

Mohawk Petroleum Corp., Inc.; Los Angeles, Calif.; FEE-2433; Crude Oil

Mohawk Petroleum Corporation, Inc. (Mohawk) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Mohawk submitted projected financial statements for its current fiscal year ending December 31, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Mohawk's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligation would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ---- (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Mohawk's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the decision which it issued that the relief approved to Mohawk would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Mohawk will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

OKC Corp.; Dallas, Tex.; FEE-2365; Crude Oil

OKC Corporation (OKC) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements. After reviewing the financial and operating data which OKC provided, the FEA determined that OKC will be a net seller of entitlements during the final two quarters of its current fiscal year ending September 30, 1976. In view of the fact that OKC will obtain significant benefits under the Entitlements Program the FEA concluded that the firm had failed to substantiate its contention that the Program will produce a serious hardship. OKC's exception request was therefore denied.

Pasco, Inc.; Denver, Colo.; FEE-2441; Crude Oil.

Pasco, Inc. (Pasco) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Pasco submitted projected financial statements for its current fiscal year ending December 31, 1976 and projected monthly crude oil runs to stills

and receipts of old, new and imported crude oil for the fiscal year. In considering Pasco's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the critieria set forth in Delta Refining Company 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Pasco's Application for Exception relieving the firm of a portion of its obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the decision which it issued that the relief approved to Pasco would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Pasco will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. At that time a further determination will also be made as to whether sufficient exception relief was approved for the prior period. On the basis of that determination further adjustments may be made and Pasco may be permitted to sell additional entitlements.

Rock Island Refining Corp.; Indianapolis, Ind.; FEE-2431; crude oil.

Rock Island Refining Corporation (Rock Island) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Rock Island submitted projected financial statements for its current fiscal year ending November 30, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Rock Island's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Rock Island's Application for Exception relieving the firm of a portion of its obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the decision which it issued that the relief approved to Rock Island would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Rock Island will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. At that time a further determination will also be made as to whether sufficient exception relief was approved for the prior period. On the basis of that determination further adjustments may be made and Rock Island may be permitted to sell additional entitlements.

San Joaquin Refining Co.; Oildale, Calif.; FEE-2356; crude oil.

San Joaquin Refining Company (San Joaquin) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, San Joaquin submitted financial statements for its current fiscal year which ends April 30, 1976. The firm also submitted data showing its actual crude oil runs to stills and receipts of old, new and imported crude oil for April 1976, and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for its 1977 fiscal year. In considering San Joaquin's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Exception relief was granted to San Joaquin which relieved the firm of that portion of its entitlement purchase obligation for the month of April 1976 which would otherwise preclude it from achieving its historic profit margin during its 1976 fiscal year. The FEA also granted San Joaquin exception relief from that portion of its entitlement purchase obligations for the months of May through September 1976 which would otherwise preclude it from achieving its historic profit margin during its 1977 fiscal year. The FEA noted, however, that the relief granted to San Joaquin would be reevaluated if the firm requested an extension of the exception beyond November 1976 and at the conclusion of the firm's fiscal year when actual financial data is available. The Decision further noted that an adjustment will be made and the firm will be required to buy entitlements if San Joaquin receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieved. On the basis of the reevaluation, adjustments may also be made permitting San Joaquin to sell additional entitlements.

Southland Oil Company; Jackson, Miss.; FEE-2438; crude oil.

Southland Oil Company (Southland) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception requests, Southland submitted projected financial statements for its current fiscal year which ends December 31, 1976. The firm also submitted projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for its 1976 fiscal year. In considering Southland's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Southland's Application for Exception relieving the firm of a portion of its entitlement purchase obligations during the months of June through November 1976. The FEA noted, however, that the relief approved to Southland would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The Decision further noted that an adjustment will be made and the firm will be required to buy entitlements if Southland receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. At that time a determination will also be made as to whether Southland has received sufficient exception relief. On the basis of that determination further adjustments may be made and Southland may be permitted to sell additional entitlements.

Sunland Refining Co.; Los Angeles, Calif.; FEE-2456; crude oil.

Sunland Oil Company (Sunland) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Sunland's submitted projected financial statements for its current fiscal year ending December 31, 1976 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Sunland's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Sunland's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. The FEA noted, however, that the relief granted to Sunland would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Sunland will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Warrior Asphalt Co. of Alabama, Inc.; Tuscaloosa, Ala.; FEE-2439; crude oil.

Warrior Asphalt Company of Alabama, Inc. (Warrior) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Warrior submitted projected financial statements for its current fiscal year ending March 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Warrior's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested

capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company, 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Warrior's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. The FEA noted, however, that the relief granted to Warrior would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Warrior will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projects it submitted and the actual financial results which it achieves.

West Coast Oil Co.; Oildale, Calif.; FEE-2235; crude oil.

West Coast Oil Company (West Coast) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements. After reviewing the financial and operating data which West Coast provided, the FEA determined that West Coast will be a net seller of entitlements during the final three quarters of its current fiscal year ending December 31, 1976. In view of the fact that West Coast will obtain significant benefits under the Entitlements Program the FEA concluded that the firm had failed to substantiate its contention that the Program will produce a serious hardship. West Coast's exception request was therefore denied.

Young Refining Co.; Douglasville, Ga.; FEE-2364; crude oil.

Young Refining Company (Young) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Young submitted projected financial statements for its current fiscal year ending March 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Young's exception request the FEA determined that a substantial showing has been made that the firm's entitlement purchase obligations would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Refining Company 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Company, 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted. Accordingly, the FEA granted Young's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. The FEA noted, however, that the relief granted to Young would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Young will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

REQUEST FOR STAY

Farmers Union Central Exchange, Inc.; St. Paul, Minn.; FES-2570; motor gasoline.

The Farmers Union Central Exchange, Inc. (CENEX) requested that the application to it of the provisions of 10 CFR 211.9 be stayed pending a determination on its Application for Exception from those same regulatory provisions. The stay if granted, would have relieved CENEX of its obligation to supply three of its base period purchasers with their allocation entitlements of motor gasoline, from July 1, 1976 until the effective date of the FEA's decision with respect to the CENEX Application for Exception. In considering the application, the FEA determined that CENEX had not provided sufficient evidence that it would experience a hardship or irreparable injury in the absence of a stay, nor did it claim that it otherwise met the criteria stated in 10 CFR 205.125(b) which govern the approval of stay relief. The FEA therefore denied CENEX's Application for Stay.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

K.L.M. Oil Co.; Long Beach, Calif.; FEE-2479—Phillips Petroleum Co.; Bartlesville, Okla.; FEE-2414—South Hampton Co.; Silsbee, Tex.; FEE-2362—Thriftway Co.; Farmington, N. Mex.; FEE-2333—V-1 Oil Co.; Washington, D.C.; FEE-2353.

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Chemplex Co.; Washington, D.C. FEE-2495—Small's LP Gas Co.; Wyatt, Mo.; FEE-2418.

TEMPORARY STAY

The following Application for Temporary Stay was approved on the grounds that the applicant made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Kern County Refinery, Inc.; Bakersfield, Calif.; FST-0007.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: July 30, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-22585 Filed 7-30-76;1:38 pm]

OFFICE OF EXCEPTIONS AND APPEALS

Cases Filed During the Week of June 21 Through June 25, 1976

Notice is hereby given that during the week of June 21 through June 25, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

National Oil Jobbers Council; Washington, D.C.; FEA-0845; Freedom of Information

The National Oil Jobbers Council (NOJC) appealed from an Order in which the FEA denied in part a Request for Information which the NOJC had submitted under the Freedom of Information Act, 5 U.S.C. 552. In its Request, the NOJC had sought a copy of the entire FEA Compliance Manual (the Manual). The Manual is primarily designed to provide guidance to staff members of the FEA Office of Compliance. In response to the NOJC's request, the FEA Information Access Officer released a large portion of the Manual. However, the Information Access Officer deleted from the copy of the Manual which was released certain material which he found was sensitive law enforcement material which would enable potential violators to circumvent the law and escape detection. In its Appeal, the NOJC contended that the Information Access Officer erroneously concluded that certain of the deleted sections of the Manual are exempt from mandatory public disclosure. In considering the NOJC's Appeal, the FEA noted that in a recent decision, the United States District Court for the District of Columbia held that agency manuals which discuss sensitive investigatory strategy are properly within the scope of the second exemption to the Freedom of Information Act, i.e., 5 U.S.C. 552(b)(2). Ginsburg, Feldman & Bresa v. Federal Energy Administration, ____ Supp. ____, Civil Action No. 76-27 (D.D.C. June 18, 1976). Since substantially all of the material which the NOJC sought consisted of investigatory techniques and procedures which could alert a law violator to the most effective means of evading detection or frustrating legitimate investigations, the FEA held that the material involved was therefore properly withheld from public disclosure. The FEA also found that Section 3.103.00 of the Manual did not contain investigatory techniques or procedures and was therefore subject to mandatory disclosure. Consequently, the NOJC Appeal was granted in part, and an order was entered directing that a copy of Section 3.103.00 of the Manual be released.

Superior Oil Co.; Houston, Tex.; FEA-0796 (Cymric); FEA-0797 (Elk City); FEA-0798 (Kettleman Hills); FEA-0799 (Levelland); FEA-0800 (Okeene); FEA-0801 (Portilla); natural gas liquids

Superior Oil Company (Superior) filed six Appeals from a Decision and Order which the FEA issued to it on February 27, 1976. Superior Oil Co., 3 FEA Par. 83,118 (February 27, 1976). In the previous decisions, the FEA denied exception relief with respect to two gas processing plants which have incurred non-product cost increases of a de minimus nature. Superior's Appeals, if granted, would result in a determination that the FEA's de minimum standards should be changed from a threshold level of $.005 to $.001 per gallon. In considering Superior's Appeals, the FEA determined that the firm had presented no data which indicates that the $.005 per gallon de minimus standard for exception relief lacks a rational basis, nor had the firm substantiated its contention that the FEA acted in an arbitrary or capricious manner in developing that standard. However,

the FEA also held that, in analyzing the previous application for the Kettleman Hills plant, the FEA improperly adjusted the relief provided to reflect a decrease in the unit cost for depreciation. The FEA concluded that this adjustment was not appropriate since depreciation expense is a non-cash item which should have been excluded from the computation of Superior's non-product costs. Accordingly, the FEA granted Superior's Appeal with respect to the Kettleman Hills plant, but denied the firm's other Appeals.

REQUESTS FOR EXCEPTION

Edgington Oil Co.; Long Beach, Calif.; FEE-2457; crude oil.

Edgington Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Edgington submitted projected financial statements for its current fiscal year ending June 30, 1976, and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Edgington's exception request, the FEA determined that a substantial showing had been made that the firm's entitlement purchase obligation would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal year. Pursuant to the criteria set forth in Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. ____ (June 8, 1976), exception relief was therefore warranted for the current fiscal year. Based on the material which Edgington submitted, a further determination was made that exception relief was also appropriate for the initial months of the firm's 1977 fiscal year beginning on July 1, 1976. Accordingly, the FEA granted Edgington's exception application relieving the firm of sufficient entitlement purchases during the months of June through November 1976, to permit Edgington to achieve its historic profit margin during the current fiscal year and the initial three months of the firm's 1977 fiscal year. However, the FEA noted in the Decision which it issued that the relief approved would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and also at the conclusion of the firm's fiscal year. The Decision further noted that an adjustment will be made and Edgington will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

GARY OPERATING CO.; Englewood, Colo.; FEE-2499. Natural gas liquid products

Gary Operating Company (Gary) requested an extension of the exception relief which was granted to it by the FEA on September 29, 1975. Gary Operating Co., 2 FEA Par. 83,311 (September 29, 1975). In that Decision, the FEA determined that Gary's non-product cost increases were substantially in excess of the amount which it was permitted to pass through under the provisions of Section 212.165 and that Gary should therefore be granted exception relief which permits it to increase its selling prices to reflect increased non-product costs. In the present proceeding, Gary requested that the exception relief granted on September 29 be extended for an additional period on the basis of the current cost data which it provided. In reviewing Gary's submission, the FEA determined that Gary's non-product cost increases remained substantially in excess of the $.005 per gallon passthrough permitted under the provisions of Section 212.165. The FEA therefore granted Gary's request and permitted the firm to increase its selling prices of natural gas liquid products by an amount which reflects its actual unrecovered non-product cost increases.

Navajo Refining Co.; Artesia, N. Mex.; FEE-2440; crude oil

Navajo Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1976. In support of its exception request, Navajo submitted projected financial statements for its current fiscal year which ends on July 31, 1976, and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Navajo's exception request, the FEA determined that a substantial showing had been made that the firm's entitlement purchase obligation would prevent it from achieving either its historic profit margin or return on invested capital during the current fiscal yer. Pursuant to the criteria set forth in Delta Ref. Co., 2 FEA Par. 83,275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. ____ (June 8, 1976), partial exception relief was therefore warranted for the current fiscal year. Based on the material which Navajo submitted a further determination was made that exception relief was also appropriate for the initial months of the firm's 1977 fiscal year. Accordingly, the FEA granted Navajo's exception application relieving the firm of sufficient entitlement purchases during the months of June through November 1976 to permit it to attain its historic profit margin in the current fiscal year, and the first two months of its 1977 fiscal year. However, the FEA noted in the Decision which it issued that the relief approved would be reevaluated if the firm requested an extension of exception relief beyond November 1976 and also at the conclusion of the firm's fiscal year. The Decision further noted that an adjustment will be made and Navajo will be required to purchase entitlements if it receives excess benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Racine Commercial Airport Corp.; Racine, Wis.; FEE-2321, aviation gasoline

Racine Commercial Airport Corporation (Racine) filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would increase its base period use of aviation gasoline from 80,600 gallons to 173,000 gallons per year. In considering the exception request, the FEA found that Racine was experiencing an increased demand for aviation gasoline as a result of a significant increase in air traffic at the Racine Airport subsequent to the 1972 base period. The FEA also found that Racine was unable to purchase surplus product and that its inability to obtain an increased supply of aviation gasoline would frustrate the goals specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended, by frustrating economic expansion in the Racine area and encouraging economic distortions and inefficiencies. The FEA therefore concluded that Racine qualifies for exception relief under the criteria established in previous FEA decisions. *See*, e.g., Bowen Service Station; Winninghoff Motors, Inc., 2 FEA Par. 83,058 (March 13, 1975). However, the FEA determined that a portion of the additional quantity of aviation gasoline requested by the firm (approximately 44,400 gallons) was intended for civil air carriers Since those firms may obtain additional fuel through existing administrative procedures which do not involve the exceptions process, the increased base period use requested by Racine was reduced by 44,400 gallons. On the basis of these findings exception relief was approved increasing Racine's base period use of aviation gasoline to 128,600 gallons per year.

Sound Refining, Inc.; Tacoma, Wash.; FEE-2344, unfinished distillates

Sound Refining, Inc. filed an Application for Exception which, if granted, would permit the firm to determine its maximum allowable selling prices for refined petroleum products without regard to the ten percent limitation set forth in Section 212.83(c)(6). That regulatory provision relates to the amount of unrecouped crude oil cost increases which a firm may reflect in the selling prices of the products it refines and applies to any month after the two month period immediately following the month in which the cost increases were incurred. Sound contended that its operations are seasonal in nature and, as a consequence, the application to it of the ten percent limitation prevents it from recouping a substantial portion of its crude oil cost increases. In evaluating the exception application, the FEA determined that Sound purchases crude oil in only four or five months of each year and sells almost all of the covered products it produces, principally unfinished distillates, in the months of May through October. Since Sound does not sell refined petroleum products within the two month period following the month in which it purchases crude oil, the application of the ten percent price limitation set forth in Section 212.83 (c)(6) prevents the firm from increasing its prices during the period in which it markets most of its covered products. The data submitted by Sound showed that the ten percent limitation contained in Section 212.83(c)(6) has resulted in drastic fluctuations in the prices which Sound is permitted to charge for its covered products and will have a significant adverse impact on its financial position during 1976. The FEA held that it was not intended that these extreme price fluctuations would occur when the ten percent limitation was promulgated. The FEA concluded that under these circumstances a gross inequity exists which warrants exception relief. Sound was therefore granted an exception which permits it to treat its February 1976 crude oil cost increases as having been incurred in four equal portions during the months of February, March, April and May 1976.

State of Hawaii; Honolulu, Hawaii; FEE-2480; motor gasoline diesel fuel

The Director of the Department of Planning and Economic Development of the State of Hawaii filed an Application for Exception from the provisions of the Mandatory Petroleum Price Regulations on behalf of the State. The exception request, if granted, would permit refiners, resellers and retailers of motor gasoline and diesel fuel in the State to increase their selling prices to reflect an increase in the license tax imposed by the State on distributors of those fuels. In considering the exception request, the FEA determined that the tax, which is regarded as a non-product cost under FEA Regulations which distributors cannot automatically pass through to the ultimate consumer, was similar in nature to a tax imposed by the State of Oregon. In a previous proceeding involving the State of Oregon, the FEA granted exception relief, permitting distributors of motor fuel in Oregon to pass through a pro-

posed license tax increase. State of Oregon, 2 FEA Par. 83,320 (October 3, 1975). In that Decision, the FEA determined that the burden to the State of either foregoing the proposed tax increase or revamping its tax structure so outweighted any benefits from the continued application of the FEA Regulations in the particular case as to result in a gross inequity. Since the circumstances presented in the State of Hawaii's request for exception were similar to those presented by the State of Oregon, the FEA granted exception relief on the basis of the previous precedent.

Thirty-One Service Plaza, Inc.; Greewood, Ind.; FEE-2308; motor gasoline middle distillates

Thirty-One Service Plaza, Inc. (Service Plaza (filed an Application for exception from the provisions of 10 CFR 211.9 which, if granted, would have resulted in the issuance of Orders by the FEA (i) assigning a new supplier of motor gasoline and middle distillates to Service Plaza to replace its current base period supplier, the Campbell Oil Company, and (ii) directing the new supplier to furnish Service Plaza with its adjusted base period uses of motor gasoline and middle distillates. In its exception request, Service Plaza stated that it was presently purchasing surplus motor gasoline and diesel fuel from the Standard Oil Company of Indiana (Amoco) and has been permitted to use the Amoco brand name. Service Plaza contended, however, that it could not continue to rely indefinitely on its arrangement with Amoco. The firm claimed that, if it were unable to purchase surplus product from Amoco and instead purchased its petroleum product requirements from Campbell, a nonbranded independent marketer, it would lose a substantial volume of credit card sales and, as a result, would be unable to repay a large amount of debt incurred in the construction of its retail sales outlet. In considering Service Plaza's exception request, the FEA noted that since November 1975, Service Plaza had purchased its entire supply requirements from Amoco and neither Service Plaza nor Amoco provided any substantive evidence as to why that situation might be altered in the foreseeable future. In fact, Amoco indicated that it would probably be able to continue to supply Service Plaza with surplus product. The FEA therefore determined that Service Plaza had failed to demonstrate that it was currently experiencing any difficulties as a result of its base supplier/purchaser relationship with Campbell and accordingly denied the firm's exception request.

Warrior Asphalt Co. of Alabama; Tuscaloosa, Ala.; FEE-2366; Middle Distillates

Warrior Asphalt Company of Alabama filed an Application for Exception from the provisions of 10 CFR 212.83. Warrior's exception request, if granted, would permit the firm to retain certain revenues which it realized during the period April 1, 1974 through December 31, 1975 by charging prices for Middle distillates which were in excess of the maximum levels permitted by Section 212.83. In considering Warrior's request, the FEA determined that although Warrior may have relied on erroneous advice from a public accounting firm in computing its maximum lawful price levels for covered products, the firm nevertheless failed to meet its affirmative obligation to be cognizant of the correct application of FEA Regulations to its operation. The FEA also held that the fact that Warrior priced its products competitively does not in any way establish that the firm is entitled to retroactive exception relief. In addition, the FEA noted that the firm as a whole realized record levels of 1974 through December 31, 1975 when the pre-tax profit during the period April 1, alleged price increases had been implemented. Finally, the FEA held that a conclusion as to the financial impact on the firm of possible remedial action was inappropriate at the present time because a preliminary audit of the amount of possible overcharges had not even been completed and the firm itself was unsure as to the total amount involved. Cf. Raymond M. Jones, 3 FEA Par. 80,620 (April 19, 1976). Warrior's exception application was accordingly denied.

Win-Air Aviation Services; Falls City, Nebr.; FEE-2367; aviation gasoline

Win-Air Aviation Services filed an Application for Exception from the provisions of 10 CFR 211.12. The exception request, if granted, would result in the issuance of Orders by the FEA increasing Win-Air's base period use of aviation gasoline from 25,316 to 50,600 gallons, and directing the firm's base period supplier to furnish it with the increased volume. In considering the exception application, the FEA determined that Win-Air failed to provide any data to substantiate the nature and extent of the increased fuel requirements which it claimed to be experiencing or any material which supported its assertion that the policy objectives of the Emergency Petroleum Allocation Act of 1973, as amended, would be frustrated unless its base period use of aviation gasoline were increased. Moreover, the information which Win-Air did furnish appeared to indicate that some of its customers are priority users who are already entitled under the present FEA regulatory program to receive 100 percent of their current fuel requirements. The firm's exception request was therefore denied.

REQUEST FOR STAY

General Crude Oil Co.; Houston, Tex.; FES-0855; Crude Oil.

General Crude Oil Company (General Crude) requested that a Remedial Order issued to the firm on May 21, 1976 be stayed pending a final determination of the firm's Appeal from that Order. In the Remedial Order, the FEA determined that General Crude had improperly determined its selling price for certain crude oil by using the provisions of the FEA Price Regulations which apply to refiners rather than those applicable to producers of crude oil. The FEA Remedial Order directed General Crude to reduce its prices of crude oil and to make refunds for previous overcharges. In considering the contentions raised by General Crude, the FEA concluded that the firm could suffer an irreparable injury if it were required to immediately refund previous overcharges. It was noted that in previous cases the FEA had generally stayed the provisions of Remedial Orders requiring immediate refunds and had required certain appellants to place the contested funds into an escrow account pending a determination of their Appeals from the Remedial Orders. The FEA indicated that it would adhere to that procedure in similar cases in the future. Thus, as a general rule, where a showing is made that substantial issues concerning the propriety of a Remedial Order having been or will be raised in an Appeal and a further showing is made that it is likely that if a stay is not granted the firm may be irreparably injured, the refund requirements of the Remedial Order will be stayed pending a decision on the firm's Appeal. However, the stay will be contingent on the establishment of an irrevocable escrow account into which the disputed funds are placed unless the applicant makes a strong and convincing showing that the procedure is not appropriate in view of the particular facts presented in the case. In considering General Crude's application, the FEA concluded that the firm had made a preliminary showing that a stay should be issued with respect to refunds for previous overcharges. Consequently, the stay was approved on the condition that an escrow account be established into which the disputed funds are placed. With respect to the requirement that General Crude immediately reduce its prices to a lawful level, the FEA stated that it would generally deny a request for a stay of a requirement specified in a Remedial Order that the appellant immediately reduce its prices to lawful levels unless the appellant demonstrates that strong countervailing factors exist which warrant the approval of a stay. The FEA concluded that General Crude had not shown that any such factors were present in this proceeding and therefore declined to stay this requirement of the Remedial Order.

REQUESTS FOR MODIFICATION OR RESCISSION

Beacon Oil Co.; Hanford, Calif.; FMR-0051 refined products.

Beacon Oil Company (Beacon) filed a Request for Modification or Rescission of a Decision and Order which the FEA issued to it on March 16, 1976. Beacon Oil Co., 3 FEA Par. 80,599 (March 16, 1976). In that Decision and Order, the FEA denied Beacon's earlier request for exception relief from the provisions of 10 CFR 212.83(a). Beacon Oil Co., 3 FEA Par. 83,306 (December 8, 1976). If granted, the firm's present request would result in the issuance of an Order by the FEA modifying the December 8 Decision and permitting Beacon to pass through its crude oil cost increases which it had allegedly incurred on May 4, 1973 but which it had not reflected in its selling prices by May 15, 1973. Beacon also requested retroactive relief from any obligation to refund to its customers $2.5 million in previous overcharges. In considering Beacon's request, the FEA found that the firm's submission failed to demonstrate the existence of significantly changed circumstances since the March 16 Decision and Order was issued. Beacon's reliance upon newly submitted documents was found to be misplaced, since those documents were available to the firm during the prior proceedings. The FEA therefore denied the firm's request.

Texaco, Inc., New York, N.Y.; FMR-0050; motor gasoline.

Texaco, Inc. (Texaco) filed an Application for Modification of an Assignment Order issued to it by FEA Region V on March 3, 1975. In the Order which it issued, Region V found that during the 1972 base period Texaco supplied motor gasoline to the Arrow Petroleum Company, Inc. (Arrow), and that Texaco was therefore required under the provisions of 10 CFR 211.9(a)(1) to continue to do so. On the basis of these findings, Region V ordered Texaco to furnish Arrow with its adjusted annual base period use of 10,930,668 gallons of motor gasoline. The present Texaco application, if granted, would result in a determination that Arrow's base period use of motor gasoline should be adjusted downward to 3,742,341 gallons per year. In considering the Application for Modification, the FEA determined that, contrary to Texaco's assertions, Arrow's currently reduced level of gasoline purchases does not constitute a showing under Section 205.135(b)(1) of the FEA Regulations that there has been a substantial change in the factual situation upon which the March 3, 1975 Assignment Order was based. The FEA therefore denied Texaco's Application.

SUPPLEMENTAL ORDERS

Atlantic Richfield Co.; Los Angeles, Calif.; FEX-0055; motor gasoline

On April 28, 1976, the Federal Energy Administration issued a Decision and Order to the Atlantic Richfield Company (Arco) staying certain refund requirements specified in a Remedial Order which the Director of the Compliance Division of the FEA, Region IX had issued to the firm. Atlantic Richfield Co., 3 FEA Par. 85,030 (April 28, 1976). The approval of the stay was conditioned on Arco placing the disputed funds into an irrevocable escrow account. Subsequent to the issuance of that Decision, Arco indicated that it had refunded a substantial portion of the disputed funds and requested that the Stay Order be modified to relieve Arco of the requirement that it place the sum already refunded in the escrow account. The Director of the Compliance Division of Region IX confirmed that the refund satisfied in part the requirements of the Remedial Order. Under the factual situation presented the FEA concluded that there was no reason to require that the sum which Arco already refunded continue to be held in the escrow account. A Supplemental Order was therefore issued directing the escrow agent to remit to Arco a sum which was equivalent to the refunds which Arco made.

Husky Oil Co. of Delaware, Inc.; Denver, Colo.; FEX-0052; Crude Oil

On June 14, 1976, the Federal Energy Administration issued a Decision and Order to the Husky Oil Company of Delaware, Inc. (Husky) denying the firm's Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The exception request, if granted, would have relieved Husky of any obligation to purchase entitlements on the basis of its crude oil runs to stills in April 1976 and succeeding months. The determination reached in the June 14 Decision was based on the financial data which Husky had submitted indicating that the firm would be a net seller of entitlements and would thereby realize substantial benefits from the Entitlements Program. Subsequent to the issuance of the June 14 Decision and Order, Husky filed a further petition in which it provided new financial data and stated that, contrary to the determination previously reached, the firm would be a net buyer of entitlements. In view of the fact that the new financial material made a prima facie showing that Husky would be seriously and adversely affected by the Entitlements Programs, the FEA reevaluated the June 14 determination. In considering Husky's submission, the FEA found that as a result of the rescission of Special Rule No. 6 and Husky's crude oil runs and receipts during the current fiscal year, the firm would in fact be required to purchase entitlements at a substantial cost commencing with the June Entitlement Notice. As a result of the projected entitlements costs which Husky would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historic levels. Pursuant to the criteria set forth in Delta Ref. Co., 2 FEA Par. 83.275 (September 11, 1975) and Beacon Oil Co., 3 FEA Par. ---- (June 8, 1975), exception relief was therefore warranted. Accordingly, the FEA relieved the firm of any obligation to purchase entitlements during the period June through November 1976 to account for its crude oil runs to stills and old oil receipts during the period April through September 1976. However, the FEA noted in the Decision which it issued that the relief approved would be reevaluated if the firm requested an extension of exception relief beyond November 1976, and that a further evaluation would be conducted at the conclusion of the firm's current fiscal year.

OKC Corp.; Dallas, Tex.; FEX-0051; Crude Oil.

On June 14, 1975, the FEA issued a Decision and Order to the OKC Corporation denying an Application for Exception which OKC had filed from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). OKC Corp., 3 FEA Par. ---- (June 14, 1976). The determination reached in that Decision was based on the finding that OKC would be a net seller of entitlements during the final six months of the firm's fiscal year ending September 30, 1976. Subsequent to the issuance of the June 14 Decision, OKC filed a supplemental petition in which it stated that even though the firm would be a net seller of entitlements, it would nevertheless incur a serious financial hardship as a result of its entitlement purchase obligations during its current fiscal year. In considering the request, the FEA found that during the period April through June 1976, OKC will purchase a substantial quantity of old oil from the United States Geological Survey (USGS royalty oil). Effective July 1, 1976, OKC's allocation of USGS royalty oil will be sharply reduced and the firm's purchases of new domestic crude oil will be increased proportionately. Consequently, while OKC will in fact be a net seller of entitlements during the period April through September 1976, its purchase obligations will fall exclusively in the April–June quarter and its sales obligations will be concentrated exclusively in the July-September quarter. The FEA found that although OKC would otherwise realize a profit in the April-June quarter, as a result of its entitlement obligations it will instead sustain a loss. The FEA concluded that such a sudden change in OKC's entitlement position would have an unnecessary disruptive effect on the firm's cash flow and operating posture. In order to minimize those distortions, the FEA determined that the firm's entitlement purchase obligation during the period June through August should be stayed and one-third of the total dollar amount of the entitlement purchase obligation thus stayed should be applied against OKC's monthly entitlement sales obligations during the period September through November 1976.

The Eagle Oil Co.; Columbus, Ohio; FEX-0053; petroleum products

On April 14, 1976, the Federal Energy Administration granted an exception to the Eagle Oil Company on the grounds that the application of the provisions of 10 CFR, Part 211, requiring adherence to the base period supplier/purchaser relationship resulted in a serious hardship to the firm. The Eagle Oil Co., 3 FEA Par. 80,523 (April 14, 1976). In that Order the Regional Administrator for FEA Region V was directed to assign Eagle a supplier for 65 percent of the firm's base period use for the months of April, May, and June 1976 whose prices for motor gasoline, No. 2 fuel oil, diesel fuel and kerosene were within the range of prices paid for those products by non-independent marketers in the area in which Eagle operates. The Order further provided that the Regional Administrator shall (i) make a determination for any month subsequent to June 1976 as to whether Eagle is continuing or will continue to incur a serious hardship if it does not receive petroleum products refined from domestic sources, and (ii) then make a recommendation to the FEA Office of Exceptions and Appeals regarding the need for an additional assignment. Based upon the data which Eagle submitted to the Regional Administrator and the recommendation of the Regional Administrator, the FEA determined that adherence to the base period supplier/purchaser relationship required by the Regulations would continue to result in a serious hardship to the firm. The FEA therefore extended the exception relief previously granted for the months of July, August, and September.

Whitco, Inc., Dallas, Tex., FEX-0048; motor gasoline

On March 26, 1976, the Federal Energy Administration granted an exception to Whitco, Inc. on the grounds that the application to Whitco of the provisions of 10 CFR 211.25 (the supplier substitution rule) results in a gross inequity to the firm Whitco, Inc., 3 FEA Par 87,005 (March 26, 1976). As a result of the March 26 Order, the Sun Oil Company was prevented from supplying Whitco through a substitute supplier in the months of April through June 1976. In the Order which was issued in that proceeding, the Regional Administrator of FEA, Region VI, was directed to make a further determination as to whether Whitco was continuing or would continue to experience a gross inequity unless it received additional exception relief and to then make a recommendation to the FEA Office of Exceptions and Appeals as to whether exception relief should be extended. Based on the data submitted by the firm and the recommendation of the Regional Administrator, the FEA determined that unless Whitco received additional relief it would continue to experience a serious hardship and gross inequity. The exception relief previously granted was therefore extended through September 30, 1976.

Saveway Gas & Appliance, Inc.; Dexter, Mo.; FEX-0049; propane

On March 31, 1976, the Federal Energy Administration granted an exception to Saveway Gas & Appliance, Inc. (Saveway) on the grounds that the application of the provisions of 10 CFR, Part 211, requiring adherence to the base period supplier/purchaser relationship results in a serious hardship to the firm. Saveway Gas & Appliance, Inc., 3 FEA Par. 83,150 (March 31, 1976). In that Order the Regional Administrator for FEA Region VII was directed to assign to Saveway for the months of April, May and June 1976, a supplier or suppliers for its adjusted base period use of propane whose wholesale price for propane was within the range of prices paid for those products by major marketers in Saveway's marketing area. The Order further provided that the Regional Administrator shall (i) make a determination for any month subsequent to June 1976 as to whether Saveway will continue to experience a serious hardship in the absence of further exception relief, and (ii) then make a recommendation to the National Office of Exceptions and Appeals regarding the need for an additional assignment. Based upon the data which Saveway submitted to the Regional Administrator and the recommendation of the Regional Administrator, the FEA determined that adherence to the base period supplier/purchaser relationship required by the Regulations would continue to result in a serious hardship to the firm. The FEA therefore extended the exception relief previously granted for the months of July, August and September.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Brea Canon Oil Co.; Los Angeles, Calif.; FEX-2426—Rock Island Refining Corp.; Indianapolis, Ind.; FES-0864

The following submissions were dismissed for failure to correct deficiencies in the firm's

filing as required by the FEA Procedural Regulations:

BP Oil, Inc.; Cleveland, Ohio; FEE-2487—Peters Fuel Corp.; Oakland, Md.; FEE-2390

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: July 30, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-22586 Filed 7-30-76;1:38 pm]

OFFICE OF EXCEPTIONS AND APPEALS

Cases Filed During the Week of June 28 Through July 2, 1976

Notice is hereby given that during the week of June 28 through July 2, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Atlantic Richfield Co.; Dallas, Tex.; FEA-0807; Natural Gas Liquids

The Atlantic Richfield Company (Arco) appealed from a Decision and Order which the FEA issued to the Superior Oil Company (Superior) on February 27, 1976. Superior Oil Co., 3 FEA Par. 83,118 (February 27, 1976). In the February 27 Decision, the FEA denied a request for exception which Superior had submitted with respect to the non-product cost increases incurred at its Okeene natural gas processing plant. The FEA denied the Superior request for relief on the grounds that the cost increases which Superior had incurred at the plant were not materially in excess of the maximum levels permitted to be passed through under Section 212.165. The determination reached in that Decision was applicable only to Superior's interest in the Okeene plant. Arco's Appeal, if granted, would result in the issuance of an order reversing the previous Decision and would permit Superior to pass through all of its non-product cost increases incurred at the Okeene plant. In considering the Appeal, the FEA observed that the determination involved applied only to Superior's operations. While Arco is a part owner of the Okeene plant and sole purchaser of the natural gas liquids processed at the plant, Arco failed to demonstrate that it was in any way aggrieved by the February 27 Decision and Order issued to Superior. The Appeal was therefore denied.

Batzell, Nunn & Bode; Washington, D.C.; FEA-0851; Freedom of Information

The law firm of Batzell, Nunn & Bode (Batzell) appealed from an Order issued to it under the Freedom of Information Act, 5 U.S.C. 552, which denied it access to copies of working papers prepared by the FEA in connection with the issuance of FEA Ruling 1975-14. In that Order, the FEA Information Access Officer determined that the documents requested were "intra-agency memoranda" and exempt from mandatory disclosure pursuant to Section 552(b)(5) of the Act. In considering Batzell's Appeal, the FEA noted that the exemption which protected intra-agency memoranda from mandatory disclosure applied to those documents which represented the agency's group thinking and pre-decisional deliberations in working out its policy and law. The FEA determined that substantially all of the documents withheld from Batzell were correctly found to be exempt from mandatory disclosure pursuant to Section 552(b)(5) of the Act since they are pre-decisional intra-agency documents which set forth issues, discuss alternatives, and offer recommendations reflecting the "group thinking" process of the FEA, and do not reflect the agency's effective law and policy. The FEA also noted, however, that the preamble of one of the documents requested contained a summary of facts which was reasonably segregable from the deliberative portion of the document. Since the exemption in Section 552(b)(5) does not apply to factual material which is reasonably segregable, it was ordered that the preamble be released.

Exxon Co., U.S.A.; Houston, Tex.; FEA-0832; propane

Exxon Company, U.S.A. (Exxon) appealed from a Decision and Order which the FEA issued to Saveway Gas & Appliance, Inc. (Saveway). Saveway Gas & Appliance, Inc., 3 FEA Par. 83,150 (March 31, 1976). In that Decision, Saveway was granted an exception from the provisions of 10 CFR 211.9 and assigned a new, lower-priced supplier of propane for the period April 1, 1976 through June 30, 1976. The Appeal, if granted, would result in the issuance of an order rescinding the prior decision. The FEA determined, however, that Exxon is not adversely affected in any way by the March 31 Decision and Order, and is therefore not an aggrieved party for purposes of the FEA Procedural Regulations. The Exxon Appeal was therefore denied.

New England Petroleum Corp.; New York, N.Y.; FEA-0781—Mobil Oil Corp.; New York, N.Y.; FEA-0786—Exxon Co., U.S.A.; Houston, Tex.; FEA-0790 residual fuel oil

New England Petroleum Corporation (NEPCO), Mobil Oil Corporation and Exxon Company, U.S.A. filed Appeals from a Decision and Order which the FEA issued to NEPCO on February 12, 1976. That Order approved exception relief from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) and permitted NEPCO to sell entitlements in the months of February and March 1976 on the basis of its residual fuel oil imports during the months of December 1975 and January 1976 up to a maximum of 3 million barrels, as adjusted for supplemental import fees. New England Petroleum Corp., 3 FEA Par. 83,101 (February 12, 1976). In its Appeal, NEPCO contended that the February 12 Order was arbitrary and capricious because the FEA limited the applicability of the exception relief which it approved to 3 million barrels of residual fuel oil imports per month, and failed to issue entitlements for sale by NEPCO during the months of December and January. In considering NEPCO's Appeal, the FEA noted that when the February 12 Order was issued NEPCO was not eligible to receive benefits under the Entitlements Program, and the exception relief was not designed to permit NEPCO to attain a favorable competitive position. The FEA found that NEPCO had furnished no data in support of its Appeal which demonstrated that the relief granted in the February 12, 1976 Order was not sufficient for the limited purpose for which it was intended, viz., to temporarily alleviate the adverse impact of those aspects of the FEA regulatory program which threatened NEPCO's viability in the immediate future. In considering the Appeals filed by Mobil and Exxon, the FEA found that the firms had essentially restated the arguments which they had presented in their Appeals of previous NEPCO exception Orders and which were ultimately rejected. Exxon Co., U.S.A.; Mobil Oil Corp., 3 FEA Par. 80,590 (March 3, 1976). Accordingly, each of the three Appeals was denied.

Petrochemical Energy Group; Washington, D.C.; FEA-0733; naphtha

The Petrochemical Energy Group (PEG) appealed from an Assignment Order issued to the Algonquin Gas Transmission Company (Algonquin) on August 29, 1975. In that Order, the FEA approved Algonquin's request for an allocation of naphtha for use as feedstock in a synthetic natural gas (SNG) plant which the firm operates in Freetown, Massachusetts. In considering certain procedural issues raised by Algonquin, the FEA determined that: (i) PEG did have standing to file an Appeal from the Algonquin Order; (ii) PEG was entitled to be served with a copy of the Algonquin Order when it was issued; and (iii) although PEG's Appeal was filed almost six months after the Algonquin Order was issued, the Appeal was nevertheless filed within thirty days of service of the Assignment Order under PEG and was therefore filed in a timely manner. In considering the merits of the PEG Appeal, the FEA found that the August 29 Order did not contain adequate findings with respect to certain important criteria which the FEA is required by 10 CFR 211.29 and Special Rule No. 1 to take into account in connection with any SNG feedstock allocation. In particular, the FEA found that: (i) the Order failed to make any finding with regard to the amount of service which Algonquin currently provides and will in the future provide to firms which have alternate fuel capability on a continuing basis; (ii) the Order failed to consider the extent to which Algonquin and its customers have implemented a program for incremental pricing of the SNG produced at the Freetown plant and the effect any such efforts will have on the feedstocks allocated to Algonquin; and (iii) the Order failed to consider the nature of any expansion of natural gas service contemplated by Algonquin. The August 29 Order was therefore remanded to the Assistant Administrator for Regulatory Programs for further consideration of those issues.

Sumrall Oil Services, Inc.; Bay Springs, Miss.; FEA-0819; motor gasoline

Sumrall Oil Services, Inc. (Sumrall) appealed from a Decision and Order issued to the firm on March 31, 1976. Sumrall Oil Services, Inc., 3 FEA Par. 83,152 (March 31, 1976). In that Decision, the FEA denied Sumrall's request for an exception which, if granted, would have resulted in the issuance of an Order by the FEA assigning Sumrall a new base period supplier for that portion of the firm's base period use of motor gasoline which had been supplied by Good Hope Refineries, Inc. In the March 31 Decision, the FEA determined that Sumrall had failed to demonstrate that its operating or financial position had been impaired as a direct result of Good Hope's failure to make motor gasoline available. On Appeal, the firm again refused to provide data which would permit the FEA to evaluate Sumrall's claim that it had been adversely affected in any way by its inability to purchase motor gasoline from Good Hope.

In view of the firm's continued failure to substantiate its claim that it was incurring a serious hardship and gross inequity as a result of the FEA regulatory program, the FEA concluded that Sumrall had not demonstrated that the prior Decision was erroneous. The firm's Appeal was therefore denied.

T. W. Phillips Oil and Gas Co.; Butler, Pa.; FEA-0803; natural gas

T. W. Phillips Oil and Gas Company (Phillips) appealed from a Decision and Order in which the FEA denied its request for exception relief from the requirement that it file a form entitled "Underground Gas Storage Report" (FEA Form G318-M-O). T. W. Phillips Oil and Gas Co., 3 FEA Par. 83,130 (March 8, 1976). In its Appeal, Phillips contended that it does not presently have the capability of providing the data specified on the Form and that in order to do so the firm would be forced to make extensive and costly changes in its physical plant and operating procedures. Those changes, according to the Phillips submission, included the installation of an additional pipeline to permit the segregation of natural gas storage wells from producing wells and the installation of metering equipment. Phillips also contended that its operation would be materially impaired in certain respects, including its ability to deliver gas to its customers without interruption and its ability to continue to operate low pressure marginal wells, if it were to make the changes necessary to provide the information specified on the Form. In considering the Phillips Appeal, the FEA determined that Phillips is apparently the only firm subject to the reporting requirement which is unable to provide the information specified on the Form without extensively modifying its physical plant and operating procedures at considerable expense. The FEA also determined that these modifications could significantly impede that portion of Phillips' operations which allows it to extract gas from marginal wells that it might otherwise be forced to abandon and that Phillips would encounter a considerable burden in making the necessary modifications in its system, solely for the purpose of developing data which would be unlikely to have any appreciable effect upon the data already available to the FEA. On the basis of these findings, the FEA concluded that Phillips was adversely affected by the FEA regulatory requirements in such a disproportionate manner that a gross inequity existed. The FEA therefore granted exception relief which relieves Phillips of the obligation to submit the data specified on the Form. However, the FEA determined that a requirement that Phillips report its volume of sales from natural gas storage and production combined would not create any undue burden for the firm. Phillips was therefore directed to report that figure to the FEA on an annual basis.

Texaco, Inc.; Los Angeles, Calif.; FEA-0848; motor gasoline

Texaco, Inc. appealed from an Assignment Order issued to Fisher-Coe, Inc. on April 13, 1976. The Assignment Order designated Fisher-Coe, a branded Texaco jobber, to supply Tri-Par Combustion Corporation with sufficient motor gasoline to enable the firm to meet its supply obligations to the Defense Fuel Supply Center (DFSC). In considering the Appeal, the FEA determined that: (i) Texaco is Fisher-Coe's base period supplier of motor gasoline; (ii) consequently, under the provisions of 10 CFR 211.13(c), Fisher-Coe is entitled to receive an adjustment in its base period use of motor gasoline from Texaco which is equal to the quantity which it has been assigned to supply Tri-Par; and (iii) although Texaco was readily identifiable by the FEA as a party which would be adversely affected by the April 13 Order directing Fisher-Coe to supply Tri-Par, the FEA failed to notify Texaco of the assignment proceeding. The FEA therefore determined that the April 13 Order was invalid and granted Texaco's Appeal by vacating the Assignment Order. However, the FEA also found that Tri-Par and its DFSC customers could be affected in a serious and substantial manner if Tri-Par were unable to meet its supply obligations to the DFSC during the period of time necessary to reconsider the issuance of an Assignment Order. See Tri-Par Combustion Corp., 3 FEA Par. 83,056 (December 23, 1975). The FEA therefore directed that a Temporary Assignment Order be issued to Tri-Par in accordance with the provisions of 10 CFR 205.39.

Union Carbide Caribe, Inc.; Hato Rey, P.R.; FEA-0844; Naphtha

Union Carbide Caribe, Inc. (Caribe) appealed from a Decision and Order which the Federal Energy Administration issued to Commonwealth Oil Refining Company, Inc. (CORCO) on May 4, 1976. Commonwealth Oil Ref. Co., Inc., 3 FEA Par. 83,178 (May 4, 1976). In that Decision, the FEA found that as a result of the Entitlements Program, CORCO, a small and independent refiner which operates a petrochemical plant in Puerto Rico, was operating at a significant competitive disadvantage in relation to mainland competitors and was experiencing a serious hardship. The FEA therefore granted exception relief which permitted CORCO to earn entitlements for the naphtha which it imports for use as a feedstock in its petrochemical plant. In its Appeal, Caribe did not contend that the action taken by the FEA in the May 4 Order was arbitrary or capricious or erroneous in fact or law. Rather, Caribe indicated that it filed an Appeal in order to encourage the FEA to promptly initiate a rulemaking proceeding which would result in similar relief being granted to all petrochemical plant operators in Puerto Rico, and to preserve its appellate rights while awaiting the outcome of that proceeding. The FEA found that neither of these reasons constitutes valid grounds for an Appeal. The FEA observed that adequate procedures are already available under which a firm may petition the FEA to initiate rulemaking proceedings. The FEA further noted that, since it is desirable that administrative proceedings be concluded in an expeditious manner, it is not sound administrative practice to permit a firm to delay filing or processing a substantive appeal merely because it wishes to do so for its own tactical reasons. Since the Appeal filed by Caribe was defective on its face, it was summarily denied.

REQUESTS FOR EXCEPTION

Braden-Deem, Inc.; Wichita, Kans.; FEE-2424; crude oil.

Braden-Deem, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would extend the exception relief granted to the firm on January 19, 1976 and March 11, 1976 and permit Braden-Deem to sell crude oil produced from the Cooper Cove Muddy-Dakota Unit at prices which are in excess of the lower tier ceiling price. See Braden-Deem, Inc., 3 FEA Par. 83-072 (January 15, 1976); Braden-Deem, Inc., 3 FEA Par. 80,597 (March 11, 1976). In considering Braden-Deem's Application, the FEA determined that the cost of producing crude oil from the Cooper Unit exceeds the lower tier ceiling price which Braden-Deem is permitted to charge under the provisions of Subpart D, and as a consequence the firm has no economic incentive to continue operating the Unit. Since Braden-Deem demonstrated that the economic situation which was described in previous decisions issued to the firm continued to exist, the FEA determined that an extension of exception relief was warranted. An analysis of the specific financial and operating data which Braden-Deem submitted led to the conclusion that Braden-Deem should be permitted to sell at upper tier ceiling prices 76.73 percent of the crude oil produced and sold for the benefit of the working interest owners for a period of six months.

Chesapeake Pure Fuels, Inc.; Chesapeake, Va.; FEE-2337; motor gasoline.

Chesapeake Pure Fuels, Inc. (Chesapeake) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the issuance of orders by the FEA assigning Chesapeake a new supplier of motor gasoline which would provide the firm with a leaded regular grade of motor gasoline. Chesapeake's Application indicated that its base period supplier, the Union Oil Company (Union), had discontinued the sale of leaded regular gasoline to Chesapeake in May 1974. Chesapeake alleged that it incurred a serious hardship because it lost many of its customers who operated commercial truck fleets and could not use regular motor gasoline. In considering Chesapeake's request, the FEA determined that the firm's financial and operating data indicated that its overall sales volume of motor gasoline and gross profits had increased dramatically subsequent to the time Union discontinued its sale of leaded regular motor gasoline. Consequently, even if Chesapeake did lose some of its customers, because it could not supply them with a leaded regular grade of motor gasoline, there was no evidence that Chesapeake incurred any financial hardship as a result of the FEA regulatory program. Chesapeake's exception application was therefore denied.

City of Long Beach, Calif.; Long Beach, Calif.; Fee-2701; crude oil.

The City of Long Beach (Long Beach) filed an Application for Exception from the provisions of 10 CFR 212.73 which, if granted, would permit it to sell the crude oil which it recovers as a result of a special pilot project in the Wilmington Field at a price which exceeds the lower tier ceiling price. According to the Long Beach submission, the City is contemplating entering into an agreement with the Energy Research and Development Administration (ERDA) pursuant to which the City will conduct a project applying an experimental, tertiary recovery technique to the production of crude oil from a reservoir whose substantial reserves can no longer be economically recovered by primary or secondary recovery methods. Because the technique involved could be of major significance in enhanced recovery of crude oil, ERDA has stated that it is willing to partially sponsor the Long Beach project as a pilot demonstration. However, on the basis of Long Beach's estimates, the FEA found that the investment by the City which the project will require will significantly exceed the revenues which will be generated if the anticipated production must be sold at lower tier ceiling prices. In view of the risks involved and the margin between the investment required and the expected revenues to be obtained, the FEA determined that it was reasonable to accept the City's statement that it could not feasibly enter into the project unless it could charge upper tier ceiling prices for the crude oil which it recovers. In view of the importance of the pilot project, the direct participation of the federal energy agency which is pri-

marily responsible for energy research and development, and the economic difficulties which the FEA Price Regulations present to the project, the FEA concluded that exception relief should be granted which permits Long Beach to sell the crude oil produced from the tertiary recovery project at upper tier ceiling prices.

Coastal States Gas Corp.; Houston, Tex.; FEE-2315; petroleum products

Coastal States Gas Corporation (Coastal States) filed an Application for Exception from the provisions of the Mandatory Petroleum Price Regulations (10 CFR, Part 212). In its Application, Coastal States requested that it be permitted to charge prices for various petroleum products refined at its newly acquired Pacific refinery which are in excess of the levels established pursuant to the provisions of 10 CFR 212.111(c)(1). The firm contended that in the absence of exception relief the gross refinery margins which it would realize would be insufficient to ensure the economic viability of the Pacific facility. In making a determination on the Coastal States submission, the FEA concluded that the pro-forma financial statements which the firm submitted for the refinery's first operating year underestimated the return on invested capital (ROIC) which Coastal States is likely to realize. When certain assumptions in the Coastal States projections were altered, it was evident that when the refinery is fully operational Coastal States will achieve an ROIC in the absence of exception relief which is well within the range of the average ROIC which other small refiners have historically realized. Since the Coastal States' allegations were not substantiated, the firm's exception application was denied.

Dasher-Harris Gas Co.; Valdosta, Ga.; FEE-2383; propane

Dasher-Harris Gas Company (Dasher-Harris) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted would result in the assignment of a new, lower-priced supplier of propane to replace the firm's base period supplier, Wanda Petroleum Company (Wanda). In considering the Dasher-Harris exception request, the FEA determined that: (i) the average cost of the propane which Dasher-Harris is entitled to receive from its base period supplier is significantly higher than the average price paid by its competitors; (ii) Dasher-Harris is currently selling propane at prices which are higher than the average price in its marketing area, and its mark-up on sales of propane is substantially lower than the mark-up it is permitted to apply under the FEA Regulations; (iii) Dasher-Harris' May 15, 1973 mark-up was at a low level due to the firm's recent entry into the marketplace; and (iv) as a result of this situation, the firm has experienced substantial financial difficulties since its inception. On the basis of these findings, the FEA concluded that the application to Dasher-Harris of the provision of 10 CFR 211.9, which require the firm to maintain its base period relationship with Wanda, results in a serious hardship to Dasher-Harris. Accordingly, the firm was granted exception relief which permits it to receive 57.09 percent of its base period use of propane from a new, lower-priced supplier for the July through September 1976 allocation quarter.

Energy Reserves Group, Inc.; Wichita, Kans.; FEE-2375; crude oil

Energy Reserves Group, Inc., (ERG) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted, would permit ERG to sell crude oil produced from the Kimball Unit at upper tier ceiling prices. In considering ERG's exception request, the FEA determined that: (i) The costs of producing crude oil from the Kimball Unit have increased significantly since 1972; (ii) as a result of these cost increases, ERG's production costs exceed the price which the firm is permitted to charge for the crude oil which it sells; and (iii) consequently, ERG does not have an economic incentive to continue to operate the Kimball Unit. The FEA also found that if ERG abandons production activities at the Kimball Unit, the nation's recoverable supply of domestic crude oil would be reduced by approximately 68,000 barrels. On the basis of previous precedents involving similar factual findings, the FEA concluded that the application of the lower tier ceiling price rule in this case resulted in a gross inequity. Accordingly, ERG was granted exception relief which permits the firm to sell at upper tier ceiling prices 43.63 percent of the crude oil produced and sold for the benefit of the working interest owners.

H. L. Mills Petroleum Products; Hagerstown, Md.; FEE-2574; motor gasoline

H. L. Mills Petroleum Products (Mills) filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would result in the issuance of an order assigning Mills a new, lower-priced supplier of motor gasoline to replace its base period suppliers, the Ashland Oil Company and the Petroleum Marketing Corporation. Mills also requested that the assignment be of a permanent rather than a temporary duration. In considerating Mills' request, the FEA determined that Mills is selling motor gasoline at prices which are higher than the average price in its marketing area. In addition, the FEA found that the cost to Mills of the motor gasoline purchased from its base period supplier is so high that the markup which Mills is able to realize on its sales of motor gasoline is substantially below the firm's historical markup. As a result of this situation, the firm incurred substantial financial losses during the first 10 months of its 1976 fiscal year. The FEA therefore concluded that the application of Section 211.9 to Mills results in a serious hardship and granted the firm exception relief which permits it to receive its base period use of motor gasoline from a new, lower-priced supplier for the months of July, August, and September 1976. The FEA also found that Mills had not presented any convincing arguments as to why the FEA should deviate from its customary practice of granting relief on a temporary basis in order to permit a periodic review of the necessity of continuing exception relief to the firm. The FEA therefore denied Mills' request that the assignment be made on a permanent basis.

Lee-Gunn Drilling Partnership; Adams County, Miss.; FEE-2411; crude oil

The Lee-Gunn Drilling Partnership (Lee-Gunn) filed an Application for Exception from the provisions of 10 CFR, Part 212, which, if granted, would permit Lee-Gunn to sell the crude oil produced from the Breaux lease in Adams County, Mississippi at upper tier ceiling prices. In considering Lee-Gunn's Application, the FEA noted that Ruling 1975-12 specifies a procedure to be used in adjusting actual production from a property to account for significant curtailments in production such as those experienced by Lee-Gunn because of frequent flooding at the Breaux lease. The FEA determined that the formula used in Ruling 1975-12 indicates that under normal conditions the production from the Breaux property would have exceeded ten barrels per day per well and the property would not qualify as a stripper well lease. Consequently, Lee-Gunn had failed to show that application of the definition of "average daily production" as used in Section 212.74(c) to the Breaux lease results in a serious hardship or gross inequity to the working interest owners. However, the FEA also determined that: (i) The cost of producing crude oil from the Breaux lease had increased significantly since 1973 and now exceeds the lower tier ceiling price which Lee-Gunn is permitted to charge; (ii) consequently, Lee-Gunn does not currently have an economic incentive to continue to operate the Breaux lease; and (iii) if Lee-Gunn abandons the property, a considerable amount of otherwise recoverable crude oil would be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule to the working interests of the Breaux property resulted in a gross inequity and that exception relief should therefore be approved. An analysis of the specific financial and operating data which Lee-Gunn submitted led to the further conclusion that Lee-Gunn should be permitted to sell at upper tier ceiling prices 59.84 percent of the crude oil produced and sold for the benefit of the working interest owners.

Marvin E. Boyer Oil Co., Inc.; Iola, Kans.; FEE-2560; crude oil.

Marvin E. Boyer Oil Company, Inc. (Boyer) filed an Application for Exception which, if granted, would result in an extension of the relief granted to Boyer in a January 30, 1976 Decision and Order and would permit Boyer to resell crude oil at prices in excess of the maximum permissible levels determined pursuant to 10 CFR 212.93. In considering the Application, the FEA found that Boyer's crude oil reselling division has incurred substantial non-product cost increases since May 15, 1973 which it is not currently permitted to reflect in its selling prices under FEA Regulations. As a result of this situation, the division was encountering significant financial difficulties. The FEA therefore concluded that an extension of the exception relief previously granted was warranted. Accordingly, Boyer was permitted to increase its current selling prices of crude oil during the period July 1 to December 31, 1976 to reflect the non-product cost increases which it has incurred since May 15, 1973.

McCulloch Gas Processing Corp.; Washington, D.C.; FEE-2422 (Tule Creek); FEE-2445 (Hilight); FEE-2446 (Gillette); FEE-2447 (Oedekoven); FEE-2448 (Jamison Prong); FEE-2449 (Belle Fourche); FEE-2450 (Fairview); FEE-2451 (Well Draw); natural gas liquids.

McCulloch Gas Processing Corporation (MGPC) filed eight Applications for Exception in which it requested that the exception relief granted to the firm by the FEA on February 27, 1976, be extended for an additional period of time. McCulloch Gas Processing Corp., 3 FEA Par. 83,113 (February 27, 1976). In the February 27 Decision, the FEA determined that MGPC would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted which would permit the firm to increase its prices for natural gas liquid products produced at its eight natural gas processing plants above the maximum permissible levels determined pursuant to the provisions of Subpart K by an amount not to exceed $.0257 per gallon during the period March 1, 1976 through May 31, 1976. In con-

sidering MGPC's requests for an extension of exception relief, the FEA determined that the firm continued to incur non-product cost increases in the first quarter of 1976 at seven of the eight plants which substantially exceed the $.005 per gallon passthrough permitted under the provisions of Section 212.165 and that based upon the criteria set forth in Sun Oil Co., 3 FEA Par. 83,102 (February 13, 1976); Shell Oil Co., 3 FEA Par. 83,049 (December 15, 1975); and Superior Oil Co., 2 FEA Par. 83,271 (August 29, 1975); continued exception relief is warranted. The FEA therefore granted the exception requests with respect to those seven plants for the period June 1, 1976 through September 30, 1976. However, the FEA denied exception relief with respect to the Hilight plant because the adjusted non-product unit cost increase experienced at that plant amounted to less than $.005 per gallon and was therefore not material for purposes of the exceptions process. See Sun Oil Co., supra.

Petroleum Management, Inc.; Wichita, Kans.; FEE-2329; crude oil

Petroleum Management, Inc. (PMI) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit PMI to increase the price of certain crude oil produced from the Kuhn Lease during February and May of 1975. In its exception application, PMI alleged that because the KAW Pipe Line Company negligently failed to deliver 278 barrels of crude oil produced from the Kuhn lease during February and May 1975, that quantity of crude oil could not be sold by PMI at new oil prices. PMI claimed that this situation resulted in a gross inequity to the firm. In considering PMI's request, the FEA found that PMI failed to show that KAW's alleged negligence was solely responsible for the delay in the sale of the 278 barrels of crude oil. Moreover, the FEA determined that the material submitted by PMI in connection with its exception application failed to demonstrate that the firm's inability to sell the 278 barrels of crude oil in question at higher prices would significantly impair its operations in any manner. PMI's exception request was therefore denied.

Service Enterprises; Cape Girardeau, Mo.; FEE-2401; motor gasoline

Service Enterprises filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the issuance of orders by the FEA (i) assigning Service Enterprises a new supplier of motor gasoline to replace its base period supplier, the Rhodes Companies, and (ii) directing the new supplier to furnish Service Enterprises with its base period use of motor gasoline. Service Enterprises requested that Mobil Oil Corporation be designated as its new supplier. In considering the Application, the FEA noted that in previous cases exception relief had generally been denied where the applicant was able to purchase adequate quantities of surplus product from a supplier other than its base period supplier and therefore was not adversely affected by the requirements of Section 211.9. With respect to the situation encountered by Service Enterprises, the FEA determined that the firm had been able to purchase its total current supply requirements from Mobil. The FEA also found that Service Enterprises and Mobil had signed a supply contract for a period of two years and there was no reason to believe that Service Enterprises' supply situation might be altered in the foreseeable future. The exception application was therefore denied.

Shell Oil Co.; Houston, Tex.; FEE-2522 (Bayou Goula); FEE-2523 (Camargo); FEE-2524 (Chalkley); FEE 5252 (Elk City); FEE 2526 (Goodwater); FEE-2527 (Iowa); WEE-2528 (KNCU); FEE-2529 (Mermantua); FEE-2530 (Norco); FEE-2531 (Person); FEE-2532 (Prentice); FEE-2533 (Red Fish Bay); FEE-2534 (Van); FEE-2535 (W. Seminole); FEE-2536 (Molino); FEE-2537 (Tallahaia); FEE-2538 (Ventura); FEE-2544 (Selling); natural gas liquids.

Shell Oil Company (Shell) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the total non-product costs which it calculates pursuant to Section 212.165 based on increases in non-product costs which the firm contends it has experienced at eighteen of its natural gas processing plants. In considering the Applications, the FEA noted that, as a general rule, exception relief will be granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough permitted under Section 212.165. *See* Superior Oil Co., 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Shell had made such a showing with respect to 16 of the 18 plants and granted Shell exception relief with respect to those plants for the period July 1, 1976 through September 30, 1976. However, the FEA denied exception relief for the Goodwater and Red Fish Bay plants on the grounds that the non-product cost increases experienced at those plants amounted to less than $.005 per gallon in excess of the $.005 passthrough already permitted under 10 CFR 212.165 and were therefore not considered material for the purposes of the exceptions process. *See* Sun Oil Co., 3 FEA Par. 83,129 (March 12, 1976).

Supervisor Oil Com.; Levelland, Tex.; FEE-2489 (Cymric); FEE-2490 (Elk City); FEE-2491 (Kettleman Hills); FEE-2492 (Levelland); FEE-2493 (Portilla); Natural gas liquids

Superior Oil Company (Superior) filed five Applications for Exception in which it requested an extension of the exception relief granted by the FEA on February 27, 1976, with respect to its Cymric, Elk City, Kettleman Hills, and Portilla natural gas processing plants. Superior Oil Co., 3 FEA Par. 83,118 (February 27, 1976). Superior also requested that exception relief be granted with respect to its Levelland plant. In the February 27 Decision, the FEA determined that Superior was experiencing a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should therefore be granted which would permit the firm to increase its prices for natural gas liquid products produced at its Cymric, Elk City, Kettleman Hills, and Portilla natural gas processing plants above the maximum permissible levels determined in accordance with the provisions of Subpart K for the period March 1, 1976 through May 31, 1976. However, the FEA denied exception relief with respect to the Levelland plant because the adjusted non-product unit cost increase experienced at that plant amounted to less than $.005 per gallon and was therefore not material for purposes of the exceptions process. In considering Superior's requests for an extension of exception relief for its Cymric, Elk City, Kettleman Hills, and Portilla plants, as well as the request for prospective exception relief for its Levelland plant, the FEA determined that the firm incurred non-product cost increases in the first quarter of 1976 at those plants which substantially exceed the $.005 per gallon passthrough permitted under the provisions of Section 212.165. Based upon the criteria set forth in Sun Oil Co., 3 FEA Par. 83,102 (February 13, 1976); Shell Oil Co., 3 FEA Par. 83,049 (December 15, 1975); and Superior Oil Co., 2 FEA Par. 83,271 (August 29, 1975), the FEA determined that exception relief should be granted for all five plants.

Tipperary Corp.; Midland, Tex.; FEE-2416; Crude Oil

The Tipperary Corporation (Tipperary) filed an Application for Exception from the provisions of 10 CFR 211.65(b). The exception request, if granted, would permit Tipperary to immediately apply for an allocation of crude oil under the Buy/Sell Program for a refinery which the firm proposes to build in Corpus Christi, Texas, and require that the allocation application be reviewed by the FEA as if the refinery were to be operational within 90 days of the date on which the application was filed. In considering Tipperary's Application, the FEA determined that the firm's ability to obtain the financing necessary to build its proposed refinery was dependent upon its ability to secure an adequate supply of crude oil. Under the provisions of Section 211.65(b)(1) Tipperary was precluded from even applying for an allocation of crude oil under the Buy/Sell Program until its refinery is within 90 days of completion. The FEA further found that the firm had taken significant preparatory steps in connection with its refinery construction project. In addition, the products to be produced at the refinery would be readily marketable and the proposed refinery therefore represented a long-term profitable investment for the firm. On the basis of these findings, the FEA determined that the application of the 90 days provisions of Section 211.65(b)(1) created a significant and unwarranted barrier to the construction of the Tipperary refinery and thus to the expansion of the nations refinery capacity. The FEA therefore concluded that exception relief was warranted based upon the precedent established in Gulf Energy and Development Corp., 2 FEA Par. 80,516 (January 29, 1975), and permitted the firm to immediately apply for an allocation of crude oil under the Buy/Sell Program.

William H. Player & Associates; Natchez, Miss.; FEE-2443; crude oil

William H. Player and Associates (Player) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in an extension of the exception relief granted to Player on April 9, 1976 and would permit Player to sell crude oil produced from the James-Bridwell VUA No. 1 well at prices in excess of the lower tier ceiling price. William H. Player and Associates, 3 FEA Par. 83,161 (April 9, 1976). In considering Player's Application for an extension of exception relief, the FEA determined that Player is no longer experiencing the operating losses upon which the previous exception relief was founded. As a consequence, the FEA determined that there was no basis for an extension of exception relief. Accordingly, the exception request was denied.

REQUEST FOR STAY

United Refining Co., Warren, Pa.; FES-2401; crude oil

United Refining Company (United) requested a stay of an FEA Order which

changed the designation of the firm's refinery at West Branch, Michigan, from a "first priority refinery" to a "second priority refinery" under the Mandatory Canadian Crude Oil Allocation Program (10 CFR, Part 214). The stay, if granted, would result in the issuance of an order by the FEA allocating an additional 1,142 barrels per day of crude oil to United from Canadian sources pending a final determination of an exception application which the firm intends to file. In its Application for Stay, United contended that if it were required to rely on non-Canadian sources of crude oil it would incur substantially higher purchase and transportation costs resulting in significant operating losses, and that it would consequently be forced to cease operations at its West Branch refinery. In considering United's Application, the FEA determined that the firm had failed to provide sufficient financial and operating data to demonstrate that the costs which it would incur in continuing to operate the refinery pending a determinaton on its exception request will significantly affect the firm's overall financial posture or seriously impair any aspect of the firm's operations. In addition, if exception relief were ultimately granted, the FEA could mitigate any possible injury which United might sustain during the pendency of its Application for Exception by fashioning appropriate exception relief. The FEA also noted that, if the stay were approved, all other firms subject to the provisions of the Mandatory Canadian Crude Oil Allocation Program would be immediately deprived of the quantity of crude oil which would be allocated to United. The FEA held that it would not be appropriate to grant a stay which would produce that result on the basis of United's speculation as to possible injury which it would incur. Accordingly, the Application for Stay was denied.

SUPPLEMENTAL ORDERS

Mid-Michigan Truck Service, Inc.; Grand Rapids, Mich.; FEX-0054; motor gasoline

On February 13, 1976, the Federal Energy Administration issued a Decision and Order to Mid-Michigan Truck Service, Inc. (Mid-Michigan) which approved the firm's Application for Exception from the provisions of 10 CFR 211.25. Mid-Michigan Truck Service, Inc., 3 FEA Par. 83,100 (February 13, 1976). As a result of the approval of that Application, during the period February 13 through June 30, 1976, the Gulf Oil Corportaion (Gulf) was ordered to supply Mid-Michigan with its base period use of petroleum products directly, rather than through a substitute supplier. In the Order which was issued in that proceeding, the Regional Administrator of the FEA, Region V, was directed to make a further dtermination as to whether Mid-Michigan was continuing or would continue to experience a serious hardship unless it received additional exception relief and to then make a recommendation to the FEA Office of Exceptions and Appeals as to whether exception relief should be extended beyond the month of June 1976. Based on the date submitted by the firm and the recommendation of the Regional Administrator, the FEA determined that unless Mid-Michigan received additional relief, it would continue to experience a serious hardship. Exception relief was therefore extended through September 30, 1976.

Readygas Propane Service, Inc.; Eldon, Mo.; FEX-0050; propane

On April 2, 1976, the Federal Energy Administration granted an exception to Readygas Propane Service, Inc. (Readygas) on the grounds that the application to it of the provisions of 10 CFR, Part 211, which require that the base period supplier/purchaser relationship be maintained results in a serious hardship to the firm. Readygas Propane Service, Inc., 3 FEA Par. 83,149 (April 2, 1976). The April 2 Order directed the Regional Administrator for the FEA, Region VII, to assign to Readygas for the months of April, May, and June 1976, a supplier or suppliers for 26.26 percent of its adjusted base period use of propane whose wholesale price for propane was within the range of prices paid for that product by Readygas' competitors. The Order further provided that the Regional Administrator, upon receiving a written request from Readygas, shall (i) make a determination for any month subsequent to June 1976 as to whether Readygas will continue to experience a serious hardship without the approval of further exception relief, and (ii) make a recommendation to the National Office of Exceptions and Appeals regarding the need for additional assignments to Readygas. Based upon the data which Readygas submitted to the Regional Administrator, the recommendation of the Regional Administrator, and the data which was submitted in support of its previous Applications for Exception filed with the FEA, the FEA determined that adherence to the base period supplier/purchaser relationship required by the Regulations would continue to result in a serious hardship to the firm during the months of July, August, and September 1976 and therefore granted Readygas an exception for those months under the terms and conditions specified in the April 2, 1976 Order.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Sun Gas Co.; Dallas, Tex.; FEA-0827; FEA-0828

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Bay City Airport; Bay City, Mich.; FEE-2476—Dikdan Auto Service; Paterson, N.J.; FEE-2565—Reeves Trading, Inc.; Houston, Tex.; FPI-0100

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: July 30, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-22587 Filed 7-30-76;1:38 pm]

ENERGY FINANCE ADVISORY COMMITTEE

Charter Amendment

Following consultation with the Office of Management and Budget, notice is hereby given to advise of a revision in the Charter of the Energy Finance Advisory Committee. The Charter was published in the April 5, 1976, issue of the Federal Register (41 FR 14430).

This amendment will revise Section B(9), to read as follows:

"9. Subcommittees—the Energy Finance Advisory Committee shall have subcommittees as follows:

a. Subcommittee on Electric Utility (Finance).

b. Subcommittee on Nuclear Fuels.

c. Subcommittee on Oil.

d. Subcommittee on Natural Gas and SYNGAS.

e. Subcommittee on Coal.

f. Subcommittee on Technology and Conservation.

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to the following areas: the projected capital needs of the domestic energy industries; the characteristics, conditions, and projected changes in the money and capital markets; the financial disincentives to domestic energy development; and the effectiveness of Federal financial incentive programs to enhance domestic energy supply.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-8."

The above amendment is effective immediately.

Issued at Washington, D.C. on July 30, 1976.

FRANK G. ZARB,
Administrator.

[FR Doc.76-22633 Filed 7-30-76;3:38 pm]

FEDERAL MARITIME COMMISSION

MALAYSIA—PACIFIC RATE AGREEMENT

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, NY, 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 August 24, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of descrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a vio-

lation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

D. D. Day, Jr., Secretary, Malaysia-Pacific Rate Agreement, 635 Sacramento Street, San Francisco, California 94111.

Agreement No. 9836-6, entered into by the member lines of the Malaysia-Pacific Rate Agreement, modifies the approved basic agreement by amending (1) the first paragraph of the "Witnesseth" clause to permit the lines to engage in intermodal service; (2) Article 1 to permit the lines to "confer, discuss and agree jointly or severally with individual carriers of other modes of transportation or associations, conferences or bureaus thereof" tariff matters necessary to provide intermodal service in the trade; (3) the first clause of Article 2 to conform to the changes made in Article 1; and (4) Article 3 to provide that the parties may join in and maintain more than one common tariff.

Dated: July 30, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary

[FR Doc.76-22640 Filed 8-3-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP75-80]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Revised Tariff Sheet

JULY 27, 1976.

Take notice that on July 16, 1976, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Substitute Sixteenth Revised Sheet No. 3-A. Alabama-Tennessee requests that this revised tariff sheet be effective for the period from May 1, 1976 through June 30, 1976.

Alabama-Tennessee states that the sole purpose of such revised tariff sheet is to adjust Alabama-Tennessee's rates to accord with the rate settlement in Docket No. RP75-80 approved by the Commission's Order of June 18, 1976.

Alabama-Tennessee states that the revised tariff sheet provides for the following rates:

Rate Schedule:	
G-1:	
Demand	$1.63
Commodity	79.83¢
SG-1:	
Commodity	91.74¢
I-1:	
Commodity	85.19¢

Alabama-Tennessee states that copies of the filings have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22501 Filed 8-3-76;8:45 am]

[Docket No. RP72-110 (PGA76-11)]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

JULY 28, 1976.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas"), on July 12, 1976, tendered for filing Nineteenth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

This tariff sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. The rate adjustment, amounting to a net decrease of $.0116 per being MMBtu in Algonquin Gas' sales rates under applicable rate schedules, is being filed to amortize the balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account.

The proposed effective date of the revised tariff sheet is September 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22503 Filed 8-3-76;8:45 am]

[Docket No. CP76-417]

CITIES SERVICE GAS CO.

Notice of Application

JULY 28, 1976.

Take notice that on June 29, 1976, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP76-417 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 certain pipeline, taps, measuring, regulating facilities and appurtenant facilites to enable Applicant to render natural gas service to The Gas Service Company (Gas Service) for resale to 31 rural domestic customers pursuant to right-of-way easements and agreements heretofore entered into between Applicant and said customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that right-of-way grantors have requested domestic rural service for which Applicant proposes to construct and operate the following facilities:

Item 1: A tap on Applicant's Falls City 8-inch transmission pipeline in Atchison County, Kansas, and measuring, regulating and appurtenant facilities at the James S. Barnett resale mainline domestic meter site.

Item 2: A tap on Applicant's Sedalia 20-inch loop transmission pipeline in Miami County, Kansas, and measuring, regulating and appurtenant facilities at the Oren Bishop resale mainline domestic meter site.

Item 3: A tap on Applicant's Carrollton 12-inch transmission pipeline in Johnson County, Missouri, and measuring, regulating and appurtenant facilities at the Richard Brant resale mainline domestic meter site.

Item 4: A tap on Applicant's Winteter 2-inch transmission pipeline in Sedgwick County, Kansas, and measuring, regulating and appurtenant facilities at the Louis C. Brown resale mainline domestic meter site.

Item 5: A tap on Applicant's Shebester 4-inch gathering pipeline in Comanche County, Oklahoma, and measuring, regulating and appurtenant facilities at the Ronnie Curry resale mainline domestic meter site.

Item 6: A tap on Applicant's Lexington 10-inch transmission pipeline in Lafayette County, Missouri, and measuring, regulating and appurtenant facilities at the Kenneth Diestelkamp resale mainline domestic meter site.

Item 7: A tap on Applicant's Topeka 20-inch pipe line in Douglas County, Kansas, and measuring, regulating and appurtenant facilities at the William Elkins resale mainline domestic meter site.

Item: A tap on Applicant's Carlyle 2-inch pipeline in Allen County, Kansas, and measuring, regulating and appurtenant facilities at the John Galemore resale mainline domestic meter site.

Item 9: A tap on Applicant's Bonner Springs 8-inch transmission pipeline in Johnson County, Kansas, and measuring, regulating and appurtenant facilities at the Edward O. Garrett resale mainline domestic meter site.

Item 10: A tap on Applicant's Welda 20-inch transmission pipeline in Franklin County, Kansas, and measuring, regulating and appurtenant facilities at the Lox E. Gislar resale mainline domestic meter site.

Item 11: A tap on Applicant's Cherryvale 6-inch transmission pipeline in Montgomery County, Kansas and measuring, regulating and appurtenant facilities at the R. E. Goodwin resale mainline domestic meter site.

Item 12: A tap on Applicant's Cambridge-Caney 12-inch transmission pipeline in Chautauqua County, Kansas, and measuring, regulating and appurtenant facilities at the Mrs. George Green resale mainline domestic meter site.

Item 13: A tap on Applicant's Barber County 8-inch gathering pipeline in Barber County, Kansas, and measuring, regulating and appurtenant facilities at the Mrs. Lee Winter Gress resale mainline domestic meter site.

Item 14: A tap on Applicant's Smith Center 6-inch transmission pipeline in Jewell County, Kansas, and measuring, regulating and appurtenant facilities at the Evan Hanson resale mainline domestic meter site.

Item 15: A tap on Applicant's Ottawa-Hund Junction 16-inch transmission pipeline in Leavenworth County, Kansas, and measuring, regulating, and appurtenant facilities at the Roland L. Hatlock resale mainline domestic meter site.

Item 16: A tap on Applicant's Canadian-Blackwell 26-inch transmission pipeline in Kay County, Oklahoma, and measuring, regulating and appurtenant facilities at the Gene Hedrick resale mainline domestic meter site.

Item 17: A tap on Applicant's Overbrook 4-inch transmission pipeline in Osage County, Kansas, and measuring, regulating and appurtenant facilities at the James R. Hesseltine resale mainline domestic meter site.

Item 18: A tap on Applicant's Luray 2-inch transmission pipeline in Lincoln County, Kansas, and measuring, regulating and appurtenant facilities at the Dennis Koster resale mainline domestic meter site.

Item 19: A tap on Applicant's Weir 4-inch transmission pipeline in Cherokee County, Kansas, and measuring, regulating and appurtenant facilities at the Monzell Larson resale mainline domestic meter site.

Item 20: A tap on Applicant's Southern-Trunk 20-inch transmission pipeline in Montgomery County, Kansas, and measuring regulating, and appurtenant facilities at the Charles M. Long resale mainline domestic meter site.

Item 21: A tap on Applicant's East Kansas City 20-inch transmission pipeline in Cass County, Missouri, and measuring, regulating and appurtenant facilities at the John W. McCush resale mainline domestic meter site.

Item 22: A tap on Applicant's Woods 12-inch transmission pipeline in Grady County, Oklahoma, and measuring, regulating and appurtenant facilities at the John M. Nelson resale mainline domestic meter site.

Item 23: A tap on Applicant's Sedalia 20-inch loop transmission pipeline in Cass County, Missouri, and measuring, regulating and appurtenant facilities at the John Pihl resale mainline domestic meter site.

Item 24: A tap on Applicant's Plattsburg 6-inch transmission pipeline in Buchanan County, Missouri, and measuring, regulating and appurtenant facilities at the Calvin Robinson, Jr., resale mainline domestic meter site.

Item 25: A tap on Applicant's Neosho's 6-inch transmission pipeline in Newton County, Missouri, and measuring, regulating and appurtenant facilities at the John Schumaker resale mainline domestic meter site.

Item 26: A tap on Applicant's Sedalia 20-inch loop transmission pipeline in Cass County, Missouri, and measuring, regulating and appurtenant facilities at the Kenneth C. Simons resale mainline domestic meter site.

Item 27: A tap on Applicant's Sedalia 20-inch loop transmission pipeline in Cass County, Missouri, and measuring, regulating and appurtenant facilities at the Harrel Speer resale mainline domestic meter site.

Item 28: A tap on Applicant's Oskaloosa 4-inch transmission pipeline in Jefferson County, Kansas, and measuring, regulating and appurtenant facilities at the James P. Turner resale mainline domestic meter site.

Item 29: A tap on Applicant's Southern Trunk 20-inch transmission pipeline in Cherokee County, Kansas, and measuring, regulating and appurtenant facilities at the Larry C. Westervelt resale mainline domestic meter site.

Item 30: A tap on Applicant's Arkla 20-inch transmission pipeline in Newton County, Missouri, and measuring, regulating and appurtenant facilities at the Donald R. Whiteman resale mainline domestic meter site.

Item 31: A tap on Applicant's Welda-Ottawa 30-inch loop transmission pipeline in Anderson County, Kansas, and measuring, regulating and appurtenant facilities at the Lloyd L. Zentner resale mainline domestic meter site.

Applicant estimates that the total cost of the facilities proposed to serve the right-of-way grantors would be approximately $14,730, which costs Applicant would finance from treasury cash. Applicant estimates that the gas required annually by each customer would be approximately 221 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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 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.76-22504 Filed 8-3-76;8:45 am]

[Docket No. CP76-421]

COLORADO INTERSTATE GAS CO.

Notice of Application

JULY 28, 1976.

Take notice that on July 1, 1976, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-421 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and exchange of natural gas with Northern Natural Gas Company, operating as Peoples Natural Gas Division (Peoples), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant and Peoples have executed an agreement dated April 20, 1976, for the purchase and exchange of natural gas under control of Peoples in the Kendall Field area of Kearny and Hamilton Counties, Kansas. It is said that the agreement of April 20, 1976, supersedes an agreement between Applicant and Peoples dated June 1, 1972, pursuant to which service is said to be authorized in Docket Nos. CP72-275 and CP72-291, and provides for increased volumes of exchange gas, additional delivery points, an extended term, and the right of Applicant to purchase gas.

Applicant states that Peoples would deliver gas to Applicant at two points of interconnection on Applicant's gathering system in Kearny County, Kansas, at aggregate delivery rates of not less than 3,000 Mcf on an average day and not more than 7,500 on any day. Applicant would have a continuing option to purchase 25 percent of the gas delivered by Peoples which might be in excess of 37,500 Mcf per month. Applicant would pay to Peoples for purchased gas the average price Peoples pays for gas it purchases in the area from wells contracted for and connected on or after January 1, 1973. Applicant would also reimburse Peoples for its gathering costs, for which the initial rate is said to be 6.32 cents per Mcf.

Applicant proposes to redeliver to Peoples, from April 1 through April 15, thermally equivalent volumes, less the volumes purchased from Peoples. For all gas deliveries by Peoples to Applicant which would be in excess of 37,500 Mcf per month and not purchased by Applicant, Peoples would pay Applicant an initial rate of 4.5 cents per Mcf for compression and transportation. The exchange account would be balanced each December 31. Applicant states that redeliveries would be made by Applicant to Peoples on a best efforts basis at a sales point in Moore County, Texas, said to be installed under authorization in Docket No. CP65-40, at a sales point in Baca County, Colorado, said to be installed under authorization in Docket No. CP67-290, and at two exchange points in Baca County, Colorado, and one exchange point in Bent County, Colorado,

said to be installed under authority in Docket Nos. CP72-275 and CP72-291.

It is stated in the application that gas would be delivered to Applicant by Peoples on a generally uniform basis throughout the year at an expected rate of approximately 3,000 Mcf per day. Applicant would redeliver gas only from April 1 through October 15. Applicant expects to purchase approximately 161,250 Mcf of gas annually.

The application states that the instant proposal would permit Peoples to make gas controlled in an area remote from its system available to its customers with only minimal facilities and cost. Further, it is stated, the gas would be used almost exclusively for agricultural irrigation purposes which usage peaks during the warmer months. Applicant states that since its peak usage occurs during the winter months because of residential and small commercial heating loads on its customers' distribution systems, the fact that Applicant would receive but not deliver gas during the colder months is a benefit to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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.76-22905 Filed 8-3-76;8:45 am]

[Docket No. CP76-177]

COLORADO INTERSTATE GAS CO.

Notice of Amendment to Application

JULY 28, 1976.

Take notice that on July 1, 1976, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-177 an amendment to its application filed in said docket for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, by which amendment Applicant requests authorization to construct and operate facilities in addition to those for which authorization was initally requested, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In its initial application Applicant requests authorization to construct and operate a 450 horsepower compressor station at the tailgate of the Spindle gasoline plant operated by Amoco Production Company in Weld County, Colorado, to maintain gas flow from the Spindle plant and other sources in the Spindle area into Applicant's Wyoming pipeline. Applicant states that it constructed the facilities pursuant to a temporary certificate.

By the instant amendment Applicant requests authorization (1) to construct and operate a 1,200 horsepower addition, consisting of two 600 horsepower units, at the Spindle compressor station to provide a total of 1,650 horsepower at the station, (2) to increase the size of the meter runs to increase the capacity of the existing Spindle purchase meter station, and (3) to install approximately 7 miles of 8-inch pipeline loop adjacent to Applicant's existing 6-inch Spindle lateral which runs from the compressor station site to Applicant's 22-inch Wyoming mainline. The estimated cost of the additional facilities for which authorization is sought in the instant amendment is $948,654.

Applicant states that the volumes of gas to be available to Applicant in the immediate future from the Spindle area have increased from the original estimate of 18,200 Mcf per day to an anticipated 53,150 Mcf per day by the end of 1976. Further, Applicant states, the facilities proposed in the instant amendment would provide a design capacity of 52,589 Mcf of gas per day and a maximum capacity of 65,250 Mcf of gas per day.

It is stated that most of the gas is casinghead production or gas produced in association with oil and that new oil wells are being continuously added. The gas volume increase is said to be attributable to the size of the production area which has proven to be larger than anticipated, to the execution of gas purchase contracts covering wells that were uncommitted when the initial application was prepared, and to a decrease by the Colorado Oil and Gas Conservation Commission of allowable well spacing from 80 acres to 40 acres.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 20, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22506 Filed 8-3-76;8:45 am]

[Docket No. CP73-237]

COLORADO INTERSTATE GAS CO.

Notice of Petition To Amend

JULY 28, 1976.

Take notice that on July 1, 1976, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP-73-237 a petition to amend the Commission's order, issued August 29, 1973, in said docket (50 FPC 588) pursuant to Section 7(c) of the Natural Gas Act by authorizing an increase in the maximum reservoir stabilized shut-in pressure of the Boehm Field from 1,441 psia to 1,730 psia, all as more fully set forth in the subject petition which is on file with the Commission and open to public inspection.

Applicant states that the order of August 29, 1973, authorized it to acquire, construct, and operate certain facilities necessary to develop, maintain, and operate the Boehm Field in Morton County, Kansas, as an underground gas storage reservoir. Said order limited the reservoir stabilized shut-in pressure to 1,441 psia and the maximum reservoir volume to 29,500,000 Mcf, it is stated. Petitioner has determined that the maximum capacity of the reservoir is less than originally anticipated and that at a pressure of 1,441 psia, the reservoir has a capacity of only 20,750,000 Mcf which substantially reduces the withdrawal capability.

Petitioner asserts that in order to realize the much needed winter season withdrawal volumes projected to be available during the 1976-77 heating season, it would be necessary to increase the maximum storage inventory by increasing the maximum reservoir shut-in pressure. It

is said that the proposed increase in pressure would result in approximately 4,150,000 Mcf more storage gas inventory to be withdrawn during the heating season than could be obtained at the currently authorized reservoir pressure and that without this requested increase in pressure, Petitioner would fall far short of meeting its 1976-77 designed heating season withdrawal amounts. Applicant states that no facilities, other than those currently certificated, would be required to reach the pressure proposed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 19, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22507 Filed 8-3-76;8:45 am]

[Docket No. ER76-784]

CONSUMERS POWER CO.

Notice of Termination

JULY 28, 1976.

Take notice that on July 14, 1976, Consumers Power Company (Company) tendered for filing copies of its notice of intent to terminate its existing contract for electric service with:

City of Coldwater, Michigan, contract dated February 14, 1972, rate schedule FPC No. 29, proposed termination date: July 10, 1978.

The Company states that this termination notice was sent in accordance with contract provisions, the commitment of the Company to place its wholesale for resale customers on the Schedule of Rates Governing Wholesale for Resale Electric Service, and consistent with the order of the Federal Power Commission in Docket No. ER76-45 dated August 29, 1975. The Company states that it intends to submit the Standard Service Agreement for the supply of wholesale energy to the City of Coldwater at an early date for consideration.

The Company states that the contract termination is caused only by the Company's desire to have one standard Rate Schedule for wholesale service.

The company states that copies of the filing were served on the City of Coldwater, its counsel and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before August 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22508 Filed 8-3-76;8:45 am]

[Docket No. CP76-425]

EL PASO NATURAL GAS CO.

Notice of Application

JULY 28, 1976.

Take notice that on July 6, 1976, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP76-425 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the exchange of natural gas with Northern Natural Gas Company (Northern) and facilities used therefor, all as more fully set forth in the application on file with the Commission and open ot public inspection.

Applicant proposes to abandon its Gomez exchange tap on its 16-inch Gomez-Waha pipeline in Pecos County, Texas, used to receive natural gas from Northern for treatment by Applicant at its Waha treating plant in Reeves County, Texas. The quantities of gas delivered by Northern at said tap are said to have been in excess of the capacity of Northern's Gomez treating plant. In exchange, Applicant states, it caused the delivery of natural gas by Mobil Oil Corporation (Mobil) to Northern for the account of Applicant at Mobil's Coyanosa plant in Pecos County, Texas. The application states that Northern has advised Applicant that sufficient treating capacity now exists at Northern's Gomez plant to handle Northern's Gomez supply. Accordingly, Applicant proposes to abandon the exchange of gas and to abandon in place the Gomez exchange tap used therefor.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 permission and approval for the proposed abandonment are 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.76-22509 Filed 8-3-76;8:45 am]

[Docket No. ER76-733]

GULF POWER CO.

Notice of Tariff Filing

JULY 28, 1976.

Take notice that on June 4, 1976, Gulf Power Company (Gulf) filed herein a supplement to its FPC Electric Tariff providing for a new delivery point for service by Gulf to Gulf Coast Electric Cooperative, Inc., at Gaskin in Bay County Florida. The tariff supplement is proposed to be effective for service commencing on June 1, 1976.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Gulf's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22510 Filed 8-3-76;8:45 am]

[Docket Nos. ER76-469 and ER76-508]

IDAHO POWER CO.

Notice of Settlement Conference

JULY 28, 1976.

Take notice that on August 6, 1976, a conference of all parties to intervene in these proceedings, Idaho Power Company, and the Commission Staff will be held in a Commission Hearing Room at 825 North Capitol Street, NE., Washington, D.C., at 10:00 a.m.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22511 Filed 8-3-76;8:45 am]

[Docket No. CP76-426]

KENTUCKY WEST VIRGINIA GAS CO.

Notice of Application

JULY 28, 1976.

Take notice that on July 6, 1976, Kentucky West Virginia Gas Company (Applicant), Second National Bank Building, Ashland, Kentucky 41101, filed in Docket No. CP76-426 an application pursuant to Section 7(c) of the Natural Gas Act, and in compliance with the Commission's order issued May 28, 1976, in Docket No. RP76-93, for a certificate of public convenience and necessity authorizing the continued sale of natural gas and identical service to distribution systems (collectively referred to as Distribution Systems) owned by (1) Ohio-Kentucky Utilities, Incorporated (Ohio-Kentucky), serving the towns of Allen and Dwale and vicinities in Floyd County, Kentucky; (2) Ohio-Kentucky, serving the gas system operated by the purchaser on the Right Fork of Middle Creek in Floyd County; (3) Mountain Utilities, Incorporated (Mountain Utilities), serving the town of Staffordsville and vicinity in Johnson County, Kentucky; and (4) Equitable Gas Company (Equitable), successor to Kentucky West Virginia Gas Company in Docket No. G-272, serving gas at retail to scattered customers along Applicant's pipeline right of way in eastern Kentucky, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that by order issued May 28, 1976, in Docket No. RP76-93, the Commission exerted jurisdiction over Applicant's city gate service to various distribution customers located in Kentucky including the Distribution Systems which are the subject of the instant application.

Applicant submits that in Docket No. RP76-93, it described the services covered by its "Grandfather certificate" issued in Docket No. G-272, but that three city gate customers for whom service agreements were filed in Docket No. RP76-93 cannot be specifically identified in Docket No. G-272 or any other docket. Applicant states that these customers are: (1) Ohio-Kentucky service for Allen, Kentucky; (2) Ohio-Kentucky service for Right Fork of Middle Creek, Floyd County, Kentucky; and (3) Mountain Utilities service for Staffordsville, Kentucky. It is indicated that these are small systems whose ownership has changed often over the years and that some or all of these systems may be or have been covered under the certificate issued in Docket No. G-272.

Applicant states that the order of May 28, 1976, in Docket No. RP76-93 provided, as to city gate sales not specifically covered by existing certificates, that Applicant file within 90 days of the date of said order applications for certificate authority to continue such sales. Applicant asserts that the subject application constitutes its compliance with the order of May 28, 1976.

It is asserted that all of the gas sold by Applicant from its integrated system to its Kentucky resale customers is and has been commingled with gas moving out of Kentucky for resale and supplemented by a substantial volume of gas from outside of Kentucky.

Applicant notes that its application in Docket No. G-272 states that gas was sold at wholesale to Langley Supply Company, Inland Steel Company, the City of Paintsville, and Prestonsburg Gas Company for resale to the public within the Cities of Maytown, Wheelwright, Paintsville, and Prestonsburg, Kentucky. Taking the purchasers in order, Applicant indicates that the service to Langley Supply Company for Maytown, Kentucky, is now operated by the Mike Little Gas Company, Incorporated; the service to Inland Steel Company for Wheelwright, Kentucky, is now operated by Mountain Investment, Inc.; the service to the City of Paintsville has remained the same; and the service to the Prestonsburg Gas Company for Prestonsburg is now operated by the City of Prestonsburg. It is indicated that while not mentioned in the narrative of the application in Docket No. G-272, Exhibit B to that application indicates service to Prestonsburg Gas Company at Middle Creek; however, Applicant states that whether this is the Right Fork of Middle Creek now operated by Ohio-Kentucky, it has no way of knowing.

Finally, Applicant asserts that the application in Docket No. G-272 stated that Applicant has also sold gas at retail to scattered customers along its pipeline right of way in eastern Kentucky. Applicant states that this is the domestic retail service now rendered by Equitable in Kentucky under the service agreement, dated August 15, 1958, and that this service was transferred to Equitable and that Applicant has supplied Equitable with all of its requirements for resale since that date.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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.76-22512 Filed 8-3-76;8:45 am]

[Docket No. ER76-786]

MINNESOTA POWER & LIGHT CO.

Notice of Filing of Agreement

JULY 28, 1976.

Take notice that on July 15, 1976, Minnesota Power & Light Company (Minnesota) tendered for filing a Sectionalizing Switch Agreement between it and United Power Association. Minnesota states that the agreement provides for installation, operation and maintenance of certain sectionalizing switches and related equipment as part of a transmission service agreement between it and United Power Association.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and

Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22513 Filed 8-3-76;8:45 am]

[Docket No ER76-400]

MONONGAHELA POWER CO.

Order Granting Intervention and Granting Petition To Reject

JULY 28, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On December 29, 1975, Allegheny Power Service Corporation filed on behalf of Monongahela Power Company (Monongahela) a petition for waiver of the Section 35.14 requirement of the Commission's Regulations under the Federal Power Act to file a conformed fuel adjustment provision as part of the rates for service to Preston County Coke Company (now Preston Electric Company), stating that its contract is a fixed rate contract. Preston Electric Company (Preston) filed petitions to intervene and to reject Monongahela's petition for waiver. For the reasons hereinafter discussed, we shall grant Preston's petitions.

Public notice of Monongahela's filing was issued January 13, 1976, with protests or petitions to intervene due on or before January 23, 1976. On January 16, 1976 Preston filed a timely petition to intervene and a petition to reject Monongahela's petition for waiver. As grounds for rejection, Preston argues that Section 35.14(8) of the Commission's Regulations promulgated by Order No. 517 does not apply to the subject Monongahela Rate Schedule No. 30 since it is a fixed rate contract between Preston and Monongahela and waiver is neither necessary nor appropriate for the continuing effectiveness of the fuel adjustment clause as presently on file with the Commission.

In Opinion No. 760 issued on April 29, 1976, the Commission found that the fuel adjustment formula in the "fixed rate" contracts between Kentucky Utilities and the subject Cities was

"entitled to the protection of the Mobile-Sierra rule and may not be changed by a unilateral filing by either party to the contract except upon a show(ing) that the total rate under the contract 'is so low as to adversely affect the public interest' or so high as to exceed a just and reasonable rate." (citations omitted)

We therefore find that because, as both parties agree, the service contract between Monongahela and Preston is a fixed rate contract, the fuel clause contained therein is subject to the protection of Mobile-Sierra and Monongahela need not file a fuel adjustment clause to conform to Section 35.14. Because conformance is not required, a waiver of conformance is unnecessary, and Preston's petition to reject Monongahela's request for waiver shall be granted.

The Commission finds:

(1) Good cause exists to grant Preston's petition to reject Monongahela's request for waiver of Section 35.14 of the Regulations under the Federal Power Act.

(2) Preston Electric Company should be permitted to intervene.

The Commission orders:

(A) Preston's petition to reject Monongahela's request for waiver of Section 35.14 of the Regulations under the Federal Power Act is hereby granted and Docket No. ER76-400 is hereby terminated.

(B) Preston Electric Company is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The Secretary shall cause prompt publication to this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22514 Filed 8-3-76;8:45 am]

[Docket No. ER76-769]

MONONGAHELA POWER CO. ET AL.

Notice of Changes in Rates and Charges

JULY 28, 1976.

Take notice that Allegheny Power Service Corporation (APSC) on July 13, 1976 tendered for filing on behalf of Monongahela Power Company (Monongahela), The Potomac Edison Company (PE), and West Penn Power Company (West Penn), the electric utilities which make up the integrated Allegheny Power System, Amendment No. 5 dated June 28, 1976 to the Interconnection Operating Agreement dated February 1, 1973 between Monongahela, PE, and West Penn and Virginia Electric Power Company (Vepco) designated Monongahela Rate Schedule FPC No. 32, PE Rate Schedule FPC No. 33 and West Penn Rate Schedule FPC No. 31.

Amendment No. 5 provides for an increase in the demand charge for short-term power and energy from $0.45 to $0.50 per kilowatt week and an increase in demand charge for limited-term power and energy from $2.50 to $2.75 per kilowatt month to become effective September 1, 1976. Applicants state that since short-term power and energy transactions and limited-term power and energy transactions are scheduled from time to time as load capacity conditions on the systems of the parties dictate it is impossible to estimate the increase in revenues which would result from Amendment No. 5.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426 in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protest should be filed on or before August 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22515 Filed 8-3-76;8:45 am]

[Docket No. ER76-785]

MONONGAHELA POWER CO.

Notice of Tariff Change

JULY 28, 1976.

Take notice that Monongahela Power Company, on July 15, 1976 tendered for filing Second Revision Sheet Nos. 11, 14 and 15 to FPC Electric Tariff Original Volume No. 1. The changes proposed would produce an estimated overall increase in revenues from jurisdictional sales and service of approximately $258,307, based on the twelve-month period ending December 31, 1975. The proposed effective date for the increased rates is August 14, 1976.

The changes proposed are for the purpose of recovering increased costs incurred by the Company.

Copies of the filing were served upon the jurisdictional customers and the West Virginia Public Service Commission and the Virginia State Corporation Commission.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be-

come a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22516 Filed 8-3-76;8:45 am]

[Docket No. ER76-739]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Notice of Termination of Kentucky-Indiana Pool Planning and Operating Agreement

JULY 28, 1976.

Take notice that on June 7, 1976, Public Service Company of Indiana, Inc. (PSCI) filed a notice terminating the Kentucky-Indiana Pool Planning and Operating Agreement (KIP) and all amendments and supplements thereto as of July 1, 1976. The KIP Agreement is presently on file as PSCI Rate Schedule FPC No. 225. The notice of termination terminates only the contractual planning functions of the Agreement. PSCI plans to submit notices of termination of rate schedules attached to the Agreement at appropriate times in accordance with Commission Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22516 Filed 8-3-76;8:45 am]

[Docket Nos. RP76-53 and RP76-60]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Filing of Settlement Agreement

JULY 27, 1976.

Take notice that on July 16, 1976, South Texas Natural Gas Gathering Company (South Texas) filed a "Stipulation and Agreement in Settlement of Rate Proceedings" in this docket.

South Texas states that the proposed settlement agreement has been agreed to by all parties to the proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 9, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22502 Filed 8-3-76;8:45 am]

[Docket No. RP72-121; PGA 76-5]

SOUTHWEST GAS CORP.

Notice of Filing of Tariff Sheet

JULY 28, 1976.

Take notice that on July 19, 1976, Southwest Gas Corporation (Southwest) tendered for filing Sixteenth Revised Sheet No. 3A, constituting Original PGA-1 in its FPC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to increase the rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest states the instant notice of change in rates is occasioned solely by an increase in the cost of purchased gas which will become effective on September 10, 1976, applied to the volumes purchased for the twelve-month period ended May 31, 1976.

Southwest further states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and the California-Pacific Utilities 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22518 Filed 8-3-76;8:45 am]

[Docket No. CP75-295]

TEXAS GAS TRANSMISSION CORP.

Order Setting Matter for Hearing, Establishing Procedures and Granting Intervention

JULY 28, 1975.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On March 21, 1975, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP75-295 a petition for a declaratory order asserting that at all times during the period from August 30, 1968, to March 5, 1975, all of the gas produced from acreage in the "C" Sand Unit A of the Edwin L. Cox No. 1 Intercoastal Shipyard Well in the Ramos Field, St. Mary Parish, Louisiana, was delivered and sold for resale in interstate commerce to Texas Gas pursuant to Edwin L. Cox, et al. (Cox, et al.) FPC Gas Rate Schedule Nos. 77, 78, and 79, and, accordingly, that subsequent diversion of any portion of such gas for sale in interstate commerce commencing on or about March 5, 1975, under contract with Louisiana Intrastate Gas Corporation was tantamount to an abandonment, permission for which is first required to be obtained, after due hearing, under Section 7(b) of the Natural Gas Act. Texas Gas seeks relief in the form of a cease and desist order issued by the Commission prior to issuance of a final order and that Cox, et al. be further ordered to make redelivery of equivalent volumes of gas to Texas Gas previously delivered to an intrastate purchaser, Louisiana Intrastate.

On April 21, 1975, Edwin L. Cox et al. filed concurrently a petition for leave to intervene and an answer in response to Texas Gas' petition filed March 21, 1975. By answer Cox et al. assert that following creation of the unitized "C" Sand Unit of August 6, 1968, by the Louisiana Department of Conservation, deliveries of gas production from the committed or dedicated portion of the unitized Unit (approximately 80% of the properties) commenced on or about August 30, 1968, to Texas Gas under certificated authority in Docket No. CI69-630. No deliveries were made, according to Cox et al., from the uncommitted portion of such Unit (approximately 20% of the properties) and the unit was therefore produced out of balance. Subsequently a temporary certificate was issued by the Commission authorizing sale and delivery of gas production to Texas Gas from uncommitted acreage contained in said Unit under contract dated February 13, 1970; however, by letter order dated July 28, 1971, Cox et al. were permitted to withdraw the application due to their cancellation of the contract. On March 5, 1975, Cox et al. by contract dated October 9, 1974, commenced intrastate deliveries of gas production from the uncommitted portion of the Unit to Louisiana Intrastate Gas Corporation. Accordingly, Cox et al. assert that from August 30, 1968, or the commencement of gas production deliveries to Texas Gas, to March 5, 1975, or the commencement of gas production deliveries to Louisiana Intrastate, the said Unit was produced out of balance insofar as Texas Gas received all gas production from such Unit while holding contract or certificated authority covering only a portion of such acreage. In support of their position Cox et al. contend that prior delivery of the full wellstream to Texas Gas would not include uncommitted gas since no authority

existed to deliver such gas. Respondent Cox et al. therefore request that the petition be dismissed for failure to state a claim for which relief may be granted, or alternatively, that such petition be denied.

Notice of Texas Gas' petition was issued April 15, 1975, and appeared in the FEDERAL REGISTER on April 21, 1975, at 40 FR 17643. Michigan Wisconsin Pipe Line Company filed a petition to intervene one day beyond the filing deadline and requested it be allowed to participate in any hearing which may be convened. Gulf Oil Corporation filed a timely petition to intervene and requests it be made a party to this proceeding including but not limited to right to notice of and appearance at all hearings. The State of Louisiana, by its Commissioner of Conservation, filed a timely notice of intervention.

In the light of the factual and legal issues raised by Texas Gas' petition, this proceeding should be set for hearing in order to provide Texas Gas and other interested parties an opportunity to present evidence on the issues raised and on any other matters considered to be relevant to the proceeding.

The Commission finds: (1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) Good cause exists to grant the petitions to intervene of Edwin L. Cox et al., Michigan Wisconsin Pipe Line Company, and Gulf Oil Corporation.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter 1), a public hearing shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to resolve the issues raised by Texas Gas' petition.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR § 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(C) Texas Gas and Edwin L. Cox, et al. shall file their direct testimony and evidence on or before August 18, 1976 including but not limited to copies of all division orders executed by Edwin L. Cox, et al. in connection with the sale of gas production from the unitized "C" San Unit A of the Edwin L. Cox No. 1 Intercoastal Shipyard Well together with such other documentation as is determinative of Edwin L. Cox et al. 20 percent uncommitted interest in the said unitized Unit to be submitted by Edwin L. Cox, et al.

(D) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on September 2, 1976, at 9:30 a.m., in hearing room at the address noted in Ordering Paragraph (A).

(E) Edwin L. Cox et al., Michigan Wisconsin Pipe Line and Gulf Oil Corporation are permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That their participation shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of Edwin L. Cox et al., Michigan Wisconsin Pipe Line and Gulf Oil Corporation in the manner provided shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders entered in this proceeding, and that they agree to accept the record as it now stands.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22519 Filed 8-3-76;8:45 am]

[Docket No. RP75-96]

MICHIGAN-WISCONSIN PIPE LINE CO.

Extension of Time

JULY 27, 1976.

On July 15, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 19, 1975, as most recently modified by notice issued June 7, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Hearing, September 7, 1976, (10:00 a.m., e.d.t.).

By direction of the Commission.

LOIS D. CASHELL,
Assistant Secretary.

[FR Doc.76-22614 Filed 8-3-76;8:45 am]

NATIONAL GAS SURVEY

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Gas Survey Curtailment Strategies Technical Advisory Committee of August 17, 1976, which was published in the FEDERAL REGISTER June 16, 1976, 41 FR 24425.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22608 Filed 7-30-76;3:13 pm]

NATIONAL GAS SURVEY

Cancellation of Meeting

Notice is hereby given of the cancellation of the Drafting Committee meeting of the National Gas Survey's Supply-Technical Advisory Task Force-Regulatory Aspects of Substitute Gas of August 13, 1976, which was published in the FEDERAL REGISTER July 23, 1976, 41 FR 30401.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-22609 Filed 7-30-76;3:13 pm]

NATIONAL GAS SURVEY

Curtailment Strategies-Technical Advisory Committee-Editorial Group[1]

Conference Room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, September 9, 1976, 9 a.m.

Presiding: Mr. Franklin W. Lipshultz, FPC Coordinating Representative and Secretary, Bureau of Natural Gas.

1. Call to order—Mr. Lipshultz.
2. Discussion of reports received—Mr. John F. O'Leary, TAC chairman.
3. Preparation of draft report—Mr. John F. O'Leary.
4. Selection of next meeting date.
5. Other business.
6. Adjournment—Mr. Lipshultz.

KENNETH F. PLUMB,
Secretary.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, of if oral, at the time and in the manner permitted by the committee.

[FR Doc.76-22610 Filed 7-30-76;3:13 pm]

NATIONAL GAS SURVEY

Supply-Technical Advisory Task Force-Regulatory Aspects of Substitute Gas (Drafting Committee)[1]

Conference Room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, August 23, 1976, 9:30 a.m.

Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, National Gas Survey.

1. Call to order—Mr. William J. McCabe.
2. Introductory remarks—Mr. Earl V. Fisher, Texas Eastern Transmission Corporation, Houston, Texas.
3. Review of report to task force—Mr. Earl V. Fisher.
4. Other business.
5. Adjournment—Mr. William J. McCabe.

KENNETH F. PLUMB,
Secretary.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the

[1] Only members of the Editorial Group are expected to attend this meeting.

[1] The announced August 13, 1976 meeting of the Drafting Committee was cancelled.

meeting, or if oral, at the time and in the manner permitted by the committee.

[FR Doc.76-22611 Filed 7-30-76;3:13 pm]

NATIONAL GAS SURVEY

Supply-Technical Advisory Task Force-Regulatory Aspects of Substitute Gas

Conference Room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, August 24, 1976, 9 a.m.

Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, National Gas Survey.

1. Call to order—Mr. William J. McCabe.
2. Review of task force work completed. Mr. Frank F. Jestrab, Bjella & Jestrab, Williston, North Dakota, TF Chairman; and Mr. Martin N. Erck, Senior Counsel, Exxon Company, U.S.A., Houston, Texas, TF Vice Chairman.
3. Discussion of draft TF report—Mr. Frank F. Jestrab and Mr. Earl V. Fisher.
4. Comments of task force members on TF draft report.
5. Assignment of additional work to task force members—Mr. Frank F. Jestrab.
6. Assignment of additional instructions to the drafting committee—Mr. Frank F. Jestrab.
7. Selection of next meeting date.
8. Discussion of other matters.
9. Adjournment—Mr. William J. McCabe.

KENNETH F. PLUMB,
Secretary.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

[FR Doc.76-22612 Filed 7-30-76;3:13 am]

FEDERAL RESERVE SYSTEM

CITICORP

Proposed De Novo Expansion of Gateway Life Insurance Company

Citicorp, New York City, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand de novo the activity of Gateway Life Insurance Company ("Gateway"), Phoenix, Arizona. Notice of the application was published on July 19, 1976 in The Arizona Republic, a newspaper circulated in Phoenix, Arizona; and on July 20, 1976 in The New York Times, a newpaper circulated in New York City, New York.

Gateway is a subsidiary of Citicorp's consumer finance subsidiary, Nationwide Financial Services Corporation ("Nationwide"), and presently engages in the underwriting in a reinsurance capacity of credit life and credit accident and health insurance sold in connection with extensions of credit by Nationwide in 13 states, as approved by the Board in its Order of September 11, 1973. Applicant proposes that Gateway be permitted to expand the underwriting of credit life and credit accident and health insurance to those additional states which were not included in the Board's Order of 1973, but in which Nationwide now operates through subsidiaries, or where entry is anticipated in the coming year. Applicant states that Gateway will initially act as a reinsurer in each proposed state. Gateway will act as a direct underwriter in states previously approved and, subsequent to operational preparation and satisfaction of state regulatory provisions, will so act in certain proposed states.

Gateway would underwrite credit related life insurance purchased by customers of Citicorp's New York banking subsidiaries in New York State and credit life and accident and health coverage of customers of other Citicorp subsidiaries engaged in making consumer credit directly available (or the equivalent thereof) to the consumer sector in selected states. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 26, 1976.

Board of Governors of the Federal Reserve System, July 28, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-22598 Filed 8-3-76;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas 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 100 percent (less director's qualifying shares) of the voting shares of First City Bank-Northeast, N.A., Houston, Texas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 26, 1976.

Board of Governors of the Federal Reserve System, July 28, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-22599 Filed 8-3-76;8:45 am]

FIRST WEWOKA BANCORPORATION, INC.

Formation of Bank Holding Company; Correction

In FR Doc. 76-20310 appearing at page 29039 of the issue for Wednesday, July 14, 1976, the location of the bank to be acquired is Wewoka, Oklahoma.

Board of Governors of the Federal Reserve System, July 27, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-22600 Filed 8-3-76;8:45 am]

HORIZON BANCORP

Proposed Acquisition of Mortgage Investment Securities, Inc. and M.I.S.I., Inc.; Correction

In FR Doc. 76-21348 appearing at page 30401 of the issue for Friday, July 23, 1976, the location of M.I.S.I. should read Clearwater, Florida.

Board of Governors of the Federal Reserve System, July 27, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-22601 Filed 8-3-76;8:45 am]

INDIAN HEAD BANKS INC.

Order Approving Acquisition of Shares of Bank

Indian Head Banks Inc., Nashua, New Hampshire, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 67 per cent or more of the voting shares of Community National Bank of Rochester, Rochester, New Hampshire.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Strafford National Bank,

Dover, New Hampshire ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in New Hampshire, controls 8 banks with aggregate deposits of approximately $255 million, representing 15.4 per cent of total deposits in commercial banks in New Hampshire.[1] Acquisition of Bank (deposits of approximately $7 million) would increase Applicant's share of Statewide deposits by .4 of one per cent. Consummation of the proposed transaction would not result in a significant increase in the concentration of banking resources in New Hampshire.

Bank is the 6th largest of 10 commercial banking organizations in the Dover-Rochester banking market (the relevant banking market for purposes of this proposal)[2] and controls 9.4 percent of deposits in commercial banks in the market. A subsidiary of Applicant, Indian Head National Bank of Exeter ("Exeter Bank"), Exeter, New Hampshire, operates a branch in Newmarket, New Hampshire, located in the relevant banking market. That branch holds deposits of approximately $6.3 million[3] representing 8.4 percent of total deposits in commercial banks in the market, and thus Applicant is the eighth largest banking organization in the relevant banking market. As a result of consummation of the proposed transaction, Applicant would become the largest banking organization in the relevant market with 17.8 percent of deposits in commercial banks. Thus the proposed transaction would have the effect of increasing somewhat the concentration of banking resources in the relevant market. However, even after consummation of the proposed transaction, the market would not be highly concentrated as the four largest banking organizations would control 60.7 percent of deposits in the market. The effect of the proposal on concentration in the relevant market is mitigated by the facts that Bank and Exeter Bank are among the smaller organizations in the market and that, because Bank is in less than satisfactory condition, it is not currently a meaningful competitor in the market. Indeed, affiliation with Applicant should enable Bank to become a competitive factor in the market. Accordingly, it is the Board's judgment that the proposal would be consistent with the public interest despite its effects on concentration in the market.

To the extent that Bank and Exeter Bank's Newmarket branch operate in the Dover-Rochester banking market, some amount of existing competition would be eliminated as a result of consummation of this proposal. However, on the basis of the facts of record, including the facts that Bank and Exeter Bank's Newmarket branch are 18 miles apart and that a number of banks compete in the market, it does not appear that any meaningful competition between Bank and Exeter Bank would be eliminated as a result of the proposal, particularly in view of the current financial condition of Bank. Applicant's other subsidiaries also have five banking offices located outside the relevant market that derive some deposits from Bank's service area. The amount of such deposits, however, is not significant nor does Bank derive a significant amount of deposits from the service areas of these subsidiaries of Applicant. After consummation of the proposal, several independent banks would remain available for acquisition by holding companies not represented in the market. Accordingly, the Board concludes that consummation of the proposal would not eliminate any significant existing competition or foreclose the development of potential competition.

The financial condition and managerial resources of Applicant and its subsidiaries are considered satisfactory and their future prospects appear favorable. Bank's financial condition, managerial resources and future prospects, absent consummation of the instant proposals, are less than satisfactory. However, Applicant has agreed to inject needed capital of approximately $200,000 into Bank and intends to revamp the management of Bank. Thus, banking factors lend some weight toward approval of the application. Affiliation with Applicant should enable Bank to provide more effectively services it has been forced by its weakened financial condition to reduce. In addition, as a result of the proposal, Bank will offer accounts subject to negotiable orders of withdrawal (so-called "NOW accounts") paying interest on balances in excess of $500, free checking accounts for individuals over 62 years of age, expanded savings and retirement account services, dealer floor planning services and accounts receivable financing. Therefore, considerations relating to convenience and needs of the community to be served lend weight toward approval of the application and, in the Board's view, outweigh any slight adverse competitive effects that might result from consummation of the proposal.

In its consideration of the subject application, the Board has considered the comments submitted by Protestant. Protestant has asserted that consummation of the proposal would result in adverse competitive effects that are not outweighed in the public interest by the effects the proposal would have on the convenience and needs of the community. Specifically, Protestant contends, first, that Applicant should have chosen to establish a de novo office rather than to acquire an existing institution and, second, that there exist less anticompetitive alternatives for the affiliation of Bank with another viable banking organization. With regard to possible de novo entry by Applicant, Protestant disregards the fact that Applicant's subsidiaries are precluded by New Hampshire law from opening branches in the town of Rochester.[4] Furthermore, the ratio of deposits per banking office in the relevant market is already considerably below the Statewide average. Introduction of an additional banking office would further reduce that average. With regard to the possible affiliation of Bank with an organization, the effects of which affiliation would be less anticompetitive, it is noted that State law requires that the principal offices of merging banks be within 30 miles of each other.[5] Thus, the merger of Bank with any other institution would likely have at least some adverse effect on competition.[6] Besides Applicant, there are only three other bank holding companies in New Hampshire. Two do not appear to possess sufficient resources to acquire the shares of Bank sought by Applicant, and any such acquisition by the third would present essentially the same competitive consequences as the instant proposal. The Board is of the view that the mere existence of other institutions with which Bank could conceivably become affiliated, does not warrant denial of the subject application.

In the course of its consideration of the subject application, the Board has also noted the existence of a bank management consulting agreement between a subsidiary of Applicant, Indian Head Bank Services Corporation ("IHBS"),[7] and Bank. According to that agreement, IHBS provides Bank with a full-time on-site consultant who is authorized to initiate new loans of less than $5,000, "to do all things appropriate to the collection of loans charged off or past due" and "to do all things necessary to administer the day-to-day operation of (Bank) but not including the execution of contracts on behalf of (Bank) or the hiring or removal of personnel." It appears that IHBS may be providing Bank with services on a daily or continuing basis contrary to the proscription contained in Footnote 9 to § 225.4(a)(12) of Regulation Y which provides in pertinent part:

[1] Unless otherwise indicated, banking data are as of December 31, 1975.

[2] The Dover-Rochester banking market is approximated by all of Strafford County, New Hampshire, the towns of Nottingham and Newmarket in Rockingham County, New Hampshire, the towns of Brookfield and Wakefield in Carroll County, New Hampshire, and the towns of Lebanon, Berwick and South Berwick in York County, Maine.

[3] As of June 30, 1974.

[4] See New Hampshire RSA, 384-B:2(I).

[5] See New Hampshire RSA, 384-B:2(II).

[6] Protestant, currently the largest banking organization in the market, previously entered into merger negotiations with Bank, and secured regulatory approval to merge with Bank. That merger, which was never consummated, would have produced a banking organization holding 26.6 per cent of the market's deposits.

[7] On October 25, 1974, the Board approved Applicant's application to acquire IHBS (39 FR 39107), a company which engages in the permissible nonbanking activity of providing management consulting advice to nonaffiliated banks (§ 225.4(a)(12) of Regulation Y, 12 CFR 225.4(a)(12)).

"In performing this activity (bank management consulting) bank holding companies are not authorized to perform tasks or operations or provide services to client banks *either on a daily or continuing basis*, except as shall be necessary to instruct the client bank on how to perform such services for itself" (emphasis added). The Board has scrutinized the circumstances of Applicant's involvement with Bank including the financial and managerial resources of Bank, the fact that the Federal Reserve Bank of Boston was consulted by Applicant prior to its entering into the agreement with Bank and the fact that Applicant entered into the agreement at the insistence of Bank, and has concluded that the facts surrounding Applicant's involvement with Bank do not warrant denial of the subject application. Accordingly, the Board has proceeded to consider the subject application on its merits and, on that basis, concludes that approval of the proposal would be consistent with the public interest.

The Board, nevertheless, believes it appropriate to set forth for the record its view that transactions of the type described above may justify a finding that a company has violated the Bank Holding Company Act. Bank holding companies engaging directly or indirectly in the activity of providing management consulting advice to nonaffiliated banks, should avoid entering into relationships with client banks that exceed the scope of § 225.4(a)(12), even when such bank may be experiencing financial or managerial difficulties. Particular caution should be exercised where a bank holding company contemplates the subsequent acquisition of the client bank.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[1] effective July 28, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR. Doc.76-22602 Filed 8-3-76;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee, and Lilly. Absent and not voting: Governors Coldwell and Jackson.

INTERNATIONAL TRADE COMMISSION

[TA-201-15]

PLANT HANGERS

Time and Place of Los Angeles Hearing

Notice is hereby given that the public hearing scheduled for August 24, 1976, in Los Angeles, California, in connection with investigation No. TA-201-15, Plant Hangers, will be held at 10 a.m., p.d.t., on the above date in the Los Angeles County Employee Relations Hearing Room, Hall of Administration, 500 West Temple Street, Los Angeles, California 90012.

Requests for appearances at the Los Angeles hearing or at the previously scheduled August 31, 1976, Washington, D.C., hearing should be filed, in writing with the Secretary of the Commission at his office in Washington, D.C., by no later than noon of the fifth calendar day preceding the hearing.

The notice of the institution of this investigation and of the scheduling of hearings was published in the FEDERAL REGISTER of July 2, 1976 (41 F.R. 27449).

By order of the Commission.

Issued: July 30, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-22594 Filed 8-3-76;8:45 am]

[Investigation No. 337-TA-19]

AMERICAN CYSTOSCOPE MAKERS, INC.

Memorandum and Order Terminating Investigation

In the Matter of: Glass Fiber Optic Devices and Instruments Equipped with Glass Fiber Optic Devices.

On March 8, 1976, the presiding officer in this matter, Administrative Law Judge Myron R. Renick, certified to the Commission the joint motion of complainant American Cystoscope Makers, Inc. (ACMI), and respondents Olympus Optical Co., Ltd., and Olympus Corp. of America (which respondents are together hereafter referred to as Olympus) to terminate this investigation, together with a recommended order granting the motion.[1] The basis for the motion was a "license agreement" between ACMI, which allegedly manufactures and sells in the United States certain articles made in accordance with the claims of, and under license from, the owners of U.S. patent No. 3,589,793 (the '793 patent), and Olympus Corp. of America, which had allegedly been importing such articles without ACMI's license.[2] The basis of ACMI's complaint to the Commission in this matter was Olympus' allegedly infringing importation of articles made under the '793 patent. Although ACMI and Olympus have filed copies of their license agreement, they have failed to provide the Commission with all the terms of the license agreement, and have supplied certain terms on the condition that they be accorded confidential treatment.[3]

The license agreement dispenses with the investigation instituted as No. 337-TA-19. That investigation was essentially directed to patent infringement. Given the existence of the license agreement, which covers all respondents, we find that at this time there is no patent infringement and, therefore, determine that there is no violation of section 337 in the terms alleged by complainant. The elimination of the alleged patent infringement by the license agreement does not, however, resolve any other possible violations or unfair acts not alleged in the complaint.

Accordingly, it is ordered:

1. Investigation No. 337-TA-19, Glass Fiber Optic Devices and Instruments Equipped With Glass Fiber Optic Devices, is hereby terminated without prejudice; and

2. The Secretary will publish this Order in the FEDERAL REGISTER and serve upon the parties copies of this Order. The Secretary will also serve copies of this Order upon the Department of Health, Education, and Welfare, the Department of Justice, and the Federal Trade Commission; and

3. The parties' motion to have their abridged license agreement accorded confidential status is granted.

By order of the Commission:

Issued: July 29, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-22595 Filed 8-3-76;8:45 am]

[1] The motion was docketed as M-168.

[2] ACMI has the exclusive right to grant such licenses under the '793 patent.

[3] This was requested in a letter from counsel dated Dec. 22, 1975, and docketed as M-177.

[AA1921-155]

HOLLOW OR CORED CERAMIC BRICK AND TILE

Determination of No Injury or Likelihood Thereof

On April 30, 1976, the United States International Trade Commission received advice from the Department of the Treasury that hollow or cored ceramic brick and title, not including refractory or heat insulating articles, from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). The term "hollow or cored ceramic brick and title" was defined to mean "unglazed hollow brick, including bond beam units. Such brick ranges from approximately 25 to 40 percent void." Accordingly, on May 7, 1976, the Commission instituted investigation No. AA1921-155 under section 2017(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Subsequently, on June 21, 1976, the Department of the Treasury amended its determination so that the term "hollow or cored ceramic brick and title" means "unglazed hollow ceramic brick, including bond beam units. Such brick is of greater than 25 percent void." The Commission, therefore, on July 1, 1976, amended the scope of its investigation to make it correspond with the advice received.

Notice of the institution of the investigation and of the public hearing and amendments to the original notice were published in the FEDERAL REGISTER (41 F.R. 19383, May 12, 1976; 41 F.R. 20454, May 18, 1976; 41 F.R. 21224, May 24, 1976, and 41 F.R. 27877, July 7, 1976). The hearing was held on June 15 and 16, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of hollow or cored ceramic brick and title, not including refractory or heat insulating articles, as defined by the Department of the Treasury, from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons of Commissioners George M. Moore, Joseph O. Parker, Catherine Bedell, and Italo H. Ablondi

This investigation was made to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of hollow or cored brick and tile (hereinafter referred to as hollow brick), not including refractory or heat insulating articles, from Canada which the Department of the Treasury (hereinafter referred to as Treasury) has determined are being, or are likely to be, sold at less than fair value (hereinafter referred to as LTFV). The Commission, in order to find affirmatively, must find two conditions satisfied in this investigation. First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be being prevented from being established.[1] Second, such injury or likelihood of injury must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which Treasury has determined is being, or is likely to be, sold at LTFV.

On the basis of the information developed in the investigation, we have determined that there is no injury or likelihood of injury to an industry in the United States by reason of imports sold at less than fair value. Therefore, neither condition, injury or causation, has been satisfied, and we have made a negative determination.

The product

Hollow brick are ceramic brick that contain over 25 percent voids. They are used to construct reinforced masonry walls, as specified by the Uniform Building Code for seismic zones 1, 2, and 3. Hollow brick, produced by both extrusion and dry-press processes, are used as load-bearing walls, predominantly in the construction of buildings other than single family dwellings, such as hotels, motels, apartment buildings, churches, and schools.

The U.S. industry[2]

In making this determination we considered the industry to consist of the ceramic-brick-manufacturing facilities in the United States engaged in the production of hollow brick. No evidence was developed during the investigation which showed that any other industry in the United States was adversely affected by the LTFV hollow brick imports.

No injury by reason of LTFV imports

Imports of hollow brick from Canada, the only foreign source of hollow brick, increased in 1973 and 1974 and then decreased in 1975, which year covers the period in which Treasury found there were imports at LTFV.

The Pacific Northwest area (Washington, Oregon, Idaho, Utah, Montana, and Wyoming) is the principal hollow-brick-consuming area in the United States, accounting for 50 to 76 percent of total U.S. hollow brick consumption and 81 to 88 percent of Canadian imports of hollow brick during 1972–75.

Domestic shipments of all ceramic brick delivered in the Pacific Northwest increased during 1972–74 from 124 million standard brick equivalents to 159 million, and totaled 158 million in 1975. Shipment data of all ceramic brick producers in the United States for the first quarter of 1976 indicate increased shipments for the full year. During the period of Treasury's investigation, import penetration of articles found by Treasury to have been sold at LTFV did not increase.

U.S. and Canadian producers' prices for all ceramic brick and hollow brick in the Pacific Northwest area increased each successive year during the 1973–76 period. The price history during this period indicates that there was no connection between domestic prices and LTFV import prices. In fact, an examination of sales of hollow brick to the building trades in the Pacific Northwest region revealed that in almost all cases domestically produced hollow brick sold at prices below those of imported hollow brick. The Commission investigation found that quality, architectural specifications, and other factors, not price, were the dominant reasons why the imported hollow brick was purchased. Therefore, there is no basis to conclude that prices were suppressed by reason of LTFV imports. Furthermore, the record does not establish that sales were lost by domestic producers because of LTFV sales.

U.S. producers of hollow brick provided the Commission with financial data on their total ceramic brick operations. These producers reported increasing profits during 1971–73, with the ratio of annual aggregate net operating profit to net sales increasing from 5 to 14 percent. The ratio decreased to 10 percent in 1974, but then increased to 12 percent in 1975, the year in which Treasury found LTFV imports.

The number of workers engaged in the production of ceramic brick in plants producing hollow brick in the United States increased substantially in 1972 compared with the number in 1971, chiefly because of the opening of a large new brick plant in 1972 in Utah. A much smaller increase in the number of workers was reported for 1973. The decreases in employment reported for 1974 and 1975 resulted from increased mechanization designed to offset increasing costs of production. During the same period shipments increased. Thus, the decline in employment which occurred in 1974 and 1975 can be attributed to increased productivity.

No likelihood of injury by reason of LTFV imports

The reasons outlined above in support of our determination that an industry is not being injured by reason of LTFV sales of imported hollow brick from Canada are also applicable to the question of likelihood of injury. Both Canadian producers are presently operating their hollow-brick-producing facilities at capacity, and the evidence presented during the Commission's investigation indicates that the only expansion of hollow-brick-producing facilities these producers have under consideration is the possible construction of a plant in the United States. The evidence also indicates that the Canadian producers may switch some part of their present hollow-brick-producing facilities to the production of refractor since the latter yields higher returns.

Conclusion

We therefore conclude that an industry in the United States is not being and is not likely to be injured by reason of the importation of hollow brick from Canada found by Treasury to be sold, or likely to be sold, at LTFV.

Concurring Statement of Reasons of Chairman Will E. Leonard.

On the basis of the evidence developed during the course of investigation No. AA1921–155 by the U.S. International Trade Commission (Commission), I determine, as do my fellow Commissioners, that an industry in the United States is not being nor likely to be injured by reason of imports from Canada of hollow

[1] Prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

[2] Commissioners Bedell and Parker determine, irrespective of whether "an industry" in this investigation is considered as including all ceramic brick producers or is limited to hollow brick producers in the Pacific Northwest, that the statutory requirements of injury or likelihood of injury by reason of LTFV imports are not satisfied.

or cored ceramic brick and tile (as described in the Commission's notice of investigation) sold or likely to be sold at less than fair value (LTFV) as determined by the Department of the Treasury (Treasury). I generally concur in the statement of reasons made by Commissioners Moore, Bedell, Parker, and Ablondi in the investigation and in this concurring statement wish primarily to discuss my views as to the relevant industry in the United States (domestic industry) for the purpose of the investigation.

I find the relevant domestic industry for the purpose of the investigation to consist of the facilities in the United States devoted to the production of ceramic brick. This is the industry most likely to be affected by the subject LTFV imports, since it produces an article like or competitive with such imports.[3] This is the only industry which will be considered herein. No evidence was presented to show that any other industry was possibly injured or threatened with injury by the subject LTFV imports. Further, absent unusual circumstances not present in this investigation, another industry would not be injured or threatened with injury if the industry most likely to be adversely affected is not so injured or threatened, as I find to be the situation in this investigation.

The above-described industry represents a unit in terms of both use of productive processes and resources and production of competitive products. Such description avoids an artificial delineation of "an industry" which does not take production and competitive realities into account. Various types of ceramic brick, including the hollow or cored type (hollow brick), may be produced in the same plant with basically the same equipment and by the same labor. In fact, in the Pacific Northwest marketing and production area, a number of plants producing hollow brick also produce other ceramic brick in such a fashion. Further, one type of ceramic brick is often competitive with another type; for example, builders do substitute "brick on block" (concrete block with a facing-brick veneer system) for a hollow brick system.

As indicated above, the domestic industry that I find relevant is a national industry. In investigations under the Antidumping Act, 1921, which involved questions of regional impact of LTFV imports, the Commission has defined "an industry" in terms of a national industry.[4] The practice of the Commission of looking at national industries under the Antidumping Act was alluded to in the report of the Senate Committee on Finance, wherein, in commenting on certain concepts unaffected by the amendments which the bill would make in the Antidumping Act, it was stated (at pp. 179–180):

(2) *Industry.*—The Antidumping Act refers to "an industry in the United States." There are no qualifications as to the kind of industry or the number of industries that might be adversely affected by the less-than-fair-value imports under consideration. Although the Commission's investigations have usually been concerned with an industry consisting of the domestic-producer facilities engaged in the production of comparable articles (i.e., articles like the imported articles), a number of investigations have been concerned with the domestic facilities engaged in the production of articles which, although unlike the imports, are nevertheless competitive therewith in domestic markets. In any case, the industry is a national industry involving all domestic facilities engaged in the production of the domestic articles involved.

While the relevant domestic industry for me is a national industry, as I have stated before, "injury to an establishment or regional segment of an industry may constitute injury to an industry as a whole."[5] This concept of looking at the impact of LTFV imports upon a particular marketing area of a national industry supplied by domestic producers located regionally and supplying predominantly such marketing area in order to see if a national industry has been injured has been followed by the Commission for over a decade.[6] The Senate Finance Committee report referred to above has also commented upon this practice of the Commission (at p. 180):

A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and *where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry.* The Committee agrees with the geographic segmentation principle in antidumping cases. However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to an industry. [Emphasis supplied.]

As indicated previously, I have concurred with the statement of reasons presented by Commissioners Moore, Bedell, Parker, and Ablondi. Their statement considers the impact of the subject LTFV sales on various groups of producers of ceramic brick in the United States, including producers in the Pacific Northwest marketing area or segment of the national industry. Since neither injury to the producers in that area or segment by reason of the subject LTFV sales, nor the likelihood thereof, can be found, and because that area or segment is most heavily impacted by the LTFV imports, it is unnecessary to consider the matter further, as the impact of the LTFV sales on an even larger number of producers would be even less than upon producers in the Pacific Northwest.

Statement of Reasons of Vice Chairman Daniel Minchew

On May 7, 1976, the U.S. International Trade Commission (Commission) instituted an investigation under section 201 (a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of hollow or cored ceramic brick and tile not including refractory or heat insulating articles (hereinafter referred to as hollow brick), from Canada that the Department of the Treasury (Treasury) has determined are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of such act.

In order to find in the affirmative, the Commission must find that each of the following conditions is satisfied:

(1) There must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be being prevented from being established;[7] and

(2) Such injury or likelihood of injury must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which the Secretary of Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

Determination

On the basis of the information developed in the present investigation, I have determined that an industry in the United States is not being or likely to be injured by reason of the importation into the United States of hollow brick from Canada that the Department of the

[3] See *Trade Reform Act of 1974*, S. Rept. No. 93–1298 (93d Cong., 2d sess.), 1974, pp. 179–180. This is the Senate Finance Committee report on the bill which became the Trade Act of 1974; the report discusses various practices which the Commission has developed in proceedings under the Antidumping Act, 1921.

[4] See, for example, *Chromic Acid From Australia: Determination * * * in Investigation No. AA1921–32 * * *,* TC Publication 121, 1964, pp. 2–4; and *Elemental Sulfur From Mexico: Determination * * * in Investigation No. AA1921–92 * * *,* TC Publication 484, 1972, pp. 3 and 9.

[5] *Clear Sheet Glass and Clear Plate and Float Glass From Japan: Determination * * * in Investigation No. AA1921–69/70 * * *,* TC Publication 382, 1971, p. 14.

[6] See cases cited in note 1, p. 10 supra. See also *Steel Reinforcing Bars from Canada: Determination * * * in Investigation No. AA1921–33,* TC Publication 122, 1964, pp. 6–7; and *Steel Bars, Reinforcing Bars, and Shapes From Australia: Determination * * * in Investigation No. AA1921–62 * * *,* TC Publication 314, 1970, pp. 3–4.

[7] Prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

Treasury has determined are being, or are likely to be, sold at LTFV.

The product

Hollow brick are ceramic brick containing over 25 percent voids. In the wall, hollow brick do not appear to differ from facing brick, except in the face area of the individual brick. Hollow brick were developed because of the need for an economical clay product suitable for use in reinforced masonry walls in areas prone to earthquakes. The brick is used for load-bearing walls, predominantly in the construction of buildings other than single family dwellings, such as hotels, motels, apartment buildings, churches, and schools.

The U.S. industry

In making this determination I have concluded that the proper definition of the U.S. industry is all the ceramic brick production facilities in the United States of those companies that produce hollow brick.

The Senate Finance Committee addresses the question of "industry" when it states:

> The Antidumping Act refers to "an industry in the United States." There are no qualifications as to the kind of industry or the number of industries that might be adversely affected by the less-than-fair-value imports under consideration.
>
> Although the Commission's investigations have usually been concerned with an industry consisting of the domestic-producer facilities engaged in the production of comparable articles (i.e., articles like the imported articles), a number of investigations have been concerned with the domestic facilities engaged in the production of articles which, although unlike the imports, are nevertheless competitive therewith in domestic markets. In any case, the industry is a national industry involving all domestic facilities engaged in the production of the domestic articles involved.[8]

While it is arguable that all ceramic brick produced in the United States are "comparable" or "competitive" with the hollow brick coming into the United States at LTFV, I have concluded that the use to which the articles are put tends to differentiate hollow brick from other ceramic brick. The hollow brick were developed for a specific purpose, i.e., for use in reinforced masonry walls and, in my opinion, are not truly competitive with other ceramic brick.

The Commission is required to consider the industry as a national industry but may consider a regional segment of an industry for purpose of evaluating injury. The rationale behind this approach is that an injury to a regional segment may constitute an injury to the entire industry. I generally accept this view but think that a showing of injury to a regional segment, in itself, is not sufficient to show an injury to the national industry. It will be necessary to show that any injury to a regional segment has the effect of injuring the national industry before I can find in the affirmative.

[8] *Trade Reform Act of 1974: Report of the Committee on Finance* * * *, S. Rept. No. 93-1298 (93d Con., 2d Sess.), pp. 179-180.

No injury by reason of LTFV imports

Taking the information most favorable to the domestic industry, i.e., looking for injury to the Pacific Northwest production facilities which produce hollow brick, I am still unable to find that there is injury by reason of the importation into the United States of hollow brick from Canada that the Department of the Treasury has determined are being, or are likely to be, sold at LTFV.

In addressing the purpose of the Antidumping Act, the Senate Finance Committee report stated:

> Conceptually, the Antidumping Act is not directed toward forcing foreign suppliers to sell in the U.S. market at the same prices that they sell at in their home markets. Rather, the Act is primarily concerned with the situation in which the margin of dumping contributes to *underselling* the U.S. product in the domestic market, resulting in injury or likelihood of injury to a domestic industry. (Emphasis added.)

The facts developed in the present case indicate that instead of underselling the U.S. product, the imported product was selling at prices higher than those of the domestic product. Furthermore, an examination of the allegations of lost sales made by certain representatives of the domestic industry showed that price was of little consequence, and that Clayburn (the company which had been importing at LTFV) would have made the sales if the brick had been sold at fair value.

The Pacific Northwest area (Washington, Oregon, Idaho, Utah, Montana, and Wyoming) is the principal hollow-brick-consuming area in the United States, accounting for 50 to 76 percent of total U.S. consumption and 81 to 88 percent of Canadian imports of hollow brick during 1972-75. Domestic shipments of all ceramic brick in the Pacific Northwest increased during 1972-74 from 124 million standard brick equivalents to 159 million, and totaled 158 million in 1975. The generally upward trend in domestic shipments indicates that the economic recession was not materially affecting the ceramic brick market in this area. Shipment figures for the first quarter of 1976 indicate increased shipments for the full year.

U.S. and Canadian producers' prices of all ceramic brick and hollow brick in the Pacific Northwest area increased each year during the 1973-76 period. No substantial evidence was submitted that prices were suppressed by reason of LTFV imports. The price history during this period indicates that there was no connection between prices and LTFV sales.

U.S. producers of hollow brick provided the Commission with financial data on their total ceramic brick operations. These producers reported increasing profits during 1971-73, with the ratio of annual aggregate net operating profit to net sales increasing from 5 to 14 percent. The ratio decreased to 10 percent in 1974, but then increased to 12 percent in 1975, the year that Treasury found LTFV imports. There was no decline in profitability that could be attributed to LTFV imports.

The number of workers engaged in the production of ceramic brick in plants producing hollow brick in the United States increased substantially in 1972 compared with the number in 1971, chiefly because of the opening of a large new brick plant in 1972 in Utah. A much smaller increase in the number of workers was reported for 1973; the decreases reported for 1974 and 1975 resulted from increased mechanization designed to help alleviate the increasing cost of production. Shipment data did not show corresponding decreases. Thus, the decline in employment which occurred in 1974 and 1975 can be attributed to increased productivity and not to imports of hollow brick from Canada.

No likelihood of injury by reason of LTFV imports

The finding above with respect to the role of the subject LTFV imports in any injury being experienced by the domestic industry under consideration leads to the conclusion that such imports are also not an identifiable cause of any likelihood of injury which may exist. The two Canadian producers are operating their facilities at capacity, and evidence was presented indicating future decreased Canadian exports of hollow brick and decreased import penetration. Several of the domestic producers are also operating at their rated capacities. There has been no indication of any plans by the Canadian producers to expand their Canadian capacities. The outlook is for continued growth in the ceramic brick industry in the Pacific Northwest, which should result in additions to the present facilities in that area.

Conclusion

I, therefore, conclude that an industry in the United States is not being and is not likely to be injured by reason of the importation of hollow or cored ceramic brick and tile, not including refractory or heat insulating articles from Canada.

By order of the Commission.

Issued: July 30, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-22596 Filed 8-3-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL AD HOC SUBPANEL FOR INTERNATIONAL SOUTHERN OCEAN STUDIES PROJECT

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: International Decade of Ocean Exploration Proposal Review Panel Ad Hoc Subpanel for International Southern Ocean Studies Project.

Date & time: August 26 and 27, 1976—9 a.m. to 5 p.m. each day.

Place: National Center for Atmospheric Research (NCAR)—Boulder, CO.

Type of meeting: Closed.

Contact person: Dr. Curtis Collins, Program Manager, Environmental Forecasting, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, DC telephone (202) 632-7356.

Purpose of subpanel: To provide for IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanographic research of the Southern Oceans.

Agenda: Review and evaluation of renewal proposals for support of the International Southern Oceans Project (ISOS).

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JULY 30, 1976.

[FR Doc.76-22604 Filed 8-3-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 29, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20530 (202-395-4529), or from the reviewer listed.

REVISIONS

DEPARTMENT OF DEFENSE

Departmental and other: Report of Government (DOD) Facilities (ASPR B-311, C-311), DD 1662, semiannually, DOD contractors, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Veteran's Administration: Request for Determination of Loan Guaranty Eligibility, Unmarried Surviving Spouses, VA 26-1817, on occasion, unmarried widows and widowers, Warren Topelius, 395-5872.

Office of Education: Application for Federal Assistance (Non-Construction Program) for the Follow-Through Program—Instructions and Supplementary Questionnaire, OE 4473, annually, educational agencies and insti. of higher education, Warren Topelius, 395-5872.

DEPARTMENT OF LABOR

Employment Standards Administration: Monthly Employment Utilization Report, SF 257, monthly, construction contractors, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration: Financial Report, Title III Technical Assistance Grants, ED 325, quarterly, all in areas of substantial economic distress, Warren Topelius, 395-5872.

Identification or Responsible Agent on Designated Project, ED-739, on occasion, title X PWEDA grantees (sample), Warren Topelium, 395-5872.

Request for Excess Property, ED-733, on occasion, Indian tribal govt. and dev. districts, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Primary Practice Profile (PE Reimbursement Study), SSA 9761, single time, physicians and phys. extenders in primary care practices, Lowry, R. L., 395-3772.

Request for Workman's Compensation Information, SSA-1709, on occasion, State workmen's compensation boards and WC carriers, Warren Topelius, 395-5872.

Office of Education: Application for Special Community Service and Continuing Education Project, OE 1280, on occasion, accredited institutions of higher education, Warren Topelius, 395-5872.

Application for Grant Under College Library Resources Program, Title II, Part A, HEA 1965—PL 89-329, OE-3118, annually, institutions of post-secondary education, Warren Topelius, 395-5872.

ENVIRONMENTAL PROTECTION AGENCY

Environmental Protection Agency, Health Implications of Sewage Treatment Facilities, on occasion, ind. and households W/N 5 KMS of new waste water treatm. plant, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.70-22769 Filed 8-3-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 107]

ASSIGNMENT OF HEARINGS

JULY 30, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138607 Sub 6, P & N Truck Service, Inc., now being assigned November 2, 1976 (3 days), at Olympia, Wash., in a hearing room to be later designated.

MC 130370, Lillian Hofmeister, DBA Hofmeister Tours, now being assigned November 8, 1976 (1 week), at Baltimore, Md., in a hearing room to be later designated.

FD 28207, Southern Railway Company—Discontinuance of Trains Nos. 5 and 6 The "Piedmont" between Washington, D.C. and Charlotte, North Carolina, now being assigned September 13, 1976, at the Offices of the Interstate Commerce Commission, September 14, 1976, in Room B-67, Federal Building, 220 7th Street NE., Charlottesville, Virginia, September 15, 1976, at the U.S. Courtroom, 2nd floor, U.S. Post Office & Federal Building, Church Street in Lynchburg, Virginia, September 16, 1976, in the GSA Conference Room B-25, Federal Courthouse & Post Office Building, 324 West Market Street, Greensboro, North Carolina, and September 17, 1976, in the Public Library Auditorium, 310 North Tryon Street, Charlotte, North Carolina.

MC 4405 (Sub-No. 531), Dealers Transit, Inc., now assigned September 28, 1976, at Chicago, Ill., will be held in Room 835, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114211 (Sub-No. 259), Warren Transport, Inc., now assigned September 29, 1976, at Chicago, Ill., will be held in Room 835, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 116273 (Sub-No. 201), D & L Transport, Inc., now assigned September 30, 1976, at Chicago, Ill., will be held in Room 835, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 124090 (Sub-No. 5), Transportes Azteca, now assigned October 4, 1976, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 73165 (Sub-No. 387), Eagle Motor Line, Inc., now being assigned September 30, 1976 (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 123407 (Sub 283), Sawyer Transport, Inc., now assigned September 21, 1976, at Chicago, Illinois, and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114632 (Sub 84), Apple Lines, Inc., now assigned September 23, 1976 at Chicago, Illinois, and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 10761 (Sub-Nos. 184, 240, 246, 247, 253, 254, 256, 257, 259, 260, 266, 268, and 274), now assigned September 27, 1976, at Chicago, Illinois, and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140615 (Sub-No. 6), Dairyland Transport, Inc., now assigned September 27, 1976, at St. Paul, Minn., is canceled and application dismissed.

MC 105501 Sub 16, Terminal Warehouse Company, now being assigned October 7, 1976 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 123407 Sub 289, Sawyer Transport, Inc., now being assigned October 18, 1976 (1 Week), at Portland, Oreg., in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22658 Filed 8-3-76;8:45 am]

[Notice No. 1]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 4, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76675. By application filed July 27, 1976, MILKO-AMERICAN FARMS, INC., 1225 W. Main, Norman, OK 73069, seeks temporary authority to transfer the operating rights of GOVAN EXPRESS, INC., 103 SW. 6th, Oklahoma City, OK 73106, under section 210a(b). The transfer to MILKO-AMERICAN FARMS, INC., of the operating rights of GOVAN EXPRESS, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22659 Filed 8-3-76;8:45 am]

[Notice No. 2]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 4, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76678. By application filed July 26, 1976, L.B.D., Inc. (proposing to d/b/a ASSOCIATED FREIGHT LINES), 841 Folger Avenue, Berkeley, CA 95710, seeks authority to transfer the operating rights of ASSOCIATED FREIGHT LINES (proposing to do business under a non-conflicting name), 841 Folger Avenue, Berkeley, CA 94710, under section 210a(b). The transfer to L.B.D., Inc. (proposing to d/b/a ASSOCIATED FREIGHT LINES), of the operating rights of ASSOCIATED FREIGHT LINES (proposing to do business under a non-conflicting name), is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22660 Filed 8-3-76;8:45 am]

[Notice No. 3]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 4, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132;

No. MC-FC-76679. By application filed July 28, 1976, EXPRESSWAY, INC., 1105 St. Louis, Louisville, KY 40201, seeks authority to transfer the operating rights of OUR OWN DELIVERIES, INC., d/b/a THOMAS C. STEPHENS AND THE TRUSTEE IN BANKRUPTCY, WALLACE H. SPALDING, JR., 600 Starks Building, Louisville, KY 40202, under section 210a(b). The transfer to EXPRESSWAY, INC., of the operating rights of OUR OWN DELIVERIES, INC., d/b/a THOMAS C. STEPHENS AND THE TRUSTEE IN BANKRUPTCY, WALLACE H. SPALDING, JR., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22661 Filed 8-3-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 30, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carreirs named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 19, 1976.

FSA No. 43203—*Joint Water-Rail Container Rates—Far Eastern Shipping Company.* Filed by Far Eastern Shipping Company (No. 3), for itself and interested rail carriers. Rates on general commodities, from rail carriers terminals on the U.S. Atlantic and Gulf Coast, to ports in Hong Kong, Japan, and Australia.

Grounds for relief—Water competition.

Tariffs—Far Eastern Shipping Company Eastbound tariff I.C.C. No. 3, F.M.C. No. 21, and Westbound tariff I.C.C. No. 4, F.M.C. 16. Rates are published to become effective on August 22, 1976.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-22662 Filed 8-3-76;8:45 am]

federal register

WEDNESDAY, AUGUST 4, 1976

PART II:

FEDERAL COMMUNICATIONS COMMISSION

■

Class D Stations in the Citizens Radio Service

Operating Rules Revision

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket 20120; RM-1508, 1592, 1733, 1751, 1841, 1905, 1991, 2053, 2084, 2132, 2300, 2317, 2318; FCC-76-707]

REVISION OF OPERATING RULES FOR CLASS D STATIONS IN THE CITIZENS RADIO SERVICES

By the Commission: 1. A Notice of Proposed Rule Making in the above-captioned matter was released on July 31, 1974, and published in the FEDERAL REGISTER on August 5, 1974, (39 FR 28167). A First Report and Order was released on August 7, 1975, and published in the FEDERAL REGISTER on August 11, 1975, (40 FR 33667). A Notice of Inquiry and Further Notice of Proposed Rule Making was released on March 29, 1976, and published in the FEDERAL REGISTER on April 6, 1976, (41 FR 14527).

2. In the combined Notice of Inquiry and Further Notice of Proposed Rule Making, the Commission requested comment on several matters integrally related to the issue of Class D Citizens Radio Service channel expansion. Specifically, comments and recommendations relative to the following issues were solicited: (1) Possible intermodulation (IM) interference between CB transceivers operating at certain frequency spacings; (2) Possible difficulty in coupling Class D transmitters and antennas over a wide frequency range; and (3) Severity of, and possible remedies for, harmonic radiation from Class D transmitters causing interference to TV channels 2 and 5. These issues were not addressed in the earlier Notice. However, because of their potential impact on the feasibility of Class D channel expansion, they merit due consideration in this proceeding.

3. Several thousand comments and reply comments were filed in response to the Notice of Inquiry and Further Notice of Proposed Rule Making. Citizens Radio Service licensees, licensee organizations, manufacturers, and distributors of CB equipment and accessories, as well as many others, filed formal comments generally supporting expansion of the number of channels available to the Class D Service. One notable exception was the broadcast industry, which strongly objected to any channel expansion. Existing Class C licensees strongly objected to the reallocation of the 27 MHz Class C frequencies to the Class D service. Several comments contained detailed analyses of tests conducted to determine the extent of the intermodulation problem. In addition, in a report released in June 1976, FCC/OCE LAB 76-02, the FCC, Office of the Chief Engineer, detailed the results of experiments concerning possible interference problems associated with the expansion of the Class D Service.

4. All comments have been carefully considered. We believe the weight of the evidence supports the conclusion that additional frequencies are needed to relieve the often times severe Class D frequency congestion found in various parts of the country. As of May 31, 1976, there were over 5 million Class D licensees, and that number is increasing at the rate of approximately ½ million per month. With respect to the exact number and choice of frequencies to be involved in the expansion, there has been much comment, and disagreement, as to what the best alternatives would be. Clearly, with the enormous number of Class D licensees active in the present 23 channel allocation, no plan is workable which would involve the dislocation of these licensees. Other factors which must be considered in choosing an expansion plan include: (1) Provisions for relocation of licensees in other radio services displaced by frequency reallocation; (2) Provisions for the Class C Citizens Radio Service; and (3) Exclusive channels for single sideband (SSB) use.

5. We have closely examined the severity and extent of the intermodulation (IM) phenomenon, and are convinced that they are such that no expansion is desirable which would involve a separation of more than 440 kHz between the lowest and highest channels. All parties seriously investigating this matter have come to the same general conclusion, namely, that the generation of intermodulation products is a certainty if the width of the Class D band exceeds 440 kHz. While it is clear that not all receivers would be affected by IM products, the nature of the IM products generated is such that reception of signals on all channels in susceptible receivers could be impaired. No reliable measure of the probability of this phenomenon is at hand, but given the millions of CB transmitters now in use, we believe it likely that IM interference in major metropolitan areas could significantly impede communications.

6. We have, therefore, determined to proceed with the expansion in the following manner: the frequencies presently available to the Class D Service will remain intact. To these, we will add the frequencies between 27.230 and 27.410 MHz, which are now allocated to the land mobile services. The new channels will begin at 27.235 MHz and proceed through 27.405 MHz, with a uniform spacing of 10 kHz between available channels. A total of 17 additional channels will be made available by this reallocation, giving the Class D Service 40 channels overall.[1] All channels will be available for shared AM/SSB use.

7. The channel reserved for emergency use will remain 27.065 MHz. As proposed, we are deleting our designation of 27.085 MHz as a calling channel. It will henceforth be available for general use. While there was some opposition to our proposal to redesignate 27.085 MHz, it was generally supported by the comments. We believe that because only 40 channels are to be made available for Class D use, as many frequencies as possible should be available for general communications. We are also adopting as proposed the deletion from the rules of all references to channel numbers. We will hereinafter identify each channel only by its authorized frequency center.

8. No channels have been set aside exclusively for single sideband (SSB) use. There was opposition in the comments to "splitting" the present channels, which would have placed SSB and AM signals approximately 5 kHz apart. Some comments supported the type of SSB channel expansion proposed in our earlier Notice, in which exclusive SSB channels on 5 kHz centers were allocated above the channels on 10 kHz centers available for shared AM/SSB use. This configuration avoids the interference problems of the "split" channels; however, because the total expansion is limited by IM interference to frequencies below 27.410 MHz, any allocation of channels for exclusive SSB use would reduce the number of channels available for AM use to an unacceptably low number. All channels made available in this expansion, as well as all present channels, will be available for shared AM/SSB use. Either upper or lower sideband may be used.

9. With respect to our proposal to reallocate present 27 MHz Class C channels to the Class D Service, we believe such an action is unwarranted at this time. Comments filed by the Academy of Model Aeronautics, as well as hundreds of individual radio control operators, indicate that significant use is presently being made of the 27 MHz Class C channels. We believe that, eventually, alternate frequencies must be found to supplant the present 27 MHz Class C allocation because of the increasing problem of interference by Class D users to Class C radio control operations. However, in as much as no such alternate frequencies are presently available, and because of the significant investment in 27 MHz radio control equipment by modelers, a reallocation as proposed in our Further Notice is premature.

10. As proposed in our Further Notice, we are not allocating an exclusive frequency for equipment amortization by land mobile users displaced by Class D licensees. All non-Citizens Radio Service licensees operating on the re-allocated frequencies will be permitted to continue such operations until December 31, 1979. During this period of shared CB/land mobile use, land mobile licensees will be accorded no interference protection from Class D users. We believe this date will allow adequate time for all affected licensees to shift their operations to other frequencies. We are keenly aware that some 4,000 land mobile licensees will be displaced by this reallocation, but this must be contrasted with the much greater number of Class D licensees who could be accommodated on each reallocated channel.

11. The degree to which CB transmitter harmonic frequency radiation is suppressed is integrally related to the problem of interference to television reception. In the Further Notice, we proposed to require attenuation of the second and higher order harmonic radiation by a

[1] The channel centered on 27.255 MHz is currently available to the Class D Service.

minimum of 70 dB below first harmonic output. Comments filed by the Association of Maximum Service Telecasters (AMST) and other broadcast groups stated that such radiation should be suppressed on the order of 100 dB. The Citizens Radio Section, Communications Division, of the Electronic Industries Association (the "Section") recommended that the harmonic suppression limit be set at 60 dB. The Section states that a higher figure would make the cost of Class D transceivers prohibitively high, and that the use of an external low-pass filter on the CB transmitter would cause a substantial reduction in television interference. We are acutely aware of the magnitude of the present television interference problem. The FCC Field Operations Bureau receives thousands of complaints each month from television viewers alleging interference from Class D transmitters. We are convinced that some increase in the harmonic suppression standard is imperative; however, we do not believe that the 70 dB figure is realistic at this time considering the present state-of-the-art of Class D transmitters. We will, therefore, require that second and higher order harmonic radiation be suppressed by at least 60 dB for all transmitters type accepted for use at Class D Citizens Radio Service stations. Compliance with this requirement must be demonstrated both with and without the connection of all attachments permissible for use with such transmitters. This includes such things as external speakers, microphones, power cords and antennas. We believe that further tightening of the harmonic suppression limit in the future will be necessary. In the meantime, if an individual licensee causes interference to a neighbor's television reception on television channels 2, 5, or 6 because of insufficient harmonic attention, he will have to obtain additional suppression by the insertion of a low-pass filter between the transmitter RF output connector and the antenna feedline.

12. We are not adopting the proposal to require a frequency tolerance of 25 Hertz for all SSB transmitters. In the present environment, where all channels are shared by the AM and SSB emissions, no valid need exists for the more stringent tolerance. We are also not adopting our proposal to require informational labels on Class D units. The comments generally noted that the proposed labels would have little value as a deterrent to persons desiring to violate the rules. We are, however, adopting our proposal to require the engraving of a serial number each new Class D transmitter sold. We believe this requirement will help alleviate the present difficulties in identifying stolen CB equipment. We also encourage, but are not requiring, the engraving of additional designators, such as drivers license number or station call sign, as aids in recovering stolen units. We are also adopting our proposal to require that a copy of Part 95 of the Rules and Regulations, plus FCC forms 505 and 555-B, be furnished with each Class D unit sold.

13. The proposal in the Further Notice that prohibited the manufacture, sale, or attachment of any device, whether internal or external to the transmitter, the function of which is to extend the frequency coverage of a Class D transmitter beyond its original frequency range, is being adopted. Absent this prohibition, we believe that the proliferation of such devices, whether provided in kit form and installed by a technician or installed at the factory, would inevitably result in widespread use of transmitters not meeting type acceptance standards. This would not prohibit the sale, however, of 23 channel units modified before sale to cover the additional frequencies. Such modified sets would, of course, have to be type accepted for this modification. We are removing the restriction in § 95.58(c)(2) of the Rules which limits the frequency selector in a Class D transmitter to a single control. Given the greater number of channels which will become available for Class D use, as well as the variety of frequency selection mechanisms which may be developed for new Class D equipment, we see no useful purpose to be served by retention of this provision.

14. Since the release of the original Docket 20120 Notice of Proposed Rule Making, there has been much speculation on the issue of exactly what form the Class D expansion would take and what the implementation timetable would be. We are aware that some manufacturers have Class D equipment in various stages of development and/or production which is capable of operation on frequencies falling roughly in the range included in the expansion, and that if the expansion frequencies were made available immediately, there would shortly be some units available for such use. We do not believe, however, that it would be in the overall best interest of the public or our licensees if we were to proceed in this fashion. On the contrary, in order to insure an orderly and efficient expansion into the additional frequencies, we are convinced that a sufficient delay should be introduced before the effective date of the expansion to allow all interested parties to make adequate preparation for development of the new spectrum. We have therefore determined to set the effective date for use of the expansion channels at January 1, 1977 and equipment which is capable of operation on the expansion frequencies may not be sold before that date. We will not accept applications for type acceptance of such equipment before September 10, 1976. All applications for type acceptance submitted before November 1, 1976, will be assigned an effective date of January 1, 1977. Applications submitted after November 1, 1976, will be given an effective date in order of grant.

15. A subject addressed in our earlier Notice was antenna type acceptance. We proposed to require the filing of radiation patterns, and we set forth various technical parameters for directional antennas used at Class D stations. The comments were almost unanimously opposed to this proposal, and, after careful consideration of the arguments advanced, we have decided to discontinue any further rulemaking action in this area at this time. We may again confront the issue of antenna type acceptance/approval at a later date, but with present manpower limitations, we believe other, more pressing matters should receive our attention. With respect to the potential antenna bandwidth problem raised in our Notice, those few comments discussing it agreed that no real impedance matching problem exists. We therefore are not taking any action in this area.

16. Another matter proposed in the earlier Notice was the lowering of the age requirement for the Class D Service from 18 to 16 years of age. Although a number of comments supported this proposal, the recent tremendous influx of Class D applications has rendered the Commission unable to spare the manpower necessary to process additional applications. Further, the utility of such a change is doubtful, since under the present rules all persons under age 18 residing in the same household may operate under a single license held by a parent.

17. In the Further Notice we also addressed the present rule which requires that an individual must hold two separate licenses in order to obtain both Class C and Class D operating privileges. We proposed to combine the privileges of the Class C and Class D licenses and issue no new Class C licenses. The age requirement for the new combined license would have been 18. In its comments, the Academy of Model Aeronautics (AMA) strongly opposed this proposed change. They contended that the operations of Class C licensees are distinct from Class D licensees, and that a "separate identity" is essential. All Citizens Radio Service application processing procedures are currently under review, however, and we are, for this reason, not prepared to reach a final decision in this matter at the present time.

18. The final proposal in the Further Notice involved changing the names of the Citizens Radio Service and its subdesignations. Such changes received support in the comments, and we believe the proposed names to be more descriptive of the character of the service. However, because such changes would result in the obsolescence of millions of application forms, license documents, and other printed material, we are not adopting the proposed changes at this time. We hope, at a more opportune future date, to implement these name changes with a minimum of dislocation.

19. As we emphasized in the Further Notice, the channel expansion adopted herein is only an interim measure. The problem of long distance "skip" propagation at 27 MHz due to the influence of the sunspot cycle is minimal at this time; however, in the next several years, the solar cycle will peak, and it is predicted that much long distance interference will occur. A study into the subject of personal communications is underway by the FCC Office of Plans and Policy. Additionally, the Personal Use Radio Ad-

visory Committee (PURAC) has begun studying the area of personal radio. Both of these groups will consider alternative spectrum for the Citizens Service, such as the 220 MHz or 900 MHz ranges, which propagates radio waves only over short "line-of-sight" distances and is unaffected by the solar cycle.

20. We have received a request for oral argument in this proceeding from Representative Herbert E. Harris II. We do not believe, however, that such a prolongation would serve any useful purpose. All pertinent aspects of Docket 20120 have been fully explored in the several thousand comments and reply comments filed, and we do not believe that further delay in the allocation of additional frequencies for the Class D service would be in the public interest.

21. In view of the foregoing, we are of the opinion that the amended rules as discussed above are in the public interest, convenience, and necessity. Accordingly, pursuant to authority contained in Sections 4(i), 302, and 303 of the Communications Act of 1934, as amended, *It is ordered*, That Parts 2, 89, 91, 93, and 95 of the Commission's Rules are amended as set forth below. *It is further ordered*, That the request of Herbert E. Harris II for oral argument is denied and that this proceeding is continued. These amendments become effective September 10, 1976.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, Sec. 302, 82 Stat. 290; 47 U.S.C. 154, 302, 303)

Adopted: July 27, 1976.

Released: July 29, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2, 89, 91, 93, and 95 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. Section 2.106 is amended to read as follows:

§ 2.106 Table of frequency allocations.

United States		Federal Communications Commission				
Band (megahertz)	Allocation	Band (megahertz)	Service	Class of station	Frequency (megahertz)	Nature of services and of stations
5	6	7	8	9	10	11
*	*	*	*	*	*	*
26.95–27.54	NG	26.95–26.96	Fixed	Fixed	26.955	International fixed public.
		26.96–27.28 (225) (u.S.1)	Citizens	Mobile	27.12	Industrial, scientific, and medical equipment.
		27.28–27.41	do	do		Citizens.
		27.41–27.54	Land mobile	Base mobile		Industrial.
*	*	*	*	*	*	*

PART 89—PUBLIC SAFETY RADIO SERVICES

2. In § 89.101, a new paragraph, (d) (3), is added, as follows:

§ 89.101 Frequencies.

* * * * *

(d) * * *

(3) Effective September 10, 1976, station authorizations for the use of 27.235, 27.245, 27.255, 27.265, and 27.275 MHz will be issued only to applicants in the Citizens Radio Service. Licenses in the Public Safety Radio Services authorizing the use of these frequencies shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 and 27.41 MHz should be modified prior to December 31, 1979 to permit operation on other authorized frequencies.

* * * * *

PART 91—INDUSTRIAL RADIO SERVICES

3. In § 91.254, the frequency table in paragraph (a) is amended, and new limitation (5) to par. (b) added to read as follows:

§ 91.254 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	2, 5, 8
27.245	do	2, 5, 8
27.255	do	2, 5, 8
27.265	do	2, 5, 8
27.275	do	2, 5, 8
*	*	*

(b) * * *

(5) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

4. In § 291.304, the frequency table in paragraph (a) is amended, and new limitation (7) to par. (b) added to read as follows:

§ 91.304 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
27.235	Base, mobile, or fixed	6, 7, 13
27.245	do	6, 7, 13
27.255	do	6, 7, 13
27.265	do	6, 7, 13
27.275	do	6, 7, 13
*	*	*

(b) * * *

(7) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

5. In Section 91.354, the frequency table in paragraph (a) is amended, and limitation (3) to par. (b) added to read as follows:

§ 91.354 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	3, 6, 14
27.245	do	3, 6, 14
27.255	do	3, 6, 14
27.265	do	3, 6, 14
27.275	do	3, 6, 14
*	*	*

(b) * * *

(3) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other frequencies.

* * * * *

6. In § 91.404, the frequency table in paragraph (a) is amended, and new limitation (8) added to par. (b) to read as follows:

§ 91.404 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	5, 6, 8
27.245	do	5, 6, 8
27.255	do	5, 6, 8
27.265	do	5, 6, 8
27.275	do	5, 6, 8
*	*	*

(b) * * *

(8) Effective September 10, 1976 station authorizations for the use of frequencies between 69.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

7. In § 91.454, the frequency table in paragraph (a) is amended, and limitation (6) to par (b) added to read as follows:

* * * * *

§ 91.454 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	2, 4, 6
27.245	do	2, 4, 6
27.255	do	2, 4, 6
27.265	do	2, 4, 6
27.275	do	2, 4, 6
*	*	*

(b) * * *

(6) Effective September 10, 1976, station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

8. In § 91.504, the frequency table in paragraph (a) is amended, and limitation (5) to par (b) added to read as follows:

§ 91.504 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	General reference	Limitations
*	*	*	*
Megahertz			
27.235	Base, mobile, or fixed	ISM general use	2, 5, 8
27.245	do	do	2, 5, 8
27.255	do	do	2, 5, 8
27.265	do	do	2, 5, 8
27.275	do	do	2, 5, 8
27.29	Base or mobile	General use	5
27.31	do	do	5
27.33	do	do	5
27.35	do	do	5
27.37	do	do	5
*	*	*	*

(b) * * *

(5) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

9. In § 91.554, the frequency table in paragraph (a) is amended, and limitation (5) to paragraph (b) added to read as follows:

§ 91.554 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	General reference	Limitations
*	*	*	*
Megahertz			
27.235	Base, mobile, or fixed	ISM general use	2, 5, 8
27.245	do	do	2, 5, 8
27.255	do	do	2, 5, 8
27.265	do	do	2, 5, 8
27.275	do	do	2, 5, 8
27.39	Base or mobile	General use	5
27.41	do	do	5
27.43	do	Permanent use	5, 10, 11
27.45	do	do	5, 10, 11
27.47	do	do	5, 10, 11
27.49	do	Itinerant use	5, 10, 12
27.51	Mobile	Low power general use	5, 13
27.53	do	do	5, 13
*	*	*	*

(b) * * *

(5) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

10. In § 91.730, the frequency table in paragraph (a) is amended, and limitation (9) to par (b) added to read as follows:

§ 91.730 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	2, 3, 9
27.245	do	2, 3, 9
27.255	do	2, 3, 9
27.265	do	2, 3, 9
27.275	do	2, 3, 9
*	*	*

(b) * * *

(9) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

11. In § 91.754, the frequency table in paragraph (a) is amended, and limitation (1) to par (b) is added to read as follows:

§ 91.754 Frequencies available.

* * * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz		
27.235	Base, mobile, or fixed	1, 2, 3
27.245	do	1, 2, 3
27.255	do	1, 2, 3
27.265	do	1, 2, 3
27.275	do	1, 2, 3
*	*	*

(b) * * *

(1) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 29.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

PART 93—LAND TRANSPORTATION RADIO SERVICES

§§ 93.254, 93.356 and 93.404 [Amended]

12. In Part 93, new §§ 93.254(d), 93.356(d), 93.404(d), and 93.504(d) are added, as follows:

* * * * *

(d) Effective September 10, 1976, station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979 to permit operation on authorized frequencies.

PART 95—CITIZENS RADIO SERVICE

13. In § 95.3(b) the definition of a Class D station is revised to read as follows:

§ 95.3 Definitions.

* * * * *

(b) Definitions of stations.

* * * * *

Class D station. A station in the Citizens Radio Service licensed to be operated for radiotelephony, only, on authorized frequencies in the 26.96 MHz to 27.41 MHz band.

* * * * *

14. Section 95.41, paragraph (d), is amended to read as follows:

§ 95.41 Frequencies available.

* * * * *

(d) The frequencies listed in the following paragraphs are available for use by Class D stations and are subject to no protection from interference resulting from the operation of industrial, scientific, or medical devices in the 26.96 MHz to 27.28 MHz band.

(1) The following frequencies may be used for communications between Class D stations:

MHz	*MHz*
26.965	27.115
26.975	27.125
26.985	27.135
27.005	27.155
27.015	27.165
27.025	27.175
27.035	27.185
27.055	27.205
27.075	27.215
27.085	27.225
27.105	27.255

(2) Effective January 1, 1977, the following frequencies may be used for communications between Class D stations:

MHz	*MHz*
26.965	27.225
26.965	27.235
26.985	27.245
27.005	27.255
27.015	27.265
27.025	27.275
27.035	27.285
27.055	27.295
27.075	27.305
27.085	27.315
27.105	27.325
27.115	27.335
27.125	27.345
27.135	27.355
27.155	27.365
27.165	27.375
27.175	27.385
27.185	27.395
27.205	27.405
27.215	

(3) The frequency 27.065 MHz shall be used solely for:

(i) Emergency communications involving the immediate safety of life of individuals or the immediate protection of property, or

(ii) Communications necessary to render assistance to a motorist.

NOTE.—A licensee, before using 27.065 MHz must make a determination that his communication is either or both (a) an emergency communication or (b) is necessary to render assistance to a motorist. To be an emergency communication, the message must have some direct relation to the immediate safety of life or immediate protection of property. If no immediate action is required, it is not an emergency. What may not be an emergency under one set of circumstances may be an emergency under different circumstances. There are many worthwhile public service communications that do not qualify as emergency communications. In the case of motorist assistance, the message must be necessary to assist a particular motorist and not, except in a valid emergency, motorists in general. If the communications are to be lengthy, the exchange should be shifted to another frequency, if feasible, after contact is established. No nonemergency or nonmotorist assistance communications are permitted on 27.065 MHz even for the limited purpose of calling a licensee monitoring a frequency to ask him to switch to another frequency. Although 27.065 MHz may be used for marine emergencies, it should not be considered a substitute for the authorized marine distress system. The Coast Guard has stated it will not "participate directly in the Citizens Radio Service by fitting with and/or providing a watch on any Citizens Band Channel. (Coast Guard Commandant Instructions 2302.6)"

The following are examples of permitted and prohibited types of communications. They are guidelines and are not intended to be all inclusive.

Permitted	*Example message*
Yes	A tornado is sighted six miles north of town.
No	This is observation post number 10. No tornados sighted.
Yes	I am out of gas on Interstate 95.
No	I am out of gas in my driveway.
Yes	There is a four-car collision at Exit 10 on the Beltway. Send police and ambulance.
No	Traffic is moving smoothly on the Beltway.
Yes	Base to Unit 1, the Weather Bureau has just issued a thunderstorm warning. Bring the sailboat into port.
No	Attention all motorists. The Weather Bureau advises that the snow tomorrow will accumulate 4 to 6 inches.
Yes	There is a fire in the building on the corner of 6th and Main Streets.
No	This is Halloween patrol unit number 3. Everything is quiet here.

The following priorities should be observed in the use of 27.065 MHz:

1. Communications relating to an existing situation dangerous to life or property, i.e., fire, automobile accident.
2. Communications relating to a potentially hazardous situation, i.e., car stalled in a dangerous place, lost child, boat out of gas.
3. Road assistance to a disabled vehicle on the highway or street.
4. Road and street directions.

* * * * *

15. A new section 95.42 is added, as follows:

§ 95.42 Special provisions.

Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Citizens Radio Service. Any license in a radio service other than the Citizens Radio Service authorizing the use of frequencies between 26.96 MHz and 27.41 MHz shall remain valid until December 31, 1979.

16. In § 95.49, paragraphs (c) and (d) (3) are revised, and new paragraphs (d) (4) and (d) (5) and a Note are added, as follows:

§ 95.49 Emission limitations.

* * * * *

(c) The authorized bandwidth of the emission of any transmitter employing amplitude modulation shall be 8 kHz for double sideband and 4 kHz for single sideband. The authorized bandwidth of the emission of any transmitter employing frequency or phase modulation (Class F2 or F3) shall be 20 kHz. The use of F2 and F3 emissions in the frequency band 26.96 MHz–27.41 MHz is not authorized.

(d) * * *

(3) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: at least 43+10 $\log_{10}$ (mean power in watts) decibels, for Class D transmitters type accepted before September 10, 1976 and all Class A transmitters.

(4) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth up to a frequency of twice the fundamental frequency; at least 53+10 $\log_{10}$ (mean power in watts) decibels, for Class D transmitters type accepted after September 10, 1976.

(5) On any frequency twice or greater than twice the fundamental frequency: at least 60 decibels (mean power in watts) for Class D transmitters type accepted after September 10, 1976.

NOTE.—The requirements of paragraph (d) must be met both with and without connection of all attachments acceptable for use with such transmitters. External speakers, microphones, power cords, and antennas are among the devices included in this requirement. Additionally, if it is shown that a licensee causes interference to television reception because of insufficient harmonic attenuation, he may be required to insert a low pass filter between the transmitter RF output terminal and the antenna feedline.

* * * * *

17. In § 95.55, paragraph (c) (4) is revised and new paragraph (c) (5) and a Note are added, as follows:

§ 95.55 Acceptability of transmitters for licensing.

* * * * *

(c) * * *

(4) Prior to January 1, 1977 transmitters which are equipped to operate on any frequency not included in § 95.41(d) (1) may not be installed at, or used by, any Class D station unless there is a station license posted at the transmitter location, or a transmitter identification card (FCC Form 452–C) attached to the transmitter, which indicates that operation of the transmitter on such frequency has been authorized by the Commission.

(5) Effective January 1, 1977 transmitters which are equipped to operate on any frequency not included in § 95.41 may not be installed at or used by any Class D station unless there is a station license posted at the transmitter location, or a transmitter identification card (FCC Form 452–C) attached to the transmitter, which indicates that operation of the transmitter on such frequency has been authorized by the Commission.

NOTE.—A "transmitter" is defined to include any radio frequency (RF) power amplifier.

* * * * *

18. In § 95.58, paragraphs (c) (2) and (c) (3) are amended, and new paragraphs (f) and (g) are added, as follows:

§ 95.58 Additional requirements for type acceptance.

* * * * *

(c) * * *

(2) Multi-frequency transmitters shall be capable of operation only on those frequencies authorized by § 95.41.

(3) All transmitter frequency determining circuitry (including crystals), other than the frequency selection mechanism, employed in Class D station equipment shall be internal to the equipment and shall not be accessible from the exterior of the equipment cabinet or operating panel. Add-on devices, whether internal or external to the equipment, the function of which is to extend the frequency coverage capability of a Class D unit beyond its original frequency coverage capability, shall not be sold, manufactured, or attached to any transmitter capable of operation on Class D Citizens Radio Service frequencies.

* * * * *

(f) A Class D Citizens Radio Service application form (FCC Form 505), a Temporary Permit, Class D Citizens Radio Station (FCC Form 555–B), and a copy of Part 95 of the Commission's Rules and Regulations, each to be current at the time of packing of the transmitter, shall be furnished with each transmitter sold after January 1, 1977.

(g) The serial number of each new Class D unit sold after January 1, 1977 shall be engraved on the unit's chassis.

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federal register

WEDNESDAY, AUGUST 4, 1976

PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

LOW INCOME HOUSING

Section 8 Housing Assistance Payments Program and Special Allocations; Additional Assistance

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R76-378]

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

Additional Assistance

The Department of Housing and Urban Development (HUD) gave notice on March 31, 1976, at 41 FR 13603, that it was amending Title 24 of the Code of Federal Regulations by adding a new Part 886, Subpart B to Chapter VIII, effective immediately on an interim basis, with opportunity for public comment. The comment period closed April 16, 1976.

The name of Part 886 is being changed from "Section 8 Housing Assistance Payments Program—Additional Assistance Program for Projects Insured or Formerly Insured by HUD" to "Section 8 Housing Assistance Payments Program—Special Allocations."

The name of Subpart B is being changed from "Additional Assistance Program for HUD-Owned Projects to be Disposed of and Rehabilitated with Section 8 Assistance" to "Additional Assistance Program for the Disposition of HUD-Owned Projects."

HUD has received six responses to the March 31, 1976, publication. These comments were carefully considered, and changes have been made to the regulations, based on these comments and comments from within HUD. A discussion of the principal comments and changes is set forth below:

1. It was suggested that the site and neighborhood standards found in § 881.112 (c), (e), (f), and (g) are inappropriate for this program because the projects are presently occupied by families requiring housing assistance payments and, without section 8 assistance, a sale of these properties could result in extreme hardship to or displacement of these lower income families. Since the provision of section 8 assistance under these circumstances would merely be a continuation or increase of HUD subsidy, these projects are made subject only to those standards in § 881.112 which are consistent with their qualifying as decent, safe, and sanitary housing, i.e., § 881.112 (a), (b), (d), (h), and (i).

2. One comment suggested that the Department should not permit use of high-rise elevator structures for families with children under this program. The restriction regarding use of high-rise structures for such families is found in § 881.111 of the Substantial Rehabilitation regulations and is applicable to this program because no provision to the contrary is contained in this Subpart (see § 886.201(c)). Nevertheless, in the interest of clarity, a new § 886.203(g) has been added to include, as one of the selection factors, the likelihood that a property selected will result in a Proposal which meets the requirements set forth in Part 881, except as modified by this Subpart.

3. A new § 886.203(h) has been added to include as one of the selection factors, whether another available disposition alternative, including sale of the project for use as condominium or cooperative housing without section 8 assistance, would result in the best use of the property.

4. It was determined that more definite criteria should be given in § 886.204, which states that a HUD purchase money mortgage may be utilized as a last resort. Since HUD's policy is to limit the use of purchase money mortgages, § 886.204 has been modified to specify that the amount of the purchase money mortgage may not exceed the "as-is" sales price nor may it exceed 90 percent of the HUD-estimated value of the rehabilitated project used in the computation of the "as-is" sales price. The use of purchase money mortgages must still be authorized by the Regional Administrator.

5. One comment suggested that § 886.211 be revised to indicate that the field office director is empowered to execute the Housing Assistance Payments Contract, regulatory agreement, note and mortgage as well as the Contract of Sale and Purchase. Authorization for the execution of such documents, as well as the Agreement to Enter Into Housing Assistance Payments Contract, is contained in the appropriate regulations and issuances for the Section 8 Substantial Rehabilitation Program and for the particular HUD mortgage insurance or other program involved.

6. Comments suggested that more specific provisions were needed for purposes of sales of properties which are to be converted to cooperatives with section 8 assistance. Accordingly, a new § 886.212 has been added to provide that where HUD has determined that such a cooperative would result in the best use of the property, the Notification of Fund Availability shall be limited to Proposals for such cooperative ownership.

7. Comments indicated that the maximum 5-year Contract term for properties for which the estimated cost of rehabilitation is less than 15 percent is inadequate. In the Substantial Rehabilitation program under Part 881, the Contract term for such projects is limited to 5 years because the primary objective of that program is to induce rehabilitation, rather than sales as such. Such a limitation, however, is not appropriate for the program under this Subpart because here the primary purpose is to induce sales of HUD-owned properties. Accordingly, § 886.213 has been added to eliminate the 5-year limitation and to replace it with a 15-year maximum total Contract term when the relative amount of rehabilitation is less than 15 percent.

8. One comment suggested that specific mention be made of requirements for historic preservation. § 881.114(e), which is made applicable to this Subpart by § 886.201(c), makes specific reference to historic preservation requirements, so that no specific mention in this Subpart is necessary.

9. It was suggested that invitations for proposals should be made on a nationwide basis because HUD's Office of Property Disposition in Washington maintains a nationwide mailing list for the sale of multifamily properties. HUD believes that the interests of the program can best be served by utilizing the section 8 procedures in use in the HUD field offices pursuant to 24 CFR Part 881 concerning advertising. Prospective purchasers should contact the HUD office in the locality in which they are interested to determine the availability of projects for sale pursuant to this subpart.

10. One comment expressed concern as to the possibility of a Purchaser failing to complete required work in accordance with the Agreement, which would thus have possible serious adverse effect on the status of the occupants. In this connection, it should first be noted that every Preliminary Proposal involving rehabilitation must comply with the provisions of § 881.205(o) concerning relocation of site occupants. In addition, provisions have been added in § 886.206 (c) and (d) indicating that the Purchaser shall be obligated to complete the rehabilitation; that if he fails to do so he shall be obligated to provide site occupants with continued occupancy on a basis no less favorable than as of the date of his acquisition of the property; and that his Preliminary Proposal shall include a feasible plan for meeting these obligations.

11. It was suggested that this Program could deprive a community of section 8 assistance that might otherwise be available and that HUD should seek additional funds to compensate for such deprivation. The section 8 assistance being utilized for this program is being allocated by the Department in conformance with section 213(d) of the Housing and Community Development Act of 1974 (HCD Act). This section is the controlling statutory provision for allocation of section 8 as well as other housing assistance. To the extent that it is determined that a given community is entitled to additional housing assistance, whether by way of section 8 or other assistance that would meet the low income needs of the community, such assistance will be allocated.

12. It was also suggested that the local government should be asked for its comment as to consistency with the housing assistance plan prior to the solicitation of proposals. This would not be in accordance with the requirements of section 213(a) of the HCD Act, which provides that it is the application for housing assistance which shall be sent to the local government for comment. There is no application for housing assistance until after a Notification of Fund Availability has been published inviting the submission of Proposals which constitute applications for housing assistance.

13. This subpart has also been updated to comply with the revised 24 CFR Part 881 published in the FEDERAL REGISTER on April 26, 1976.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A Finding of Inapplicability with respect to an Inflation Impact Statement has also been made in accordance with HUD procedures. Copies of these findings are available for public inspection during regular business hours in the office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C.

The Secretary of Housing and Urban Development has determined that the public interest would be best served by making these regulations effective immediately to avoid unnecessary delay in its implementation. Therefore, the Secretary finds that good cause exists for making these regulations effective on August 4, 1976.

Accordingly, 24 CFR Part 886, Subpart B is hereby amended and made final to read as follows:

Subpart B—Additional Assistance Program for the Disposition of HUD-Owned Projects

Sec.
886.201 Applicability and scope.
886.202 Allocations of contract authority to field offices.
886.203 Selection of properties.
886.204 Special financing.
886.205 Notification of fund availability.
886.206 Contents of purchaser's program packet.
886.207 Contents of Preliminary proposals.
886.208 Proposals involving HUD-FHA mortgage insurance.
886.209 Final proposals.
886.210 Notification of approval of final proposal.
886.211 Execution of contract of sale and purchase and closing.
886.212 Cooperative conversions.
886.213 Term of housing assistance payments contracts.

AUTHORITY: Sec. 7(d) Department of HUD Act, (42 U.S.C. 3535(d)); Sec. 5(b) of U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); Sec. 8 of U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart B—Additional Assistance Program for the Disposition of HUD-Owned Projects

§ 886.201 Applicability and scope.

(a) The purpose of this subpart is to permit the use or section 8 housing assistance to facilitate the sale of multifamily properties owned by HUD (HUD-owned properties). This program will help to meet the shelter needs of lower-income families, preserve and improve the housing stock available to such families, and contribute to the long term stability of HUD-assisted projects for lower income families.

(b) Projects assisted with the contract authority allocated pursuant to § 886.202 shall be subject to the provisions of this subpart. However, this Subpart shall not apply to the use of HUD-owned properties in projects assisted under other allocations of contract authority under the United States Housing Act of 1937.

(c) Except as specifically modified by this subpart, the provisions of Subparts A and B of the section 8 Substantial Rehabilitation Regulations (24 CFR Part 881) apply.

(d) 24 CFR § 881.101, Applicability and scope, shall not apply to projects under this subpart.

§ 886.202 Allocations of contract authority to field offices.

HUD may allocate to field offices contract authority reserved for use with HUD-owned properties to be sold pursuant to this subpart.

§ 886.203 Selection of properties.

The field office director shall select the properties for sale pursuant to this Subpart on the basis of the following factors:

(a) The number of properties in the inventory of HUD-owned properties in the field office jurisdiction which are suitable for use under this Subpart, including properties with HUD-insured or HUD-held mortgages where a mortgage assignment or mortgage foreclosure is anticipated. However, a property must be acquired by HUD before it is included in a Notification of Fund Availability pursuant to § 886.205.

(b) Compliance with site and neighborhood standards stated in 24 CFR 881.112 (a), (b), (d), (h), and (i);

(c) Results of appropriate environmental review conducted in compliance with HUD requirements implementing the National Environmental Policy Act of 1969, as amended; and, if applicable, the likelihood of compliance with A-95 requirements;

(d) The extent to which the use of the property under this subpart will help to meet the needs of lower income families.

(e) The likelihood that the use of the property under this subpart will not be objected to by the unit of local government under section 213(a) of the Housing and Community Development Act of 1974 (HCD Act); and

(f) The contents of any local public or private plans for upgrading or preserving the neighborhood in which a property is located.

(g) The likelihood that selection of a property for use under this subpart will result in a proposal which meets the requirements set forth in Part 881 except as modified by this Subpart B.

(h) Whether another available disposition alternative, including sale of the project for use as condominium or cooperative housing without section 8 assistance, would result in the best use of the property.

§ 886.204 Special financing.

In addition to the types of financing mentioned in 24 CFR 881.115, HUD purchase money mortgages may be utilized as a last resort with written approval of the Regional Administrator, but the amount of the purchase money mortgage may not exceed the "as-is" sales price nor may it exceed 90 percent of the HUD-estimated value of the rehabilitated project used in the computation of the "as-is" sales price.

§ 886.205 Notification of fund availability.

The director of a field office to which contract authority has been allocated pursuant to § 886.202 shall implement a program under this Subpart by publishing a Notification of Fund Availability for the sale of HUD-Owned Properties in accordance with 24 CFR 881.203(a). In addition to the contents required by 24 CFR 881.203(c), the Notification shall include a statement that certain HUD-owned property(ies) is available for sale for use with assistance under the section 8 program. If the field office director deems it necessary in marketing the property, the following information shall also be included in the Invitation: the specific address(es) of the property(ies), the HUD determined "as-is" sales price, the number of units in each property, and any other relevant information. Where this information is included in the Notification the statement of the geographic area of the housing and the approximate number of units the available contract authority is expected to assist shall be omitted.

§ 886.206 Contents of purchaser's program packet.

The contents of the Purchaser's Program Packet shall be as provided in 24 CFR 881.204 for the Rehabilitation Program Packet, except that the Purchaser's Program Packet shall include:

(a) A statement of limitations on type of occupancy, if any (e.g. predominantly for elderly, conversion to cooperative).

(b) A statement of the HUD-determined "as-is" sales price for each property, its address, and the number of units contained therein.

(c) The Contract of Sale and Purchase for each property. This Contract shall include a provision that the Purchaser shall be obligated to complete any required rehabilitation in accordance with the agreement so that a Housing Assistance Payments Contract can be executed, and that in the event of failure to achieve such completion the Purchaser shall be obligated to provide occupants of the project with continued occupancy on a basis no less favorable than as of the date of his acquisition of the property.

(d) A statement that the Preliminary Proposal shall include a feasible plan for meeting the Purchaser's obligations mentioned in paragraph (c) of this section.

(e) A statement that, in addition to meeting other applicable requirements, the execution of a section 8 agreement or contract is contingent upon approval of the final proposal and on the purchaser meeting the closing date specified in the contract of sale and purchase.

§ 886.207 Contents of preliminary proposals.

(a) Except for the following modifications, the information required by 25 CFR 881.205 shall be included in the preliminary proposal.

(b) The provisions of 24 CFR 881.205 (b) and (c) shall not apply.

§ 886.208 Proposals involving HUD-FHA mortgage insurance.

Submission of proposals involving HUD-FHA mortgage insurance shall be in accordance with 24 CFR 88.07, except that paragraph (a) shall not apply.

§ 886.209 Final proposals.

(a) Except for the following modifications, the information required by 24 CFR 881.209 shall be included in the final proposal.

(b) The provisions of 24 CFR 881.209 (a) (1) shall not apply.

§ 886.210 Notification of approval of final proposal.

The notification of approval of final proposal pursuant to 24 CFR 881.210(c) shall instruct the purchaser to return to the field office the executed contract of sale and purchase together with his acceptance of the notification.

§ 886.211 Execution of contract of sale and purchase and closing.

On receipt of the executed Contract of Sale and Purchase from the purchaser, the field office director shall execute that Contract and arrange for sales closing.

§ 886.212 Cooperative conversions.

When the field office Director determines, in the selection of a property pursuant to this Subpart and after consideration of all available disposition alternatives, that the best use of the property would result from cooperative housing ownership, the Notification of Fund Availability shall be limited to proposals for such cooperative ownership. The Purchaser's Program Packet shall include a statement that the total of the carrying charges to be paid by a member-occupant of a dwelling unit under the occupancy agreement between him and the cooperative shall be treated as the rent for the unit, and that the occupancy agreement shall be treated as the lease, for all purposes of the provisions of this Subpart B and 24 CFR Part 881.

§ 886.213 Term of housing assistance payments contracts.

Except as modified by this section, the term of the Contract shall be as specified in 24 CFR 881.109. The provisions of 24 CFR 881.109(a) shall not apply; in lieu thereof, where the HUD-estimated relative cost of the rehabilitation is less than 15 percent of the HUD-estimated value of the project after completion of the rehabilitation, the Contract shall be for an initial term of not more than 5 years, with provision for automatic renewal (unless agreed otherwise) for additional terms of not more than 5 years each, for a total Contract term not to exceed 15 years.

(NOTE: It is hereby certified that the economic and inflationary impact of this regulation has been carefully evaluated in accordance with OMB Circular A-107.)

Effective date. These regulations are effective on August 4, 1976.

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

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