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federal register

TUESDAY, SEPTEMBER 5, 1978

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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rules and regulations

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[3410-02]

Title 7—Agriculture

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the Lemon Administrative Committee which locally administers the Federal marketing order covering lemons grown in California and Arizona.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

§ 910.216 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the period August 1, 1978, through July 31, 1979, will amount to $418,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 910.41 is fixed at $0.033 per carton of lemons.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable lemons handled from the beginning of such year which began August 1, 1978. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: August 29, 1978.

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

[FR Doc. 78-24834 Filed 9-1-78; 8:45 am]

[3410-02]

[Docket No. AO—267A9]

PART 911—LIMES GROWN IN FLORIDA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This decision amends the Federal marketing agreement and order for fresh limes grown in Florida. Lime growers approved the amendment in a referendum held June 21 through June 30, 1978. The principal changes: Authorize addition of a public member to the committee; allow an assessment rate exceeding 20 cents per bushel when recommended by a specified majority of the committee; change the financial reserve provision to permit the carryover of up to three years' expenses; authorize regulations for export shipments that are different from regulations for shipment to domestic markets; delete the provisions allowing compensation to committee members for performing program duties; and exclude export shipments from volume control and handler prorate base calculations.

EFFECTIVE DATE: September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *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 each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida.

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of limes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of limes grown in the production area as defined in the marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

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

(1) the "marketing agreement, as amended, regulating the handling of limes grown in Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping limes covered by the said order, as amended, and as hereby further amended) who, during the period April 1, 1976, through March 31, 1977, handled not less than 50 percent of the volume of such limes covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period April 1, 1976, through March 31, 1977 (which has been deemed to be a representative period), have been engaged within the production area, in the production of limes for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of limes grown in Florida, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Add a new § 911.12 *Export* as follows:

§ 911.12 Export.

"Export" means to ship limes to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

* * * * *

Revise § 911.48 by adding a new paragraph (a)(7). As amended, § 911.48 read as follows:

§ 911.48 Issuance of regulations.

(a) * * *

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

* * * * *

2. Revise § 911.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 911.20 reads as follows:

§ 911.20 Establishment and membership.

* * * * *

(b) The committee may be increased by one public member and alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

Revise paragraph (a) of § 911.30 and add a new paragraph (d) to such section. As amended, § 911.30 reads as follows:

§ 911.30 Procedure.

(a) Except as provided in paragraphs (c) and (d), of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes, including one by a handler, or an alternate acting as such: *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes, including one by a handler or an alternate acting as such.

* * * * *

(d) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 911.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

3. Revise paragraph (b) of § 911.41 to read as follows:

§ 911.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

4. Revise § 911.31 to read as follows:

§ 911.31 Expenses.

The members of the committee and their respective alternates when performing duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

5. Revise paragraph (a)(2) of § 911.42. As amended § 911.42 reads as follows:

§ 911.42 Accounting.

(a)* * *

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operation during such a year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses and to cover deficits incurred during any fiscal year when income is less than expenses. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,*

That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

6. Revise paragraph (a) of § 911.53, so that after revision such paragraph reads as follows:

§ 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems advisable to be handled to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada during the next succeeding week: *Provided,* That such volume regulation shall not be recommended for any week except during the 18-week regulatory period beginning with the week preceding the first full week in May: *Provided, further,* That no such regulation shall be recommended after such regulations have been in effect for an aggregate of eight (8) weeks during the aforesaid period.

* * * * * *

Revise § 911.54 to read as follows:

§ 911.54 Issuance of volume regulations.

Whenever the Secretary finds from the recommendation and information submitted by the committee, or from other available information, that to limit the quantity of limes which may be handled to destinations within the 48 contiguous States of the United States, the District of Columbia and Canada during a specified week of a regulatory period will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations during a regulatory period shall not in the aggregate limit the volume of lime shipments for more than eight (8) weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of limes is in excess of the parity price. The Secretary may, upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation pursuant to this section at any time.

* * * * * *

Revise paragraph (d) of § 911.55 to read as follows:

§ 911.55 Prorate bases.

* * * * * *

(d) Each week during the regulatory period when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of the section. The prorate base for each such handler shall be computed by adding together the handler's shipments of limes in the current season and his shipments in the immediately preceding seasons, if any, within the representative period in which he shipped limes and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and the eighteen weeks for each of such immediately preceding seasons within the representative period in which the handler shipped limes. For purposes of this section "shipments" shall include only those limes which were shipped to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada; "representative period" means the two preceding seasons together with the current season; the term "season" means the eighteen-week period beginning with the week preceding the first full week in May of any fiscal year; and the term "current season" means the period beginning with the week preceding the first full week in May of the current fiscal year through the fourth full week preceding the week of regulation: *Provided,* That when official shipping records are available to the committee the said "current season" shall extend through the third full week preceding the week of regulation.

7. Section 911.110 contains erroneous references to § 911.54. The correct reference is § 911.50. As corrected, § 911.110 reads as follows:

Subpart—Rules and Regulations

§ 911.110 Exemption certificates.

Exemption certificates under § 911.50 shall be issued by the Florida Lime Administrative Committee pursuant to the following rules and regulations:

* * * * * *

(c) Approval of the application shall be evidenced by the issuance to the applicant, by the Manager of the Florida Lime Administrative Committee on its behalf, of one or more exemption certificates which shall authorize the handling of such quantity of the applicant's limes as may be necessary to accomplish the purposes of § 911.50.

* * * * * *

Section 911.130(a) contains erroneous references to §§ 911.52 and 911.55. The correct references are §§ 911.48, 911.54 and 911.55. Paragraph (b) contains erroneous references to §§ 911.52 and 911.55. The correct references are 911.48 and 911.51. Paragraph (c) contains an incorrect reference to § 911.56. The correct referece is § 911.52. As corrected, § 911.130 reads as follows:

§ 911.130 Limes not subject to regulation.

(a) *Minimum quantity.* During any one day any handler may handle not to exceed 55 pounds total of limes exempt from the provisions of §§ 911.41, 911.48, 911.51 and 911.54, and the regulations issued thereunder,* * *

(b) *Gift shipments.* Any handler may, exempt from the provisions of §§ 911.41, 911.48, and 911.51, and the regulations issued thereunder. * * *

(c) *Commercial processing into products.* The term "commercial processing into products," as used in § 911.52(c) means the manufacture of any lime product which has been preserved by any recognized commercial process, * * *

In § 911.311(a)(2) change the word "marketing" which appears in the proviso to "marking". As corrected, the proviso reads as follows:

Subpart—Pack Regulation

§ 911.311 Lime Regulation 9.

(a)(1) * * *

(2) * * * *Provided,* That in lieu of such marking requirement, any handler may affix to the container a label, brand, or trademark, registered with the Florida Lime Administrative Committee in accordance with the following, which appropriately identifies the grade:

* * * * * *

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

Effective date: September 30, 1978.

Signed at Washington, D.C. on: August 29, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-24837 Filed 9-1-78; 8:45 am]

[3410-02]

[Docket No. AO-254-A8]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This decision amends the Federal marketing agreement and order for fresh avocados grown in south Florida. Avocado growers ap-

proved the amendment in a referendum held June 21 through June 30, 1978. The principal changes: Authorize addition of a public member to the committee; allow an assessment rate exceeding 20 cents per bushel when recommended by a specified majority of the committee; change the financial reserve provision to permit the carryover of up to three years' expenses; authorize regulations for export shipments that are different from regulations for shipments to domestic markets; and delete the provision allowing compensation to committee members for performing program duties.

EFFECTIVE DATE: September 30, 1978.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *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 each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida.

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of avocados grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of avocados grown in the production area; and

(5) All handling of avocados grown in the production area as defined in the marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

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

(1) The "marketing agreement, as amended, regulating the handling of avocados grown in south Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping avocados covered by the said order, as amended, and as hereby further amended) who, during the period April 1, 1976, through March 31, 1977, handled not less than 50 percent of the volume of such avocados covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period April 1, 1976, through March 31, 1977 (which has been deemed to be a representative period), have been engaged within the production area, in the production of avocados for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of avocados grown in south Florida, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Add a new § 915.12 Export as follows:

§ 915.12 Export.

"Export" means to ship avocados to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

* * * * *

Amend § 915.51(a) by adding a new subparagraph (7). As amended, § 915.51 reads as follows:

§ 915.51 Issuance of regulations.

(a) * * *

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of avocados which are different from those applicable to the handling of the same variety to other destinations.

* * * * *

2. Revise § 915.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 915.20 reads as follows:

§ 915.20 Establishment and membership.

* * * * *

(b) The committee may be increased by one public member and an alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office and the procedure for nominating the public member and alternate.

Revise paragraph (a) of § 915.30 and add a new paragraph (c) to such section. As amended, § 915.30 reads as follows:

§ 915.30 Procedure.

(a) Except as provided in paragraph (c) of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes including one by a handler, or an alternate acting as such: *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes including one by a handler, or an alternate acting as such.

* * * * *

(c) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 915.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

3. Revise paragraph (b) of § 915.41 to read as follows:

§ 915.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment, in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

4. Revise § 915.31 to read as follows:

§ 915.31 Expenses.

The members of the commmittee and their respective alternates when performing duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

5. Revise paragraph (a)(2) of § 915.42. As amended § 915.42 reads as follows:

§ 915.42 Accounting.

(a) * * *

(2) The secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses and to cover deficits incurred during any fiscal year when income is less than expenses. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

7. Section 915.205(a) refers to a reserve fund not to exceed the amount of "$10,000". Amendment 5 would increase the authorized reserve to an amount not to exceed approximately 3 fiscal years' operational expenses. Accordingly, § 915.205 should be revised. As revised, § 915.205 reads as follows:

Subpart—Budget of Expenses, Rate of Assessment and Carryover of Unexpended Funds

§ 915.205 Reserve fund.

(a) The establishment of a reserve fund at an amount not to exceed approximately 3 fiscal years' operational expenses is appropriate and necessary to the maintenance and functioning of the Avocado Administrative Committee. Such reserve, including funds carried forward from prior fiscal years, shall be used to provide for the maintenance and functioning of the committee in accordance with the provisions of the marketing agreement, as amended, and this part.

(b) Terms used in this section shall have the same meaning as when used in said marketing agreement and order.

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

Effective date: September 30, 1978.

Signed at Washington, D.C., on: August 29, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-24836 Filed 9-1-78; 8:45 am]

[3410-02]

PART 927—HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Expenses and Rates of Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize expenses and rates of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering Oregon, Washington, and California winter pears, and Bartlett pears grown in Oregon and Washington.

DATES: Effective July 1, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order Nos. 927 and 931 (7 CFR Parts 927 and 931), respectively, regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, and Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committees, established under these marketing orders, and upon other information, it is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

MARKETING ORDER 927

§ 927.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Control Committee during the period July 1, 1978, through June 30, 1979, will amount to $99,788.

(b) The rate of assessment for said period payable by each handler in accordance with § 927.41 is fixed as $0.0075 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

MARKETING ORDER 931

§ 931.213 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee during the fiscal period July 1, 1978, through June 30, 1979, will amount to $21,896.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 931.41, is fixed at $0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days

after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the orders require that the rates of assessment for a particular fiscal year shall apply to all assessable pears handled from the beginning of such year which began July 1, 1978. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rates at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: August 30, 1978.

CHARLES R. BRADER,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-24897 Filed 9-1-78 8:45 am]

[3410-02]

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

[Docket Nos. AO-231-A45, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Order Amending Order

7 CFR Parts	Marketing area	Docket Nos.
1071	Neosho Valley	AO-227-A34
1073	Wichita, Kans	AO-173-A35
1097	Memphis, Tenn	AO-219-A34-RO1
1102	Fort Smith, Ark	AO-237-A28-RO1
1104	Red River Valley	AO-298-A28
1106	Oklahoma Metropolitan	AO-210-A41
1108	Central Arkansas	AO-243-A32-RO1
1120	Lubbock-Plainview, Tex.	AO-323-A21
1126	Texas	AO-231-A45
1132	Texas Panhandle	AO-262-A30
1138	Rio Grande Valley	AO-335-A26

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides for a "base-excess" plan for paying producers under 11 southwestern Federal milk orders, beginning September 1, 1979. The plan was proposed by a major cooperative association at a public hearing held in April 1977. Under the plan, each producer's average daily delivery of milk during September through December would be his established base. In the following March through July, each producer would be paid a higher uniform base price for milk deliveries up to his base, and a lower price for any excess milk. During August through February, producers would receive the blend price for all their deliveries. The intent of the plan is to provide an incentive to producers to even out their milk production during the year.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notices of hearing: issued February 11, 1977, published February 14, 1977, (42 FR 9674); issued March 3, 1977, published March 25, 1977, published March 31, 1977 (42 FR 17130). Notice of extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

Notice of recommended decision: Issued December 20, 1977, published December 29, 1977 (42 FR 65088). Notices of extension of time for filing exceptions: Issued January 20, 1978, published January 26, 1978 (43 FR 3568); issued February 15, 1978, published February 22, 1978 (43 FR 7327).

Final decision: Issued July 23, 1978, published July 28, 1978 (43 FR 33192).

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 each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

(1) The said orders 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 areas, and the minimum prices specified in the orders 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 orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commerical activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* This order should not be made effective until September 1, 1979. The cooperative association that proposed the adoption of uniform base-excess plans in the 11 orders, and which represents the majority of producers in the 11-market area, requested that implementation of the plans be delayed until such date. It was indicated in the final decision on this issue that the base-excess plans, if approved by producers, would become effective on October 1, 1978.

The cooperative association stated that producers need more time in which to make adjustments in their milk production operations. The cooperative held that the Department's final decision was issued too late this year for producers to make any substantive changes in their fall milk production plans.

Producers should be provided time to make adjustments in their production operations before the start of the base-making period. If the base-making period were to start October 1, 1978, producers would have only 1 month's notice after the issuance of the amended orders that the base-excess plans that had been under consideration were, in fact, going to become effective. This short notice would give producers inadequate time to make changes in their production operations which they might consider desirable under the new payment plans. With the delayed effective date, however, producers will have more opportunity, for example, to have their cows freshen during the base-making months of September through December, when additional milk supplies are usually needed, rather than during the base-paying months of March through July, when milk supplies normally are in excess of the fluid demand. By providing time for produc-

tion adjustments of this nature, producers will be better able to level out their milk production, which is the intent of the base-excess plans.

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the act) of more than 50 percent of the milk which is marketed within each of the aforesaid marketing areas, 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 orders, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers as defined in the orders as hereby amended; and

(3) The issuance of the order amending the orders is approved or favored by at least two-thirds of the producers (three-fourths in the Memphis and Fort Smith markets) who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

ORDER RELATIVE TO HANDLING

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

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

1. In § 1071.31, paragraphs (a) (2) and (4) is revised as follows:

§ 1071.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1071.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1071.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to paragraphs (a) and (c) of this section and §§ 1071.30 and 1071.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1071.92.

3. Section 1071.61 is revised as follows:

§ 1071.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1071.60 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.71 and 1071.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1071.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) * * *

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1071.60(f).

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1071.62 is revised as follows:

§ 1071.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1071.71 [Amended]

5. Section 1071.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1071.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1071.73, the introductory text of paragraph (b) is revised as follows:

§ 1071.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 17th day after the end of each delivery period, for all milk (or base milk and excess milk) received during such delivery period from such producer at not less than the applicable uniform price(s) for such delivery period subject to the following adjustments:

* * * * *

§ 1071.74 [Amended]

8. Section 1071.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1071.75 is revised as follows:

§ 1071.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at a pool plant the uniform price and the uniform price for base milk shall be adjusted according to the location of the pool plant at the rates set forth in § 1071.52.

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1071.52, except that the adjusted weighted average price shall not be less than the class III price.

§ 1071.76 [Amended]

10. Section 1071.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1071.90 through 1071.94) are added immediately following § 1071.86 as follows:

BASE-EXCESS PLAN

§ 1071.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1071.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1071.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1071.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1071.92 that is delivered under this order at each respective plant location.

§ 1071.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1071.92.

§ 1071.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1071.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be in a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1071.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

PART 1073—MILK IN THE WICHITA, KANS., MARKETING AREA

1. In § 1073.31, paragraph (a) (2) and (4) is revised as follows:

§ 1073.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. Section 1073.32 is revised as follows:

§ 1073.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the eighth day after the end of each of the months of March through July the following information.

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1073.92.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1073.30 and 1073.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. Section 1073.61 is revised as follows:

§ 1073.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(2) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1073.62 is revised as follows:

§ 1073.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1073.71 [Amended]

5. Section 1073.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1073.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1073.73 paragraphs (a) and (d)(2) are revised as follows:

§ 1073.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the second working day following the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price(s) computed for such producer's deliveries of milk (or base milk and excess milk) adjusted by the butterfat differential and location adjustments computed pursuant to §§ 1073.74 and 1073.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1073.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

* * * * *

(d) * * *

(2) In making final settlement, the value of such milk at the appropriate uniform prices adjusted pursuant to §§ 1073.74 and 1073.75, less payment made pursuant to paragraph (d)(1) of this section

§ 1073.74 [Amended]

8. Section 1073.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1073.75 is revised as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at plants located outside zone 1 the uniform price and the uniform price for base milk shall be increased or decreased by an adjustment for each such plant at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the class III price.

§ 1073.76 [Amended]

10. Section 1073.76(a)(4) is amended by changing the words "uniform price" whenever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1073.90 through 1073.94) are added immediately following § 1073.86 as follows:

BASE-EXCESS PLAN

§ 1073.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1073.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in §1073.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specfied in § 1073.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1073.92 that is delivered under this order at each respective plant location.

§ 1073.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1073.92.

§ 1073.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1103, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire baseforming period. A base thus assigned shall not be transferable.

§ 1073.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint

holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1073.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1073.121 [Amended]

12. Section 1073.121(b) is amended by changing all references to "§ 1073.61(d)" to read "§ 1073.61(a)(4)."

PART 1097—MILK IN THE MEMPHIS, TENN., MARKETING AREA

1. In § 1097.31, paragraph (a)(3) is revised as follows:

§ 1097.31 Payroll reports.

(a) * * *

(3) The total pounds of milk received from such producer and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each fluid milk (pool) plant (and diverted to each plant that is not a fluid milk [pool] plant) under any of the orders specified in § 1097.92;

* * * * *

2. Section 1097.61, paragraph (b) is revised as follows:

1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract, for each handler, an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1097.9(c); and

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk and deduct any fraction of a cent.

3. Section 1097.75 is revised as follows:

§ 1097.75 Plant location adjustments for producers.

In making payment pursuant to § 1097.73, for milk received the uniform price and the uniform price for base milk shall be adjusted according to the location of the fluid milk plant where such milk was received at the rate provided pursuant to § 1097.52.

4. Section 1097.90 is revised as follows:

§ 1097.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1097.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1097.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1097.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1097.92 that is delivered under this order at each respective plant location.

5. Section 1097.91 is revised as follows:

§ 1097.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1097.92.

6. Section 1097.92 is revised as follows:

§ 1097.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark; Central Arkansas; Texas; Lubbock-Plainview, Tex; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

7. Section 1097.93 is revised as follows:

1097.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

8. Section 1097.94 is revised as follows:

§ 1097.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1097.95 [Revoked]

9. Section 1097.95 is revoked.

PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. In § 1102.31, paragraphs (b) and (d) are revised as follows:

§ 1102.32 Payroll reports.

* * * * *

(b) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(d) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

2. In § 1102.32, paragraph (a)(2) is revised as follows:

§ 1102.32 Other reports.

a * * *

(2) The total pounds of milk and butterfat and the pounds of base milk of such producer delivered to each approved (pool) plant (and diverted to each plant that is not an approved [pool] plant) under any of the orders specified in § 1102.92.

* * * * *

3. In § 1102.61, paragraph (b) is revised as follows:

§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (3) of this section, subtract, for each handler, an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of such handler's excess milk; and

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk, and deduct any fraction of a cent.

4. Section 1102.75 is revised as follows:

§ 1102.75 Plant location adjustments for producers.

For producer milk received at an approved plant the uniform price and the uniform price for base milk shall be reduced according to the location of the approved plant at the rates set forth in § 1102.52.

5. Section 1102.90 is revised as follows:

§ 1102.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1102.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk as defined under any order specified in § 1102.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1102.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1102.92 that is delivered under this order at each respective plant location.

6. Section 1102.91 is revised as follows:

§ 1102.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1102.92.

7. Section 1102.92 is revised as follows:

§ 1102.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn., Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1126, 1108, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

8. Section 1102.93 is revised as follows:

§ 1102.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

9. Section 1102.94 is revised as follows:

§ 1102.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested a cooperative association in behalf of each of its producer members or the base established by such producer.

§ 1102.95 [Revoked]

10. Section 1102.95 is revoked.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. In § 1104.31, paragraph (a) (2) and (4) is revised as follows:

§ 1104.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and

nature of any deductions, and the net amount paid.

* * * * *

2. In § 1104.32 paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1104.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1104.30 and 1104.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1104.92.

3. Section 1104.61 is revised as follows:

§ 1104.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1104.62 is revised as follows:

§ 1104.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1104.71 [Amended]

5. Section 1104.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1104.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1104.73, the introductory text of paragraph (a)(2) (immediately preceding subdivision (i)), and paragraphs (b) (1)(ii) and (3)(ii) are revised as follows:

§ 1104.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day of the following month, an amount equal to not less than the applicable uniform price(s), as adjusted pursuant to §§ 1104.74 and 1104.75, multiplied by the hundredweight of milk (or base milk and excess milk) received from such producer during the month, subject to the following adjustments:

* * * * *

(b) * * *

(1) * * *

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (*a*) the total pounds of milk received during the preceding month, (and for the months of March through July the pounds of base milk), (*b*) the total pounds of butterfat contained in such milk, (*c*) the number of days of production included in such receipts, and (*d*) the amounts withheld by the handler in payment for supplies sold; and

* * * * *

(3) * * *

(ii) In making final settlement, the value of such milk at the appropriate uniform price(s), as adjusted pursuant to §§ 1104.74 and 1104.75, less the amount of partial payment made for such milk.

§ 1104.74 [Amended]

8. Section 1104.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1104.75 is revised as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price plus 5 cents shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

§ 1104.76 [Amended]

10. Section 1104.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1104.90

through 1104.94) are added immediately following § 1104.86 as follows:

BASE-EXCESS PLAN

§ 1104.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1104.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1101.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1104.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1104.92 that is delivered under this order at each respective plant location.

§ 1104.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1104.92.

§ 1104.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138 respectively, of this chapter) during the immediately preceding period of September through December by the number of day's production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the baseforming period shall be calculated as if the plant were a pool plant under such orders for the entire baseforming period. A base thus assigned shall not be transferable.

§ 1104.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1104.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1104.121 [Amended]

12. Section 1104.121(b) is amended by changing all references to "§ 1104.61(d)" to read "§ 1104.61(a)(4)."

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. In § 1106.31, paragraph (a) (2) and (4) is revised as follows:

§ 1106.31 Payroll reports.

(a) * * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1106.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1106.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1106.30 and 1106.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the seventh day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1106.92.

3. Section 1106.61 is revised as follows:

§ 1106.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(2) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(3) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents.

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices

per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1106.62 is revised as follows:

§ 1106.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1106.71 [Amended]

5. Section 1106.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1106.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1106.73, paragraphs (a) and (d)(1)(ii)(*a*) are revised as follows:

§ 1106.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the 15th day after the end of the month during which the milk (or base milk and excess milk) was received, to each producer to whom payment is not made pursuant to paragraph (d) of this section, at not less than the applicable uniform price(s) for such month, as adjusted pursuant to §§ 1106.74 and 1106.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if by such date such handler has not received full payment pursuant to § 1106.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(*a*) The total pounds of milk received during the preceding month and for the months of March through July the pounds of base milk;

* * * * *

§ 1106.74 [Amended]

8. Section 1106.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1106.75 is revised as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

§ 1106.76 [Amended]

10. Section 1106.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1106.90 through 1106.94) are added immediately following § 1106.86 as follows:

BASE-EXCESS PLAN

§ 1106.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1106.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1106.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1106.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1106.92 that is delivered under this order at each respective plant location.

§ 1106.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1106.92.

§ 1106.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1106.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base

is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1106.94 Announcement of established bases.

On or before February 10, of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1106.121 [Amended]

12. Section 1106.121(b) is amended by changing all references to "§ 1106.61(d)" to read "§ 1106.61(a)(4)."

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.31, paragraph (a) (2) and (4) is revised as follows:

§ 1108.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net volume paid.

* * * * *

2. Section 1108.32(a)(1) is revised as follows:

§ 1108.32 Other reports.

(a) * * *

(1) On or before the seventh day of each month of April through August, for each producer for the preceding month:

(i) The name and address or other appropriate identification of each producer; and

(ii) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1108.92;

* * * * *

3. In § 1108.61, the introductory text of paragraph (a) (immediately preceding subparagraph (1)), and paragraph (a)(6) and (b) are revised as follows:

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk containing 3.5 percent butterfat content as follows:

* * * * *

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1108.75(a) is revised as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for producer milk received at a pool plant located 60 miles or more from the county courthouse in Arkadelphia, Ark., the county courthouse in Forrest City, Ark., or the State capitol in Little Rock, Ark., whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

* * * * *

5. Section 1108.90 is revised as follows:

§ 1108.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1108.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1108.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1108.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1108.92 that is delivered under this order at each respective plant location.

6. Section 1108.91 is revised as follows:

§ 1108.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1108.92.

7. Section 1108.92 is revised as follows:

§ 1108.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of

the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

8. Section 1108.93 is revised as follows:

§ 1108.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the base-holder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

9. Section 1108.94 is revised as follows:

§ 1108.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§§ 1108.95 and 1108.96 [Revoked].

10. Sections 1108.95 and 1108.96 are revoked.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

1. In § 1120.31, paragraph (a) (2) and (4) is revised as follows:

§ 1120.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1120.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1120.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to § 1120.30 and § 1120.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the eighth day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1120.92.

3. Section 1120.61 is revised as follows:

§ 1120.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(3) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1120.62 is revised as follows:

§ 1120.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices for such month.

§ 1120.71 [Amended]

5. Section 1120.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1120.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1120.73, the introductory text of paragraph (a)(2) (immediately preceding subdivision (i)), and paragraph (d)(3) are revised as follows:

§ 1120.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day after the end of each month for milk (or base milk and excess milk) received during such month, an amount computed at not less than the uniform price(s) per hundredweight pursuant

to § 1120.61 as adjusted pursuant to § 1120.74; and less

* * * * *

(d) * * *

(3) The daily and total pounds and the average butterfat content of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

§ 1120.74 [Amended]

8. Section 1120.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1120.75 is revised as follows:

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the class III price).

§ 1120.76 [Amended]

10. Section 1120.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1120.90 through 1120.94) are added immediately following § 1120.86 as follows:

BASE-EXCESS PLAN

§ 1120.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1120.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1120.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1120.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1120.92 that is delivered under this order at each respective plant location.

§ 1120.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1120.92.

§ 1120.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132 and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1120.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1120.94 Announcement of established bases.

On or before February 10 each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1120.121 [Amended]

12. Section 1120.121(b) is amended by changing all references to "§ 1120.61(d)" to read "§ 1120.61(a)(4)."

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.32 paragraph (b)(2) is revised as follows:

§ 1126.32 Other reports.

* * * * *

(b) * * *

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1126.92;

* * * * *

2. Section 1126.61 is revised as follows:

§ 1126.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(2) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(3) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

3. Section 1126.62 is revised as follows:

§ 1126.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the applicable uniform prices for such month.

§ 1126.71 [Amended]

4. Section 1126.71(b)(4) is amended by changing the words "uniform price" to "weighted average price."

5. In § 1126.73 the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraph (d)(2) are revised as follows:

§ 1126.73 Payments to producers and to cooperative associations.

* * * * *

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 18th day after the end of each month for milk (or base milk and excess milk) for which payment pursuant to § 1126.71(b) has been received by the market administrator or offset pursuant to § 1126.71(d). Such payment shall be at the applicable uniform price(s) for the month, subject to the following adjustments:

* * * * *

(d) * * *

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made and for the months of March through July the pounds of base milk;

* * * * *

§ 1126.74 [Amended]

6. Section 1126.74 is amended by changing the words "uniform price" to "uniform prices."

7. Section 1126.75 is revised as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price and the uniform price for base milk for the month shall be adjusted by the amounts set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the class III price.

§ 1126.76 [Amended]

8. Section 1126.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

9. A new center head "Base-Excess Plan" and five new sections (§§ 1126.90 through 1126.94) are added immediately following § 1126.86 as follows:

BASE-EXCESS PLAN

§ 1126.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1126.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1126.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1126.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1126.92 that is delivered under this order at each respective plant location.

§ 1126.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1126.92.

§ 1126.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma metropolitan; Memphis, Tenn.; Fort Smith, Ark.; central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by .90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1126.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an

application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1126.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1126.121 [Amended]

10. Section 1126.121(b) is amended by changing all references to "§ 1126.61(d)" to read "§ 1126.61(a)(4)."

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. In § 1132.31, paragraph (a) (2) and (4) is revised as follows:

§ 1132.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1132.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1132.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1132.30 and 1132.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1132.92.

3. Section 1132.61 is revised as follows:

§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(1) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(2) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(3) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1132.62 is revised as follows:

§ 1132.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butter differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices for such month.

§ 1132.71 [Amended]

5. Section 1132.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1132.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1132.73, the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraphs (c)(3), (4)(ii), and (d)(2) are revised as follows:

§ 1132.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 15th day after the end of each month, for milk (or base milk and excess milk) received during such month, an amount computed at not less than the applicable uniform price(s) per hundredweight, subject to the butterfat differential computed pursuant to § 1132.74, and plus or minus adjustments for errors made in previous payments to such producer; and less

* * * * *

(c) * * *

(3) Each handler who receives milk from a cooperative association which collects payments for its members pursuant to paragraph (c)(1) of this section shall, on or before the 20th of each month, furnish such association information showing the daily and total pounds of milk received from each of the association's member producers for the first 15 days of such

month, on or before the fifth day after the end of each month, such information for the 16th through the end of such month and, for the months of March through July, on or before the seventh day after the end of each month, the pounds of base milk.

(4) * * *

(ii) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price(s) as adjusted pursuant to §§ 1132.74 and 1132.75, less the amount of payment made pursuant to paragraph (c)(4)(i) of this section.

(d) * * *

(2) The daily and total pounds and the average butterfat content of milk received from such producer, and for each of the months of March through July, the pounds of base milk;

* * * * *

§ 1132.74 [Amended]

8. Section 1132.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1132.75 is revised as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price and the uniform price for base milk to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

	Rate per hundredweight (cents)
Distance from the Amarillo City Hall (miles):	
100 but less than 110	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the class III price.)

§ 1132.76 [Amended]

10. Section 1132.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1132.90 through 1132.94) are added immediately following § 1132.86 as follows:

BASE-EXCESS PLAN

§ 1132.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1132.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1139.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1132.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1132.92 that is delivered under this order at each respective plant location.

§ 1132.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1132.92.

§ 1132.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas, Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1132.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1132.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1132.121 [Amended]

12. Section 1132.121(b) is amended by changing all references to "§ 1132.61(d)" to read "§ 1132.61(a)(4)."

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. In § 1138.31, paragraph (a) (2) and (4) is revised as follows:

§ 1138.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. Section 1138.32 is revised to read as follows:

§ 1138.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the 8th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1138.92.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1138.30 and 1138.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. Section 1138.61 is revised as follows:

§ 1138.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat, content as follows:

(1) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(2) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) (1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1138.62 is revised as follows:

§ 1138.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1138.71 [Amended]

5. Section 1138.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1138.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1138.73, the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraphs (d)(2), (e)(2), and (f)(1) are revised as follows:

§ 1138.73 Payments to producers and to cooperative associations.

* * * * * *

(b) On or before the 16th day after the end of each month, for milk (or base milk and excess milk) received during such month, an amount computed at not less than the applicable uniform price(s) per hundredweight as adjusted pursuant to §§ 1138.74 and 1138.75, plus or minus adjustments for errors made in previous payments to such producers and less

* * * * *

(d) * * *

(2) The total pounds and the average butterfat content of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(e) * * *

(2) In making final settlement, the value of such milk at the applicable uniform price(s) as adjusted pursuant to §§ 1138.74 and 1138.75 less the amount of partial payment made on such milk.

(f) * * *

(1) The days of delivery, the total pounds of milk, and the average butterfat test of milk received from such producer during the month and during the months of March through July the pounds of base milk;

* * * * *

§ 1138.74 [Amended]

8. Section 1138.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1138.75 is revised as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located in zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fé Counties, N. Mex., there shall be deducted from the uniform price and the uniform price for base milk an adjustment for each such plant for milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1138.76 [Amended]

10. Section 1138.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1138.90 through 1138.94) are added immediately following § 1138.86 as follows:

BASE-EXCESS PLAN

§ 1138.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1138.92 in each of the months of March through July

that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1138.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1138.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk by the percentage of his total deliveries of producer milk under all of the orders specified in § 1138.92 that is delivered under this order at each respective plant location.

§ 1138.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1138.92.

§ 1138.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1138.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1138.94 Announcement of established bases.

On or before February 10 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1138.121 [Amended]

12. Section 1138.121(b) is amended by changing all references to "§ 1138.61(d)" to read "§ 1138.61(a)(4)."

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

Effective date: September 1, 1979.

Signed at Washington, D.C., on August 29, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-24833 Filed 9-1-78; 8:45 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY PRODUCTS INSPECTION, DEPARTMENT OF AGRICULTURE

PART 355—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA: INSPECTION, CERTIFICATION, AND INDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITIONS

Rate Increase for Inspection Service in Relation to the October 1977 Rate Increase

AGENCY: Food Safety and Quality Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends certain overtime provisions relating to meat and poultry products inspection for service performed by inspectors of the Food Safety and Quality Service. This amendment is necessary to reflect salary increases authorized by the Federal Pay Comparability Act of 1970 and Executive Order 12010, dated September 28, 1977, to a level that will more adequately cover the cost of the services provided. These provisions were inadvertently omitted from the October 11, 1977, FEDERAL REGISTER (42 FR 54829), which amended similar provisions.

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

June P. Blair, Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6653.

Accordingly, the Federal meat inspection regulations (9 CFR 355.12) are amended as set forth below:

§ 355.12 Charge for service.

* * * * *

The fees to be charged and collected by the Administrator shall be $14.12 per hour for base time, $14.12 per hour for overtime, including Saturdays, Sundays, and holidays, and $21.32 per hour for laboratory service to reimburse the Service for the cost of the inspection service furnished.

* * * * *

It is necessary that immediate change be made in the regulations to show the increased costs now being billed to official meat and poultry establishments. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to this amendment are impracticable and unnecessary and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on August 25, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-24948 Filed 9-1-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; EC-0012]

PART 202—EQUAL CREDIT OPPORTUNITY

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretation of Regulation B, regarding the Federal Home Loan Mortgage Corporation's and the Federal National Mortgage Association's revision of the "Voluntary Information for Government Monitoring Purposes" section on their joint residential mortgage loan application. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after October 5, 198.

FOR FURTHER INFORMATION CONTACT:

Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3667.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 202.1(d)(2)(ii). As provided by 12 CFR Part 202.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) 15 U.S.C. 1691(b).

EC-0012

§ 202.5(e) FHLMC-FNMA residential mortgage loan application and supplemental forms as revised 8/78 comply with Regulation B.

AUGUST 29, 1978.

This responds to your inquiry as to whether the revised residential real estate mortgage loan application and supplemental forms prepared jointly by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association comply with the Equal Credit Opportunity Act (15 U.S.C. § 1601 *et seq.*) and the Board's Regulation B (12 CFR § 202) implementing the act.

The principal changes in the loan application and the only ones having any significance in relation to ECOA and Regulation B are the revision of the section formerly headed "Voluntary Information For Government Monitoring Purposes" and the creation of a monitoring inserts form. The language previously contained in the monitoring information section and the word "Voluntary" in the caption have been deleted because identical monitoring requirements no longer apply to all lenders doing business with FHLMC and FNMA. The Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board have adopted substitute monitoring programs that apply to the financial institutions that they regulate (43 Fed. Reg. 11563 (March 20, 1978) and 43 Fed. Reg. 22332 (May 25, 1978), respectively). The Comptroller also intends to adopt a substitute monitoring program for national banks. Furthermore, although State authorities and Federal agencies that do not have administrative enforcement authority under ECOA may not substitute different monitoring programs for those imposed pursuant to § 202.13 of Regulation B, they may require supplementary monitoring procedures as permitted by § 202.5(b)(2).

To accommodate these different monitoring programs, the revised FHLMC-FNMA application form instructs lenders to insert in the monitoring section or on an addendum the appropriate language for the monitoring program to which they are subject. FHLMC and FNMA have provided the appropriate language for existing ECOA monitoring programs in a supplemental form (FHLMC 65B/FNMA 1003B 8/78) that reprints the language previously contained in the monitoring information section and that in addition contains language approved by FDIC and FHLBB for compliance with their respective monitoring programs. If any other ECOA enforcement agency adopts different requirements, appropriate additional language will be added to the supplement. Lenders are reminded that they also are responsible for compliance with applicable State monitoring requirements.

Appendix B to Regulation B states that "[u]se of the FHLMC 65/FNMA 1003 (Rev. 3/77) form constitutes full compliance with subsections (c) and (d) of § 202.5 of this Part." In the staff's opinion, application form FHLMC 65/FNMA 1003 Rev. 8/78, the accompanying statement of assets and liabilities (FHLMC 65A/FNMA 1003A Rev. 8/78), and the monitoring inserts (FHLMC 65B/FNMA 1003B 8/78), copies of which are attached, also comply fully with § 202.5 of Regulation B. Furthermore, if a lender uses the forms as intended and properly solicits the appropriate monitoring information in accordance with form FHLMC 65B/FNMA 1003B 8/78 and the regulations of the Federal enforcement agency that supervises that lender, then the lender will have acted in compliance with §§ 202.5 and 202.13 of Regulation B.

In accordance with your request, this is an official staff interpretation of Regulation B issued pursuant to § 202.1(d)(2). It will become effective 30 days after publication in the FEDERAL REGISTER unless a request for public comment, made in accordance with the Board's procedures, is received and granted. The staff will promptly notify you if the effective date of the interpretation is suspended because such a request has been received.

I trust that these official comments are responsive to your inquiry.

Sincerely,

JANET HART,
Director.

RESIDENTIAL LOAN APPLICATION

MORTGAGE APPLIED FOR	Amount	Interest Rate	No. of Months	Monthly Payment Principal & Interest	Escrow/Impounds (to be collected monthly)
☐ Conventional ☐ FHA ☐ VA ☐ _____	$	%		$	☐ Taxes ☐ Hazard Ins. ☐ Mtg. Ins. ☐ _____

Prepayment Option

SUBJECT PROPERTY

Property Street Address	City	County	State	Zip	No. Units

Legal Description (Attach description if necessary) — Year Built

Purpose of Loan: ☐ Purchase ☐ Construction-Permanent ☐ Construction ☐ Refinance ☐ Other (Explain)

Complete this line if Construction-Permanent or Construction Loan	Lot Value Date / Year Acquired	Original Cost	Present Value (a)	Cost of Imps. (b)	Total (a + b)
		$	$	$	$

ENTER TOTAL AS PURCHASE PRICE IN DETAILS OF PURCHASE.

Complete this line if a Refinance Loan — Purpose of Refinance — Describe Improvements ☐ made ☐ to be made

Year Acquired	Original Cost	Amt. Existing Loans	Cost
	$	$	$

Title Will Be Held In What Name(s) — Manner In Which Title Will Be Held

Source of Down Payment and Settlement Charges

This application is designed to be completed by the borrower(s) with the lender's assistance. The Co-Borrower section and all other Co-Borrower questions must be completed and the appropriate box(es) checked if ☐ another person will be jointly obligated with the Borrower on the loan, or ☐ the Borrower is relying on income from alimony, child support or separate maintenance or on the income or assets of another person as a basis for repayment of the loan, or ☐ the Borrower is married and resides, or the property is located, in a community property state.

BORROWER		CO-BORROWER	
Name	Age / School Yrs	Name	Age / School Yrs
Present Address	No. Years ____ ☐ Own ☐ Rent	Present Address	No. Years ____ ☐ Own ☐ Rent
Street		Street	
City/State/Zip		City/State/Zip	
Former address if less than 2 years at present address		Former address if less than 2 years at present address	
Street		Street	
City/State/Zip		City/State/Zip	
Years at former address	☐ Own ☐ Rent	Years at former address	☐ Own ☐ Rent
Marital Status ☐ Married ☐ Separated ☐ Unmarried (incl. single, divorced, widowed)	Dependents other than listed by Co-Borrower: No. / Ages	Marital Status ☐ Married ☐ Separated ☐ Unmarried (incl. single, divorced, widowed)	Dependents other than listed by Borrower: No. / Ages
Name and Address of Employer	Years employed in this line of work or profession? ____ years; Years on this job ____; ☐ Self Employed*	Name and Address of Employer	Years employed in this line of work or profession? ____ years; Years on this job ____; ☐ Self Employed*
Position/Title	Type of Business	Position/Title	Type of Business
Social Security Number***	Home Phone / Business Phone	Social Security Number***	Home Phone / Business Phone

GROSS MONTHLY INCOME

Item	Borrower	Co-Borrower	Total
Base Empl. Income	$	$	$
Overtime			
Bonuses			
Commissions			
Dividends/Interest			
Net Rental Income			
Other† (Before completing, see notice under Describe Other Income below.)			
Total	$	$	$

MONTHLY HOUSING EXPENSE**

Rent	$ Present	$ Proposed
First Mortgage (P&I)		$
Other Financing (P&I)		
Hazard Insurance		
Real Estate Taxes		
Mortgage Insurance		
Homeowner Assn. Dues		
Other		
Total Monthly Pmt.	$	$
Utilities		
Total	$	$

DETAILS OF PURCHASE

Do Not Complete If Refinance

a. Purchase Price	$
b. Total Closing Costs (Est.)	
c. Prepaid Escrows (Est.)	
d. Total (a + b + c)	$
e. Amount This Mortgage	( )
f. Other Financing	( )
g. Other Equity	( )
h. Amount of Cash Deposit	( )
i. Closing Costs Paid by Seller	( )
j. Cash Reqd. For Closing (Est.)	$

DESCRIBE OTHER INCOME

B—Borrower C—Co-Borrower

NOTICE:† Alimony, child support, or separate maintenance income need not be revealed if the Borrower or Co-Borrower does not choose to have it considered as a basis for repaying this loan.

B/C		Monthly Amount
		$

IF EMPLOYED IN CURRENT POSITION FOR LESS THAN TWO YEARS COMPLETE THE FOLLOWING

B/C	Previous Employer/School	City/State	Type of Business	Position/Title	Dates From/To	Monthly Income
						$

THESE QUESTIONS APPLY TO BOTH BORROWER AND CO-BORROWER

If a "yes" answer is given to a question in this column, explain on an attached sheet.	Borrower Yes or No	Co-Borrower Yes or No
Have you any outstanding judgments? In the last 7 years, have you been declared bankrupt?		
Have you had property foreclosed upon or given title or deed in lieu thereof?		
Are you a co-maker or endorser on a note?		
Are you a party in a law suit?		
Are you obligated to pay alimony, child support, or separate maintenance?		
Is any part of the down payment borrowed?		

If applicable, explain Other Financing or Other Equity (provide addendum if more space is needed).

*FHLMC/FNMA require business credit report, signed Federal Income Tax returns for last two years, and, if available, audited Profit and Loss Statements plus balance sheet for same period.

**All Present Monthly Housing Expenses of Borrower and Co-Borrower should be listed on a combined basis.

***Neither FHLMC nor FNMA requires this information.

FHLMC 65 Rev. 8/78 FNMA 1003 Rev. 8/78

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise separate Statements and Schedules are required. (FHLMC 65A/FNMA 1003A). If the co-borrower section was completed about a spouse, this statement and supporting schedules must be completed about that spouse also. ☐ Completed Jointly ☐ Not Completed Jointly

STATEMENT OF ASSETS AND LIABILITIES

ASSETS

Description	Cash or Market Value
Cash Deposit Toward Purchase Held By	$
Checking and Savings Accounts (Show Names of Institutions/Acct. Nos.)	
Stocks and Bonds (No./Description)	
Life Insurance Net Cash Value *Face Amount ($)*	
SUBTOTAL LIQUID ASSETS	$
Real Estate Owned *(Enter Market Value from Schedule of Real Estate Owned)*	
Vested Interest in Retirement Fund	
Net Worth of Business Owned (ATTACH FINANCIAL STATEMENT)	
Automobiles (Make and Year)	
Furniture and Personal Property	
Other Assets (Itemize)	
TOTAL ASSETS	A $

LIABILITIES AND PLEDGED ASSETS

Indicate by (*) those liabilities or pledged assets which will be satisfied upon sale of real estate owned or upon refinancing of subject property.

Creditors' Name, Address and Account Number	Acct. Name if Not Borrower's	Mo. Pmt. and Mos. left to pay	Unpaid Balance
Installment Debts (Include "revolving" charge accts)		$ Pmt./Mos.	$
		/	
		/	
		/	
		/	
		/	
		/	
Other Debts Including Stock Pledges		/	
Real Estate Loans		X	
Automobile Loans		/	
Alimony, Child Support and Separate Maintenance Payments Owed To		/	X
TOTAL MONTHLY PAYMENTS		$	X
NET WORTH (A minus B) $		TOTAL LIABILITIES	B $

SCHEDULE OF REAL ESTATE OWNED (If Additional Properties Owned Attach Separate Schedule)

Address of Property (Indicate S if Sold, PS if Pending Sale or R if Rental being held for income)	◇	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Taxes, Ins. Maintenance and Misc.	Net Rental Income
			$	$	$	$	$	$
TOTALS →			$	$	$	$	$	$

LIST PREVIOUS CREDIT REFERENCES

◇ B–Borrower C–Co-Borrower	Creditor's Name and Address	Account Number	Purpose	Highest Balance	Date Paid
				$	

List any additional names under which credit has previously been received _____

AGREEMENT: The undersigned applies for the loan indicated in this application to be secured by a first mortgage or deed of trust on the property described herein, and represents that the property will not be used for any illegal or restricted purpose, and that all statements made in this application are true and are made for the purpose of obtaining the loan. Verification may be obtained from any source named in this application. The original or a copy of this application will be retained by the lender, even if the loan is not granted. The undersigned ☐ intend or ☐ do not intend to occupy the property as their primary residence.

I/we fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1014.

_____ Date _____ _____ Date _____
Borrower's Signature Co-Borrower's Signature

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

Instructions: Lenders must insert in this space, or on an attached addendum, a provision for furnishing the monitoring information required or requested under present Federal and/or present state law or regulation. For most lenders, the inserts provided in FHLMC Form 65-B/FNMA Form 1003-B can be used.

FOR LENDER'S USE ONLY

(FNMA REQUIREMENT ONLY) This application was taken by ☐ face to face interview ☐ by mail ☐ by telephone

_____ _____
(Interviewer) Name of Employer of Interviewer

FHLMC 65 Rev. 8/78 REVERSE FNMA 1003 Rev. 8/78

STATEMENT OF ASSETS AND LIABILITIES
(Supplement to Residential Loan Application)

Name _____

The following information is provided to complete and become a part of the application for a mortgage in the amount of $_____, with interest at _____ %, for a term of _____ months and to be secured by property known as:

Property Street Address _____

Legal Description _____

ASSETS — Indicate by * those liabilities or pledged assets which will be satisfied upon sale of real estate owned or upon refinancing of subject property.

Description	Cash or Market Value
Cash Deposit Toward Purchase Held By	$
Checking and Savings Accounts (Show Names of Institutions/Acct Nos.)	
Stocks and Bonds (No./Description)	
Life Insurance Net Cash Value *Face Amount ($)*	
SUBTOTAL LIQUID ASSETS	$
Real Estate Owned *(Enter Market Value from Schedule of Real Estate Owned)*	
Vested Interest in Retirement Fund	
Net Worth of Business Owned (ATTACH FINANCIAL STATEMENT)	
Automobiles (Make and Year)	
Furniture and Personal Property	
Other Assets (Itemize)	
TOTAL ASSETS	A $

LIABILITIES AND PLEDGED ASSETS — Indicate by * those liabilities or pledged assets which will be satisfied upon sale of real estate owned or upon refinancing of subject property.

Creditors' Name, Address and Account Number	Acct. Name if Not Borrower's	Mo. Pmt. and Mos. left to pay	Unpaid Balance
Installment Debts (include "revolving" charge accts)		$ Pmt /Mos.	$
		/	
		/	
		/	
		/	
		/	
		/	
Other Debts Including Stock Pledges		/	
Real Estate Loans			
Automobile Loans		/	
Alimony, Child Support and Separate Maintenance Payments Owed To		/	
TOTAL MONTHLY PAYMENTS		$	
NET WORTH (A minus B) $		TOTAL LIABILITIES	B $

SCHEDULE OF REAL ESTATE OWNED (If Additional Properties Owned Attach Separate Schedule)

Address of Property (Indicate S if Sold, PS if Pending Sale or R if Rental being held for income)	◇	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Taxes, Ins. Maintenance and Misc.	Net Rental Income
			$	$	$	$	$	$
		TOTALS →	$	$	$	$	$	$

LIST PREVIOUS CREDIT REFERENCES

◇ B–Borrower C–Co-Borrower	Creditor's Name and Address	Account Number	Purpose	Highest Balance	Date Paid

List any additional names under which credit has previously been received _____

I/we fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts, as applicable under the provisions of Title 18, United States Code, Section 1014

NOTE: The signatory of this form must also sign the aforedescribed application.

Signature _____ Date _____

FOR LENDER'S USE ONLY

(FNMA REQUIREMENT ONLY) This application was taken by ☐ face to face interview ☐ by mail ☐ by telephone

_____ (Interviewer) _____ Name of Employer of Interviewer

FHLMC 65A 8/78 FNMA 1093A 8/78

INFORMATION FOR GOVERNMENT MONITORING PURPOSES - INSERTS

The following are "camera-ready" versions of language which may be inserted to complete the "Information for Government Monitoring Purposes" section of the Residential Loan Application Form (FHLMC Form 65/FNMA 1003). The language in the first insert has been approved by both Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

Before printing an insert, it should be reviewed to assure conformity with state law. In particular, all lenders, who may be subject to a state fair housing or equal opportunity law which has monitoring requirements, should determine whether the applicable disclosure statement is in compliance with the legal requirements of that state.

INSERT FOR FHLBB OR FDIC REGULATED LENDERS

The following information is requested by the Federal Government if this loan is related to a dwelling, in order to monitor the lender's compliance with equal credit opportunity and fair housing laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may neither discriminate on the basis of this information, nor on whether you choose to furnish it. However, if you choose not to furnish it, under Federal regulations this lender is required to note race and sex on the basis of visual observation or surname. If you do not wish to furnish the above information, please initial below.

BORROWER: I do not wish to furnish this information (initials)_____
RACE/ NATIONAL ORIGIN ☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White ☐ Other (specify) _____
SEX: ☐ Female ☐ Male

CO-BORROWER: I do not wish to furnish this information (initials)_____
RACE/ NATIONAL ORIGIN ☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White ☐ Other (specify) _____
SEX ☐ Female ☐ Male

INSERT FOR LENDERS SUBJECT ONLY TO FEDERAL RESERVE SYSTEM REGULATION B

If this loan is for purchase or construction of a home, the following information is requested by the Federal Government to monitor this lender's compliance with Equal Credit Opportunity and Fair Housing Laws. The law provides that a lender may neither discriminate on the basis of this information nor on whether or not it is furnished. Furnishing this information is optional. If you do not wish to furnish the following information, please initial below.

BORROWER: I do not wish to furnish this information (initials)_____
RACE/ NATIONAL ORIGIN ☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White ☐ Other (specify) _____
SEX ☐ Female ☐ Male

CO-BORROWER: I do not wish to furnish this information (initials) _____
RACE/ NATIONAL ORIGIN ☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White ☐ Other (specify) _____
SEX ☐ Female ☐ Male

Note: This form will be amended in the event that the Comptroller of the Currency or the National Credit Union Administration issue regulations which are not accommodated by the insert "FOR LENDERS SUBJECT TO FEDERAL RESERVE SYSTEM REGULATION B." Until such time, lenders regulated by these agencies should continue to use the Regulation B insert. Before printing any insert, it should be reviewed to assure compliance with any applicable state legal requirements.

Board of Governors of the Federal Reserve System, August 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24831 Filed 9-1-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-11; Amdt. 39-3292]

PART 39—AIRWORTHINESS DIRECTIVES

Bendix

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment recodifies and amends AD 77-17-07 applicable to Bendix D-2000 and D-2200 aircraft magnetos. This amendment changes the time and serial number limits of applicability since it has been determined that units outside such limits were experiencing rotor housing interferences. Further, applicable service bulletins have been changed to reflect experience gained in the field, and an improved coil retaining mechanism must be installed.

EFFECTIVE DATE: September 9, 1978. Compliance is required in accordance with the AD.

ADDRESS: Bendix Service Bulletins may be acquired from the manufacturer at the Electrical Components Division, Sidney, N.Y. 13838.

FOR FURTHER INFORMATION CONTACT:

A. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430; telephone, 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports that magnetos, which were not covered by the 50-hour and serial number limits, were experiencing rotor housing interference. Since the condition is likely to exist or develop in other units of similar type design, AD 77-17-07 is being revised to reflect wider applicability, updated service bulletins and improved coil retaining mechanism. This is also the basis for recodifying the AD.

DRAFTING INFORMATION

The principal authors of this document are A. Farrar, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation regulations (14 CFR 39.13) is amended, as follows:

1. Revoking AD 77-17-07.

2. Issuing the following new airworthiness directive:

Applies to Bendix D-2000 and D-2200 series magnetos unless previously accomplished.

To preclude the loss of ignition, accomplish the following, excepting paragraph (e), within the time specified below or 180 days after the effective date of this AD, whichever occurs first.

(a) *Rotor-Housing Interference.* Within the next 10 hours in service, for any of the following serial numbered magnetos, accomplish the, "detailed instructions", shown in Service Bulletin No. 590A or an approved equivalent.

(1) Red nameplate magnetos exhibiting four hex. head socket cap screws as shown in Service Bulletin No. 590A, figure 1, having S/N 5145 thru 11744, not prefixed by the letter "A" nor "R".

(2) Blue nameplate magnetos exhibiting four hex. head socket cap screws as shown in Service Bulletin figure 1, having S/N 701001 or below, not prefixed by the letter "A" nor "R".

(b) *Rear-Bearing Overheating.* Within the next 10 hours in service, for any of the following serial numbered magnetos, accomplish the "Detailed Instructions", shown in Service Bulletin No. 600 or an approved equivalent.

(1) Red nameplate magnetos, S/N 3001 thru 17509 (including those identified by an "A" or "R" preceding the serial number) not exhibiting the letter "B" stamped approximately in the center of the bottom line of the nameplate.

(2) Red nameplate magnetos, S/N x2455 thru x2561 not exhibiting the letter "B" stamped approximately in the center of the bottom line of the nameplate.

(3) Blue nameplate (Bendix remanufactured) magnetos, having S/N below 806001, not exhibiting the letter "B" stamped approximately in the center of the bottom line of the nameplate.

(c) *Capacitor Malfunction.* Within the next 25 hours in service for red nameplate magnetos below S/N 11744, accomplish parts I and II of Service Bulletin No. 587 or an approved equivalent unless the stamped letter "S" appears on the nameplate in or near the lower right corner. On four cylinder versions, S/N 8618 thru 9823 and on six cylinder versions, S/N 7544 thru 9823, also accomplish part III, or an approved equivalent.

(d) *Coil Retainer Plug Migration.* Within the next 25 hours in service, for red nameplate magnetos below S/N 4400, accomplish the instructions of part 1 "detailed inspection" procedure for threaded tapered plug, 10-382649, paragraph Nos. 1 and 2, of Service Bulletin No. 584B or an approved equivalent.

(e) *Coil Retaining Devices.* Compliance with this paragraph is required at the expiration of 24 months after the effective date of this AD or the following specific periods whichever occurs first, unless previously accomplished.

(1) On magnetos having less than 1,800 hours in service since new or last overhaul on the effective date of this AD, accomplish Paragraph (e)(3) before accumulation of 2,000 hours in service.

(2) On magnetos having more than 1,800 hours in service since new or last overhaul on the effective date of this AD, accomplish Paragraph (e)(3) within the next 200 hours in service.

(3) Install Bendix Coil Securing Kit, P/N 10-382939 per Service Bulletin No. 584B, part No. 2, "detailed housing modification procedure" or part No. 3, "detailed disassembly and detailed reassembly instructions" as specified in Part Nos. 2 or 3 "general instructions", or an approved equivalent.

(f) Equivalent inspections and procedures must be approved by the Chief of the Engineering and Manufacturing Branch, AEA-210, Federal Aviation Administration (FAA) Eastern Region.

(g) As permitted by FAR 21.197 aircraft may be flown to a base where maintenance required by this airworthiness directive can be accomplished.

Effective date. This amendment is effective September 9, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 22, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region

[FR Doc. 78-24690 Filed 9-1-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-36, Amdt. 39-3293]

PART 39-AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 66-27-5 applicable to Fairchild F-27J and F-27M type airplanes and extends the repetitive inspection period, but also permits a longer inspection period when Service Bulletins 55-11(F-27) and 55-12(F-27) are incorporated. This relaxation of the AD results from the experience of Allegheny Airlines, the results of which have been reviewed by FAA.

EFFECTIVE DATE: September 7, 1978.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Co., Hagerstown, Md. 21740.

FOR FURTHER INFORMATION CONTACT:

C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430; telephone, 212-995-2875.

SUPPLEMENTARY INFORMATION: The manufacturer, Fairchild, submitted Service Bulletins 55-11(F-27) and 55-12(F-27) for modifications which strengthen the horizontal stabilizer. Shortly thereafter, the alterations were determined by FAA to be stronger than those required by AD 66-27-5. Allegheny was granted an extension of the inspection period, from 150 hours to 350 hours in service. As a result of Allegheny's experience, it appears that the AD should be amended to permit all F-27s access to the extension upon incorporation of the service bulletins. Further, experience permits extension of the repetitive inspection from 60 to 150 hours. Since the amendment is relaxatory, notice or public procedure hereon are unnecessary and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are C. Birkenholz, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation regulations (14 CFR 39.13) is amended, by amending AD 66-27-5, as follows:

Amend AD 66-275 as follows: (1) Reletter present paragraph (f) to (g) and add a new paragraph (f) to read as follows:

(f) The repetitive inspection interval specified in (b) may be increased from 60 hours time in service and 150 hours time in service as provided in (e), to 350 hours time in service from the last inspection on airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 55-11(F-27) revised November 1966, and No. 55-12(F-27) dated December 6, 1966, or later revision or an equivalent method.

(2) Reletter present paragraph (g) to (h).

Effective date: This amendment is effective Sept. 7, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 23, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-24691 Filed 9-1-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-40, Amdt. 39-3294]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 66-28-3 applicable to Fairchild F-27J type airplanes and permits an extension of the repetitive inspection and a further extension when Service Bulletins No. 55-11(F-27) and No. 55-12(F-27) are incorporated. This relaxation of the AD results from the experience of Allegheny Airlines, the results of which have been reviewed by FAA.

EFFECTIVE DATE: September 7, 1978.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Co., Hagerstown, Md. 21740.

FOR FURTHER INFORMATION CONTACT:

C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: The manufacturer submitted Service Bulletins No. 55-11(F-27) and No. 55-12(F-27) for modifications which strengthen the horizontal stabilizer. Shortly thereafter the alterations were determined to be stronger than those required by AD 66-28-3. Allegheny was granted an extension of the inspection period from 150 hours in service to 350 hours in service. As a result of Allegheny's experiences, it appears that all F-27s should have access to the extension upon incorporation of the service bulletins and at least an extension of 60 hours to 150 hours based on normal experiences. Since the amendment is relaxatory, notice or public procedure hereon are unnecessary and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are C. Birkenholz, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 66-28-3, as follows:

Amend AD 66-28-3 as follows: (1) Reletter present paragraph (d) to (e) and add a new paragraph (d) to read as follows:

(d) The repetitive inspection interval specified in (b) may be increased from 60 hours time in service and 150 hours time in service as provided in (c), to 350 hours time in service from the last inspection on airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 55-11(F-27) revised November, 1966, and No. 55-12(F-27) dated December 6, 1966, or later FAA approved revision or an FAA approved equivalent.

(2) Reletter present paragraphs (e) to (f) and (f) to (g).

Effective date: This amendment is effective Sept. 7, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 23, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-24692 Filed 9-1-78; 8:45 am]

[4910-13]

[Docket No. 78-NW-13-AD; Amdt. 39-3291]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Aviation Model UH-12D and UH-12E Helicopters as Modified by Soloy Conversions, Ltd. STC Nos. SH177WE and SH178WE Respectively

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement, if necessary, of P/N 560-2408 drive shaft assemblies installed in the Soloy/Hiller UH-12D/E helicopters. This AD is necessary to require removal from service of those drive shafts which were installed without having been internally cadmium plated. Internal corrosion of these unplated shafts could lead to shaft failure with resultant helicopter structural and control system damage.

DATE: Effective date October 6, 1978. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Soloy Conversions, Ltd., P.O. Box 60, Chehalis, Wash. 98532. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Daniel I. Cheney, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, 206-767-2520.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and replacement, if necessary, of P/N 560-2408 drive shaft assemblies was published in the FEDERAL REGISTER at 43 FR 24848. The proposal was prompted by the FAA's determination that corrosion of the P/N 560-2408 engine-to-transmission drive shafts, which were installed without having been internally cadmium plated, could lead to shaft failure and resultant extensive helicopter structural and control system damage.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

DRAFTING INFORMATION

The principal authors of this document are Daniel I. Cheney, Engineering and Manufacturing Branch, Northwest Region, and Hays Hettinger, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HILLER AVIATION. Applies to model UH-12D and UH-12E helicopters which have been converted to turbine power in accordance with Soloy Conversions, Ltd., STC Nos. SH177WE and SH178WE respectively, certificated in all categories. Compliance required as indicated unless already accomplished.

To reduce the possibility of drive shaft failure due to internal corrosion and subsequent helicopter structural and control system damage, accomplish the following:

A. Within the next 600 hours time in service, or 6 months calendar time, whichever occurs first after the effective date of this AD, perform the inspection and modifications and/or replacements, as appropriate, of the Soloy P/N 560-2408 shaft in accordance with Soloy Conversions, Ltd. Service Bulletin 05-560 dated May 19, 1978, or later FAA approved revisions.

B. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Soloy Conversions, Ltd., P.O. Box 60, Chehalis, Wash. 98532. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective October 6, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.85).)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Wash., on August 23, 1978.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-24689 Filed 9-1-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-11AD; Amdt. 39-3289]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-3 and Super DC-3 Series Airplanes Including Military Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection and modification, if necessary, to insure that proper clearance exists between the elevator upper control cable and the bulkhead frame and channel located just aft of the control column assembly in McDonnell Douglas model DC-3 and super DC-3 series airplanes including military models. This AD is necessary to prevent interference that could result in a jammed elevator control system.

DATE: Effective September 6, 1978. Compliance required within 25 hours time in service after the effective date.

ADDRESS: The applicable maintenance information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: Director, Publications and Training, C1-750 (54-60).

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: As the result of a pilot complaint, an investigation was made into the elevator control system on a McDonnell Douglas DC-3. This investigation indicated that the elevator upper cables had locked when the cable eyes on the forward end of the cable contacted the edge of the cutout hole in the bulkhead beneath the cockpit floor. Subsequent investigation of other DC-3 airplanes has revealed that the elevator upper cable holes in the bulkhead at fuselage station (FS) 63 have evidence of rubbing and binding on the bottom edge, or have been enlarged to provided additional clearance.

Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued which requires a visual inspection to ascertain that a minimum clearance exists around the elevator upper cables and cable fittings and instructions to provide adequate clearance if required.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to model DC-3 series, DC-3A series, DC-3C series, DC-3D, super DC-3 and R4D series certificated in all categories, including all military models.

Compliance required as indicated.

To minimize the possibility of a jammed elevator control system, due to cable interference accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD; unless already accomplished within the last 60 days:

NOTE.—Determine that the elevator control system is properly rigged prior to accomplishment of the inspections required by this AD.

(1) Visually inspect the right and left elevator upper cables and cable fittings for possible interference with the bulkhead frame and channel located just aft of the control column assembly at fuselage station (FS) 63 on the DC-3 series and at FS 24 on the super DC-3. The elevator cable and/or cable fitting must have 3/32 inch minimum clearance relative to the bottom of the cutout hole and both legs of the channel, throughout full cable travel. Pay particular attention to clearance when the elevator horn of the control column is rotated to the lowest point of its movement arc.

NOTE.—The channel is attached to aft side of bulkhead frame and the upper elevator cables are attached to extreme bottom of control column elevator horn, located forward of the bulkhead frame. Inspection may be accomplished after removal of external access plates on bottom of fuselage, forward and aft of FS 63 on DC-3 series and FS 24 on the super DC-3.

(2) If existing clearance is less than required by paragraph (a)(1), trim out the cable cutout hole in the bulkhead frame and both legs of the channel to provide a nominal clearance of 1/8±1/32 inches using a minimum 1/4 inch corner radius. Break and smooth all edges.

(b) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the inspection required by paragraph (a)(1).

(c) Equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation guidelines.

Issued in Los Angeles, Calif., on August 22, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-24693 Filed 9-1-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Boise City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Boise City, Okla. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Boise City Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument flight rules (IFR) procedures to the airport utilizing the recently established Thorp, Okla., navigational aid (NDB).

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 6, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 24853) stating that the Federal Aviation Administration proposed to designate the Boise City, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Responses were received with one commenter objecting to the proposal.

DISCUSSION OF COMMENTS

The Department of Air Force representative objected to the proposed rule. The commenter expressed concern that the proposed transition area and associated standard instrument approach procedure (SIAP) to Boise City Airport would overlap existing military flight routes, and their training activity would be curtailed. Additionally, curtailment of military activity would be definite if poor communications exist with aircraft execution of SIAPs to Boise City Airport and/or if the pilot failed to cancel his IFR flight plan. The commenter recommended alignment of the SIAP towards the northeast quadrant of the airport's area to avoid overlapping the military training route.

The FAA concludes that overlapping of IFR routes is not an unusual situation, and utilization of the common controlled airspace by IFR flight will be handled by the appropriate air traffic control facility to avoid possible conflicts and/or unnecessary delays. VFR operations are governed by existing FAR's containing appropriate safeguards. Satisfactory communications with IFR aircraft operating within a transition area at the specified minimum en route, initial, and missed approach altitudes of an SIAP is a prerequisite to establishment of the transition area. Altitudes are designated after flight inspection.

The possibility of a pilot failing to close an IFR flight plan when it might have a bearing on a scheduled training flight is not grounds for denying IFR capability to the community. The FAA did evaluate realignment of the SIAP to the northeast but found it infeasible due to the location of the NDB in relation to the airport and lack of adjacent navigational aids that could provide the necessary final approach fix in the northeast quadrant. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Boise City, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Boise City Municipal Airport utilizing the Thorp NDB.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is added:

BOISE CITY, OKLA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Boise City Airport, Boise City, Okla.;

within 3.5 miles each side of a 225° bearing from the Thorp NDB (lat. 36°45'19" N., long. 102°32'04" W.) extending from the 6-mile radius to 11.5 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 23, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-24688 Filed 9-1-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9043]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

United Builders, Inc. Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Charleston, W. Va., home improvement firm to cease misrepresenting or failing to make relevant disclosures regarding prices, interest rates, savings, discounts, and financing arrangements. Further, the firm, in connection with the extension of credit, must cease failing to provide consumers with the materials and disclosures required by Federal Reserve System regulations. The company would additionally be required to establish a $35,000 escrow account for making restitution to entitled customers, and to effectuate such restitution in a manner prescribed in the agreement.

DATES: Complaint issued July 15, 1975. Decision issued August 8, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Regional Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199, 216-522-4207.

[1] Copies of the complaint and decision and order filed with the original document.

SUPPLEMENTARY INFORMATION: On Tuesday, May 30, 1978, there was published in the FEDERAL REGISTER, 43 FR 22988, a proposed consent agreement with analysis in the matter of United Builders, Inc., a corporation, and Marvin Bloom, and Paul Denillo, individually and as officers of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15-20 Business methods and policies; 13.15-70 Financing activities; § 13.73 Formal regulatory and statutory requirements; 13.73-92 Truth in Lending Act; § 13.105 Individual's special selection or situation; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-33 Demonstration reductions; 13.155-35 Discount savings; 13.155-93 Special or test offers; 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc.; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records; 13.1051-20 Adequate. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1417 Financing activities.—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623-95 Truth in Lending Act; § 13.1663 Individual's special selection or situation; § 13.1740 Scientific or other relevant facts. Subpart—Prices: § 13.1778 Additional costs unmentioned; § 13.1800 Demonstration reductions; § 13.1823 Terms and conditions; 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-75 Truth in Lending Act; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-60 Truth in Lending Act. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1985 Individual's special selection or situation; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions. Subpart—Securing Orders by Deception: § 13.2170 Securing orders by deception.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 52 Stat. 146, 147 (15 U.S.C. 45, 1601, et seq.).)

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-24895 Filed 9-1-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Levamisole Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Cyanamid Agricultural de Puerto Rico, Inc., providing for use of a 4x supplement in manufacturing a complete swine feed, use of the feed in treating certain helminth infections including swine kidney worms, and a waiver of the requirements of section 512(m) of the act for the manufacture of complete swine feeds from certain supplements.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc., P.O. Box 243, Manati, P.R. 00701, filed a supplemental NADA (45-455V) which provides for the manufacture of a 0.32 percent swine feed supplement, a waiver of the requirements of section 512(m) of the act for the manufacture of a complete swine feed

from the 0.32 percent supplement, and use of the feed in treating swine kidney worm infections.

Levamisole, as the sole drug, meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the requirements of section 512(m) of the act. The pertinent provisions of the memoranda indicate that the waiver is appropriate if:

(1) The feeding of a 1.5x to 2x level of the product does not have an impact on the tissue residue picture, i.e., an impact of an existing withdrawal period or a tolerance.

(2) The product is not a known carcinogen or is not classed with a family of known carcinogens.

(3) Appropriate documentation covering animal safety is on file. This provision will not require additional generation of data because this documentation is part of the NADA.

(4) The margin of safety to the animal and safety to the consumer is such that the product label does not have to contain a statement such as "use as the sole source of * * *."

(5) Data are on file to demonstrate that the product is efficacious over the approved range. These data should generally satisfy current standards for the demonstration of efficacy.

(6) Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available drug experience reports.

The 1971 memoranda make explicit that because waiver of the requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, distinct products with corresponding labeling for those claims or levels should exist. This requirement is necessary to cover those premixes that can be made into complete feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memoranda constitute an interim agency policy, which is under review. The Bureau of Veterinary Medicine is preparing a proposed regulation, based on the criteria listed in the memoranda, governing waiver of the 512(m) requirements for the near future. In waiving the requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice of Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

Approval of this supplement does not constitute reaffirmation of the safety of residues resulting from use of this drug.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), 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 (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal 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 of Food and Drugs (21 CFR 5.1), § 558.315 is amended by redesignating the existing paragraph (f) as paragraph (g), adding a new paragraph (f), and revising newly designated paragraph (g)(2) (ii) and (iii) as follows:

§ 558.315 Levamisole hydrochloride (equivalent).

* * * * * *

(f) *Special considerations.* Complete swine feeds processed from medicated feed supplements that contain not more than 1.44 grams of levamisole hydrochloride (equivalent) per pound (0.32 percent) and comply with the requirements of paragraph (g)(2) of this section are not required to comply with the provisions of section 512(m) of the act.

(g) * * *

(2) * * *

(ii) *Indications for use.* Treatment of the following nematode infections: large roundworms (*Ascaris suum*), nodular worms (*Oesophagostomum* spp.), lungworms (*Metastrongylus* spp.), intestinal threadworms (*Strongyloides ransomi*), swine kidney worms (*Stephanurus dentatus*).

(iii) *Limitations.* It is recommended that regular feed be withheld overnight and worming feed administered the following morning; dilute supplement with nonmedicated feed as directed; feed the equivalent of 1 lb. of 0.08 percent worming feed per 100 lbs. of body weight of pigs to be treated; may be fed as sole feed or thoroughly mixed with 1 to 2 parts of regular feed prior to feeding; when medicated feed is consumed, resume normal feeding. Pigs maintained under conditions of constant worm exposure may require retreatment within 4 to 5 weeks after the first treatment due to reinfection; do not slaughter for food within 72 hours of treatment; the label shall bear the caution, "Excessive salivation or muzzle foam may be observed. This reaction is occasionally seen and will disappear in a short time after medication. If pigs are infected with mature lungworms, coughing and vomiting may be observed soon after medicated feed is consumed. This reaction is due to the expulsion of worms from the lungs and will be over in several hours."

Effective date. This regulation is effective September 5, 1978.

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

Dated: August 29, 1978.

LESTER M. CRAWFORD,
Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-24909 Filed 9-1-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3678]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Tuscaloosa, Tuscaloosa County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Tuscaloosa, Tuscaloosa County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Tuscaloosa Ala.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Tuscaloosa, Tuscaloosa County, Ala., are available for review at City Hall, 2201 University Boulevard, Tuscaloosa, Ala.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Tuscaloosa, Ala.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	River Rd	146
Black Warrior River.	Illinois Central Gulf RR	151
	U.S. 82	155
Black Warrior River Tributary No. 2.	26th St. East *	234
	Twin Oaks Rd	325
Black Warrior River Tributary No. 3.	Rice Mine Rd	158
Black Warrior River Tributary No. 3A.	Dirt road	271
Cottondale Creek..	Keene's Mill Rd	213
	U.S. 11	235
	I-20, I-59 *	251
Cottondale Creek Tributary No. 1.	Buttermilk Rd	
	I-59I17250	
	267	
	56th St. East	284
Cottondale Creek Tributary No. 1A.	I-59	267
	McGee Rd	280
Cottondale Creek Tributary No. 2.	100 ft downstream from Clements Rd.	272
Cribbs Mill Creek..	Kauloosa Ave.*	156
	5th Ave	172
	2d Ave. East	188
	11th Ave. East	210
	17th St. East	254
	14th St. East	273
	Arcadia Dr	319
Cribbs Mill Creek Tributary No. 1.	Hargrove Rd	186
	15th St. East	206
	University Blvd	215
Cribbs Mill Creek Tributary No. 2.	6th St	239
	McFarland Blvd.*	250
Cribbs Mill Creek Tributary No. 3.	1st Ave	197
	Hackberry Lane	216
	15th St	220
Cribbs Mill Creek Tributary No. 4.	26th Ave. East	263
	29th Ave. East	277
Cribbs Mill Creek Tributary No. 5.	3d Ave	193
	McFarland Blvd.*	211
	Hargrove Rd.*	247
	32d St. East	304
Cribbs Mill Creek Tributary No. 5A.	Woodland Rd	310
Cribbs Mill Creek Tributary No. 6.	Albright Rd	205
	37th St. East	215
	I-59 East	241
	25th Ave. East	289
Cribbs Mill Creek Tributary No. 7.	4th Ave. East	209
	7th Ave. East	222
	13th Ave. East	244
	22d Ave. East	292
Cypress Creek	Kauloosa Ave	158
	Overhill Rd	192
	18th Ave. East *	235
	26th Ave. East	262
	Springhill Dr	302
Cypress Creek Tributary No. 1.	Interlake Rd	293
Little Sandy Creek.	Southern RR	133
	Alabama State Highway 69.	148
Moody Swamp Tributary No. 1.	21st St	158
Moody Swamp Tributary No. 2.	Osment Rd	142
	25th St	167
	20th St	177
Moody Swamp Tributary No. 3.	Moody Swamp Rd.*	140
	Greensboro Ave	173
	10th Ave	179
North River	New Watermelon Rd. (North River Dam)..	230
Rum Creek	Alabama State Highway 69.	172
	Illinois Central Gulf RR	242
Rum Creek Tributary No. 1.	Bellview Dr	220
Rum Creek Tributary No. 2.	U.S. 82 *	249
Tater Hill Creek Tributary No. 2.	Bryce Hospital entrance	156

* Upstream side.

(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, 43 FR 7719.)

Issued: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24219 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4120]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Buena Park, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Buena Park, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Buena Park, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Buena Park, Orange County, Calif., are available for review at City Clerk's Office, City Hall, 6650 Beach Boulevard, Buena Park, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Buena Park, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brea Creek	Dale St., between Brea Creek and Atchison Topeka & Santa Fe RR.	87
Fullerton Creek	Northeast side of Manchester Blvd. at 10th St.	82

Source of flooding	Location	Depth, feet
Fullerton Creek	Beach Blvd, between 10th St. and Melrose St.	1
Brea Creek	Beach Blvd. at Emery St	1

(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, 43 FR 7719.)

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24220 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-2840]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Adams County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Adams County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Adams County, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Adams County, are available for review at Administration Building, 450 South Fourth Avenue, Brighton, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Adams County, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Dry Creek	West 120th Ave	5,216
	Interstate 25	5,162
	East 144th Ave	5,124
	York St	5,091
	East 160th St	5,077
Little Dry Creek	Lowell Blvd	5,257
	Federal Blvd	5,254
Comanche Creek	U.S. Highway 36	5,369
	26th Ave	5,338
Little Comanche Creek	U.S. Highway 36	5,369
Box Elder Creek	U.S. Highways 36 and 40	5,530
South Platte River	Interstate 76	5,105
	McKay Rd	5,059
	Henderson Rd. (East 124th Ave).	5,013
	Base Line Rd	4,953
Niver Creek	North Washington St	5,209
	Downing St	5,101
	Explorador Calle	5,168
	York St	5,143
	Steele St	5,112
Northfield Creek	60th Ave	5,165
	Rainbow Ave	5,175

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24221 Filed 9-1-78 8:45]

[4210-01]

[Docket No. FI-2321]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Boulder County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Boulder County, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Boulder County, are available for review at Boulder County Courthouse, Boulder, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Boulder County, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Left Hand Creek	North Foothills Highway.	5571
	North 49th St	5298
	North 63rd St	5161
	Nimbus Rd	5110
	North 73d St	5078
	North 87th St	5025
	Colorado Highway 119	5014
	Hover Rd	4990
Boulder Creek	Colorado and Southern RR (upstream side).	5227
	55th St	5197
	North 61st St	5166
	North 75th St	5111
	North 95th St	5053
	North 109th St	5011
South Boulder Creek.	Colorado Highway 93	5462
	South Boulder Rd	5338
	Colorado and Southern RR.	5220
	Valmont Rd	5187

(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, 43 FR 7719.)

Issued: June 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24222 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3821]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Estes Park, Larimer County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Estes Park, Larimer County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Estes Park, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Estes Park, are available for review at the Office of the Director of Public Works, Estes Park, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Estes Park, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Thompson River.	Crags Dr.*	7,538
	Ivy St.*	7,525
	East Riverside Dr.**	7,522
	St. Vrain Ave.**	7,505
	Footbridge at Station 318230.	7,491
	Footbridge at Station 317570.	7,484
Big Thompson River Overflow Channel No. 1.	Footbridge at Station 1310.	7,491
Big Thompson River Overflow Channel No. 2.	Corporate limits at Station 1015.	7,549
	70 ft. upstream from confluence with Big Thompson River.	7,541
Fall River	Private road at Station 15730.	7,805
	Private road at Station 14810**.	7,784
	Private road at Station 13650.	7,760
	James McIntyre Rd.*	7,733
	Pine Rd	7,708
	Private road at Station 9910.	7,675
	Fall River Lane*	7,647
	Old Ranger Dr	7,593
	Elkhorn Ave, at Station 3730.	7,573
	Spruce Dr.**	7,550
	Moraine Ave	7,527
	Footbridge at Station 110.	7,523
Fish Creek	Brook Dr.**	593
	Country Club Dr.**	7,576
	Private road at Station 3190.	7,521
	Brodie Ave.**	7,499
Black Canyon Creek.	Elkhorn Ave	7,512

*Downstream side.
**Upstream side.

(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, 43 FR 7719.)

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24223 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4089]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Nunn, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Nunn, Weld County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Nunn, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Nunn, Weld County, Colo., are available for review at Town Hall, 755 Third Street, Nunn, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Nunn, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek tributary.	Weld County Rd. No. 98	5,165
	Fifth St	5,182
	Roosevelt Ave	5,187
Western flow path to Spring Creek tributary.	Roosevelt Ave	5,187

(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, 43 FR 7719.)

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24224 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4091]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Seaford, Sussex County, Del.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Seaford, Sussex County, Del. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Seaford, Sussex County, Del.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Seaford, Sussex County, Del., are available for review at the City Hall, Seaford, Del.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Seaford, Sussex County, Del.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Herring Run	State Route 20	12
	U.S. Route 13	23

(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, 43 FR 7719.)

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24225 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3761]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Palm Beach County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Palm Beach County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Palm Beach County, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Palm Beach County, Fla., are available for review at Palm Beach County Courthouse, West Palm Beach, Fla.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Palm Beach County, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Ockechobee..	Herbert Hoover Dike and Hooker Highway.	25
	Ritta Island	24
Loxahachee River.	West end of North Dr.	6
	Woodridge Ter. and Center St.	6
Hillsboro Canal	Confluence of Canal E-3 and Hillsboro Canal.	6
Atlantic Ocean	Shoreline from corporate limit to corporate limit.	7
Intracoastal Waterway.	Turner Rd. and Karen Dr.	7
	Ardell Dr. and Palmwood Rd.	6
	Dixie Highway and Indian Town Rd.	6
Lake Worth to Little Lake Worth.	State Route 703 and Landing Pl.	7
C-17 Canal	12th St. and Palm Rd	16
	East end of Upthegrove Lane.	15
	Burroughs Ave. and Garden Ave.	13
	William St	12
	North end of Sun Court.	11
C-51 Canal	Prairie Rd. and Worthington Rd.	13
	West Lakewood Rd. and Yvonne Dr.	12
C-16 Canal	Gulf Rd. and Congress Ave.	13
	North end of Kingston Dr.	11
	North West 22d Ave. and Congress Ave.	11
Rainfall[1]	East end of Laurel Lane.	7
Rainfall[1]	Palmetto Circle and Tolledo Rd.	1

[1]Flooding in the cited locations is due to inadequate drainage which causes a ponding situation.

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24226 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3762]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Clarke County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Clarke County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Clarke County, Ga.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Clarke County, are available for review at Clarke County Courthouse, Athens, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Clarke County, Ga.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oconee River	Barnett Shoals Rd*	533
	Confluence with North Oconee and Middle Oconee Rivers.	541
Middle Oconee River.	Central of Georgia RR	544
	Old Lexington Rd	550
	U.S. Highways 441 and 129; Georgia Highway 15.	563
	Mitchell Bridge Rd	584
	Seaboard Coastline RR	603
	Georgia Highway 330	640
McNutt Creek	U.S. Highway 441	559
	Epps Bridge Rd*	621
	U.S. Highway 78	710
Malcolm Branch	U.S. Highway 78*	623
Big Bear Creek	Big Bear Rd	618
Little Bear Creek	Fowler Mill Rd*	659
Turkey Creek	Tallahassee Rd*	610
	Lavender Rd*	655
North Oconee River.	Whitehall Rd*	559
	College Station Rd*	592
	Southern RR	621
	Newton Bridge Rd	625
Big Creek	Old Lexington Rd*	605
Tributary H	U.S. Highway 78 and Georgia Highway 10*.	637
Shoal Creek	Barnett Shoals Rd	541
	Belmont Rd	594
	Lexington Rd*	615
	U.S. Highway 78*	638
	Beaver Dam Rd*	652
	Cherokee Rd*	662
Tributary J	Winterville corporate limits.	735
Cedar Creek	Barnett Shoals Rd*	615
	Old Lexington Rd*	636
	Gentry Drive*	644
	Cedar Creek Drive*	672
Carrs Creek	At the confluence with the Oconee River.	590
Tributary G	Barnett Shoals Rd	605
	U.S. Highway 78	720
Tributary K	College Station Rd	600
	River Rd	615
Trail Creek	At the confluence with East and West Fork Trail Creek.	643
East Fork Trail Creek.	Joyles Rd*	741
Tributary 5	At the confluence with East Fork Trail Creek.	663
West Fork Trail Creek.	Seaboard Coastline RR	640
	New Hull Rd*	674
Sandy Creek	U.S. Highway 441*	621
East Sandy Creek.	Nowhere Rd*	644

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Noketchee Creek	Nowhere Rd*	641
	Smokey Rd	739
Walton Creek	Jefferson River Rd*	650
Tributary R	Athena Dr*	666

*Upstream side.

(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, 43 FR 7719.)

Issued: June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24227 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4064]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the Village of Glen Ellyn, Du Page County, Ill.

Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule on base (100-year) flood elevations that appeared on page 16759 of the FEDERAL REGISTER, of vol. 43 on April 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Delete:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Du Page River	Corporate limits upstream of Route 53.	688

Add:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Du Page River	Crescent Drive and Plumtree Road.	692

(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, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24228 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3497]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Villa Grove, Douglas County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Villa Grove, Douglas County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Villa Grove, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Villa Grove, are available for review at City Hall, 223 North Main, Villa Grove, Ill.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Villa Grove, Ill.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Embarrass River	Sycamore St. Bridge	630
	Harrison St. Bridge	630
	C & EI RR Bridge	649
Jordan Slough	Intersection of Ash and Maple Sts.	630
West Ditch	Harrison St.	630
	Walnut St.	630
	Adams St.	649

(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, 43 FR 7719.)

Issued: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24229 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4036]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Kawkawlin, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of

Kawkawlin, Bay County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Kawkawlin, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Kawkawlin, Bay County, Mich., are available for review at Township Hall, 1379 East Beaver Road, Kawkawlin, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Kawkawlin, Mich.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kawkawlin River (North Branch).	M-13 Expressway	590
	Beaver Rd.	595
Saginaw Bay	Le Bourdais Rd. (extended).	585
	Boutell Rd. (extended)	585
Railroad drain	Detroit & Mackinac RR.	585
	Elevator Rd	585
	M-13 Express	592
Rosebush drain	Detroit & Mackinac RR.	585
	Linwood Rd	585
Tap-Gove drain	M-13 Expressway	594
	Linwood Rd	596

(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, 43 FR 7719.)

Issued: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24230 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4097]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Portsmouth, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Portsmouth, Bay County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Portsmouth, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Portsmouth, Bay County, Mich., are available for review at Township Hall, 310 Sheridan Court, Bay City, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Portsmouth, Mich.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Russell Rd. between Trumbull and Lincoln Rds.	580
	Munger Rd. between Scheurman and Green Rds.	580
	Intersection of German Rd. and Michigan Ave.	600

(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, 43 FR 7719.)

Issued: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24231 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3958]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Grenada County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Grenada, Grenada County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Grenada, Miss.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Grenada, Grenada County, Miss., are available for review at City Hall, Grenada, Miss.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410; 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Grenada, Miss.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yalobusha River	State Highway 51	180
	Main St	181
	Illinois Central GulfRR.	182
Yalobusha River Tributary 1.	Gayoso St	180
	State Highway 7	182
	Cathey Dr	184
	State Highway 8*	201
Yalobusha River Tributary 1A.	Illinois Central Gulf RR	169
		187
	Pearl St	
	Cherry St**	194
	South St	195
	Telegraph St	297
Yalobusha River Tributary 1B.	500 ft from mouth**	
	1,000 ft from mouth**	200
		203
	1,500 ft from mouth**	216
Batupan Bogue	State Highway 8	167
Batupan Bogue Tributary 1.	Illinois Central Gulf RR	
	Franklin St	117167169
Browns Creek	State Highway 8*	169
	Vance Rd	192
	Provine Rd**	194
	Illinois Central Gulf RR	195
	Fairground Rd	200
	U.S. Highway 51	204
Browns Creek Tributary.	Dr. F. S. Hill Dr	
	Govan St	213227
Perry Creek	Vance Rd	192
	Illinois Central Gulf	197
	Jackson St	193

*Downstream side.
**Upstream side.

(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, 43 FR 7719).

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24232 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4070]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Independence, Jackson and Clay Counties, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Independence, Jackson and Clay Counties, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for city of Independence, Jackson and Clay Counties, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Independence, Jackson and Clay Counties, Mo., are available for review at City Hall, 103 North Main Street, Independence, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Independence, Jackson and Clay Counties, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek	32d St	900
	Norwood Ave	874
	Sterling Ave	857
	West Port Rd	830
	Truman Rd	780
	Illinois Central Gulf RR	753
Sugar Creek	Park St	916
	Sterling Ave	859
	Downstream corporate limits.	819
North Fork of Sugar Creek.	Truman Rd	893
	Claremont Ave	857
	Sterling Ave	849
Mill Creek	Delaware St	947
	Kemper Rd	837
	Kentucky Rd	811
Middle Fork Mill Creek.	Salisbury Ave	926
	Dickenson Rd	905

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Confluence with Mill Creek.	840
East Fork Mill Creek.	Dickenson Rd	859
	Confluence with Mill Creek.	819
Adair Creek	Missouri Pacific RR	949
	Phelps Rd	848
	Lee's Summit Rd	810
	Highway 291	778
Crackerneck Creek.	Linwood Dr	942
	Lee's Summit Rd	850
	Highway 291 (71 Bypass).	786
	Selsa Rd	761
North Fork of Crackerneck Creek.	Mize Rd	762
	Selsa Rd	760
Spring Branch	Kiger Rd	881
	Berry Rd	797
	Ranson Place St	763
North Fork of Spring Branch.	Cheyenne Dr	855
	Truman Rd	774
South Fork of Spring Branch.	Kiger Rd	859
Bundschu Creek	Powell Rd	770

(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, 43 FR 7719.)

Issued: June 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24233 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4100]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Bow, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in town of Bow, Merrimack County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Bow, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Bow are available for review at the town office, Bow, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Bow, Merrimack County, N.H.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	South corporate limit	198
	500 ft downstream of Garvins Falls Dam.	205
	500 ft upstream of Garvins Falls Dam.	225
	North corporate limit	230

(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, 43 FR 7719.)

Issued: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24234 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4101]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Canterbury, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Canterbury, Merrimack County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Canterbury, Merrimack County, N.H.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Canterbury are available for review at the town offices, Canterbury, N.H.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Canterbury, Merrimack County, N.H.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	South corporate limit.....	254
	Just upstream west road bridge.	260
	West corporate limit.....	266

(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, 43 FR 7719.)

Issued: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24235 Filed 9-1-78; 8:45 am]

[4310-02]

Title 25—Indians

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

PART 54—PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

Final Rule

AUGUST 24, 1978.

AGENCY: Bureau of Indian Affairs, Interior Department.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs publishes final regulations which provide procedures for acknowledging that certain American Indian tribes exist. Various Indian groups throughout the United States have requested that the Secretary of the Interior officially acknowledge them as Indian tribes. Previously, the limited number of such requests permitted an acknowledgment of the group's status on a case-by-case basis at the discretion of the Secretary. The recent increase in the number of such requests before the Department necessitates the development of procedures to enable the Department to take a uniform approach in their evaluation.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Shapard, Jr., Division of Tribal Government Services, Branch of Tribal Relations, telephone, 202-343-4045, principal author, Mr. John A. Shapard, Jr.

SUPPLEMENTARY INFORMATION: Various Indian groups throughout the United States have requested that the Secretary of the Interior officially acknowledge them as Indian tribes. Heretofore, the limited number of such requests permitted an acknowledgment of the group's status on a case-by-case basis at the discretion of the Secretary. The recent increase in the number of such requests before the Department necessitates the development of procedures to enable the Department to take a uniform approach in their evaluation.

Proposed regulations were published on June 16, 1977. Revised proposed regulations were published on June 1, 1978 (43 FR 23743). The period for public comment closed on July 3. Throughout this period, from June 16, 1977, the amount of consultation and discussion with tribes and other groups on Federal acknowledgment has been unprecedented. Since June 16, 1977, our records show a total of 400 meetings, discussions, and conversations about Federal acknowledgment with other Federal agencies, State government officials, tribal representatives, petitioners, congressional staff members, and legal representatives of petitioning groups; 60 written comments on the initial proposed regulations of June 16, 1977; a national conference on Federal acknowledgment attended by approximately 350 representatives of Indian tribes and organizations; and 34 comments on the revised proposed regulations, published on June 1, 1978.

This is a project in which the Congress, the administration, the national Indian organizations, and many tribal groups are cooperating to find an equitable solution to a longstanding and very difficult problem.

Most of the changes made in the final regulations from the revised proposed regulations were for clarification. The one concept which has been more strongly emphasized in these final regulations is found in §§ 54.8 and 54.9. In these two sections, provision is made for a wider and more thorough notice of receipt of petition. Provision is also made for parties, other than the petitioner, to present evidence supporting or challenging the evidence presented in the petition or in the proposed findings.

This inclusion is in response to numerous requests from the public in the comments on both the initial and the revised regulations. Further, it is a continuation of the policy of open and candid communication with all parties concerned with the Federal acknowledgment project. We, therefore, have included measures which will keep all known concerned parties fully informed.

Persons interested in obtaining information about a petition or comments made in support of or in opposition to a petition should so request in writing. These records will be available on the same basis as other records within the Bureau.

A number of other comments were submitted by the public on the revised proposed regulations which bear a specific response. It must be emphasized that the Department is not attempting to resolve administratively problems which were not resolved by Congress when the Indian Reorganization Act was passed.

There will be groups which will not meet the standards required by these regulations. Failure to be acknowledged pursuant to these regulations does not deny that the group is Indian. It means these groups do not have the characteristics necessary for the Secretary to acknowledge them as existing as an Indian tribe and entitled to rights and services as such.

Groups in Alaska are entitled to petition on the same basis as groups in the lower 48 States. These regulations, however, are not intended to apply to groups, villages, or associations which are eligible to organize under the Alaskan Amendment of the Indian Reorganization Act (25 U.S.C. 473a) or which did not exist prior to 1936.

It must again be emphasized that terminated groups, bands, or tribes are not entitled to acknowledgment under these regulations. Even though many of these groups would be able to easily meet the criteria, the Department cannot administratively reverse legislation enacted by Congress.

It should also be noted that recognition by State government officials or legislatures is not conclusive evidence that the group meets the criteria set forth herein.

The Department received a number of comments concerning § 54.9(f). Some felt that the Assistant Secretary should be required to notify the petitioner of his decision within a specified time after receipt of the petition. Because of the large backlog of petitions presently on file, the size of the staff and other research considerations, the time requirement was considered impractical. We strongly feel the fairest and most practical approach is the one taken in the regulations.

The Department must be assured of the tribal character of the petitioner before the group is acknowledged. Although petitioners must be American Indians, groups of descendants will not be acknowledged solely on a racial basis. Maintenance of tribal rela-

tions—a political relationship—is indispensable.

Finally, the definitions are an integral part of the regulations and should be carefully read as such.

This is a new part 54 to subchapter G of chapter I of title 25 of the Code of Federal Regulations to read as follows:

Sec.
54.1 Definitions.
54.2 Purpose.
54.3 Scope.
54.4 Who may file.
54.5 Where to file.
54.6 Duties of the Department.
54.7 Form and content of petition.
54.8 Notice of receipt of petition.
54.9 Processing the petition.
54.10 Reconsideration and final action.
54.11 Implementation of decisions.

AUTHORITY: 5 U.S.C. 301; and sections 463 and 465 of the revised statutes 25 U.S.C. 2 and 9; and 230 DM 1 and 2.

§ 54.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Assistant Secretary" means the Assistant Secretary—Indian Affairs, or his authorized representative.

(c) "Department" means the Department of the Interior.

(d) "Bureau" means the Bureau of Indian Affairs.

(e) "Area Office" means the Bureau of Indian Affairs Area Office.

(f) "Indian tribe," also referred to herein as "tribe," means any Indian group within the continental United States that the Secretary of Interior acknowledges to be an Indian tribe.

(g) "Indian group" or "group" means any Indian aggregation within the continental United States that the Secretary of the Interior does not acknowledge to be an Indian tribe.

(h) "Petitioner" means any entity which has submitted a petition to the Secretary requesting acknowledgement that it is an Indian tribe.

(i) "Autonomous" means having a separate tribal council, internal process, or other organizational mechanism which the tribe has used as its own means of making tribal decisions independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the Indian culture and social organization of that tribe.

(j) "Member of an Indian group" means an individual who is recognized by an Indian group as meeting its membership criteria and who consents to being listed as a member of that group.

(k) "Member of an Indian tribe" means an individual who meets the membership requirements of the tribe as set forth in its governing document or is recognized collectively by those persons comprising the tribal governing body, and has continuously maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

(l) "Historically", "historical" or "history" means dating back to the earliest documented contact between the aboriginal tribe from which the petitioners descended and citizens or officials of the United States, colonial or territorial governments, or if relevant, citizens and officials of foreign governments from which the United States acquired territory.

(m) "continuously" means extending from generation to generation throughout the tribe's history essentially without interruption.

(n) "Indigenous" means native to the continental United States in that at least part of the tribe's aboriginal range extended into what is now the continental United States.

(o) "Community" or "specific area" means any people living within such a reasonable proximity as to allow group interaction and a maintenance of tribal relations.

(p) "Other party" means any person or organization, other than the petitioner who submits comments or evidence in support of or in opposition to a petition.

§ 54.2 Purpose.

The purpose of this part is to establish a departmental procedure and policy for acknowledging that certain American Indian tribes exist. Such acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits from the Federal Government available to Indian tribes. Such acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes as well as the responsibilities and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§ 54.3 Scope.

(a) This part is intended to cover only those American Indian groups indigenous to the continental United States which are ethnically and culturally identifiable, but which are not currently acknowledged as Indian tribes by the Department. It is intended to apply to groups which can establish a substantially continuous tribal existence and which have functioned as autonomous entities throughout history until the present.

(b) This part does not apply to Indian tribes, organized bands, pueblos or communities which are already acknowledged as such and are receiving services from the Bureau of Indian Affairs.

(c) This part is not intended to apply to associations, organizations, corporations or groups of any character, formed in recent times; provided that a group which meets the criteria in § 54.7(a)-(g) has recently incorporated or otherwise formalized its existing autonomous process will have no bearing on the Assistant Secretary's final decision.

(d) Nor is this part intended to apply to splinter groups, political factions, communities or groups of any character which separate from the main body of a tribe currently acknowledged as being an Indian tribe by the Department, unless it can be clearly established that the group has functioned throughout history until the present as an autonomous Indian tribal entity.

(e) Further, this part does not apply to groups which are, or the members of which are, subject to congressional legislation terminating or forbidding the Federal relationship.

§ 54.4 Who may file.

Any Indian group in the continental United States which believes it should be acknowledged as an Indian tribe, and can satisfy the criteria in section 54.7, may submit a petition requesting that the Secretary acknowledge the group's existence as an Indian tribe.

§ 54.5 Where to file.

A petition requesting the acknowledgment that an Indian group exists as an Indian tribe shall be filed with the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and "C" Streets NW., Washington, D.C. 20245. Attention: Federal acknowledgment project.

§ 54.6 Duties of the Department.

(a) The Department shall assume the responsibility to contact, within a twelve-month period following the enactment of these regulations, all Indian groups known to the Department in the continental United States whose existence has not been previously acknowledged by the Department. Included specifically shall be those listed in chapter 11 of the American Indian Policy Review Commission final report, volume one, May 17, 1977. The Department shall inform all such groups of the opportunity to petition for an acknowledgment of tribal existence by the Federal Government.

(b) The Secretary shall publish in the FEDERAL REGISTER within 90 days after effective date of these regulations, a list of all Indian tribes which are recognized and receiving services from the Bureau of Indian Affairs.

Such list shall be updated and published annually in the FEDERAL REGISTER.

(c) Within 90 days after the effective date of the final regulations, the Secretary will have available suggested guidelines for the format of petitions, including general suggestions and guidelines on where and how to research for required information. The Department's example of petition format, while preferable, shall not preclude the use of any other format.

(d) The Department shall, upon request, provide suggestions and advice to researchers representing a petitioner for their research into the petitioner's historical background and Indian identity. The Department shall not be responsible for the actual research on behalf of the petitioner.

§ 54.7 Form and content of the petition.

The petition may be in any readable form which clearly indicates that it is a petition requesting the Secretary to acknowledge tribal existence. All the criteria in paragraphs (a)-(g) of this section are mandatory in order for tribal existence to be acknowledged and must be included in the petition.

(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as "American Indian," or "aboriginal." A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of tribal activity during various years. Evidence to be relied upon in determining the group's substantically continuous Indian identity shall include one or more of the following:

(1) Repeated identification by Federal authorities;

(2) Longstanding relationships with State governments based on identification of the group as Indian;

(3) Repeated dealings with a county, parish, or other local government in a relationship based on the group's Indian identity;

(4) Identification as an Indian entity by records in courthouses, churches, or schools;

(5) Identification as an Indian entity by anthropologists, historians, or other scholars;

(6) Repeated identification as an Indian entity in newspapers and books;

(7) Repeated identification and dealings as an Indian entity with recognized Indian tribes or national Indian organizations.

(b) Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area.

(c) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.

(d) A copy of the group's present governing document, or in the absence of a written document, a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.

(e) A list of all known current members of the group and a copy of each available former list of members based on the tribe's own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity. Evidence acceptable to the Secretary of tribal membership for this purpose includes but is not limited to:

(1) Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;

(2) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being an Indian descendant and a member of the petitioning group;

(3) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity;

(4) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant of the tribe and a member of the petitioning entity;

(5) Other records or evidence identifying the person as a member of the petitioning entity.

(f) The membership of the petitioning group is composed principally of persons who are not members of any other North American Indian tribe.

(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

§ 54.8 Notice of receipt of petition.

(a) Within 30 days after receiving a petition, the Assistant Secretary shall send an acknowledgment of receipt, in writing, to the petitioner, and shall have published in the FEDERAL REGISTER a notice of such receipt including the name and location, and mailing address of the petitioner and other such information that will identify the entity submitting the petition and the date it was received. The notice shall also indicate where a copy of the petition may be examined.

(b) Groups with petitions on file with the Bureau on the effective date of these regulations shall be notified within 90 days from the effective date that their petition is on file. Notice of that fact, including the information required in paragraph (a) of this section, shall be published in the FEDERAL REGISTER. All petitions on file on the effective date will be returned to the petitioner with guidelines as specified in § 54.6(c) in order to give the petitioner an opportunity to review, revise, or supplement the petition. The return of the petition will not affect the priority established by the initial filing.

(c) The Assistant Secretary shall also notify, in writing, the Governor and attorney general of any State in which a petitioner resides.

(d) The Assistant Secretary shall also cause to be published the notice of receipt of the petition in a major newspaper of general circulation in the town or city nearest to the petitioner. The notice will include, in addition to the information in section (a) of this part, notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to the petition. Such submissions shall be provided to the petitioner upon receipt by the Federal acknowledgement staff. The petitioner shall be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

§ 54.9 Processing the petition.

(a) Upon receipt of a petition, the Assistant Secretary shall cause a review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe. The review shall include consideration of the petition and supporting evidence, and the factual statements contained therein. The Assistant Secretary may also initiate other research by his staff, for any purpose relative to analyzing the petition and obtaining additional information about the petitioner's status, and may consider any evidence which may be submitted by other parties.

(b) Prior to actual consideration of the petition, the Assistant Secretary shall notify the petitioner of any obvious deficiencies, or significant omissions, that are apparent upon an initial review, and provide the petitioner with an opportunity to withdraw the petition for further work or to submit additional information or a clarification.

(c) Petitions shall be considered on a first come, first serve basis determined by the date of original filing with the Department. The Federal acknowl-

edgement project staff shall establish a priority register including those petitions already pending before the Department.

(d) The petitioner and other parties submitting comments on the petition shall be notified when the petition comes under active consideration. They shall also be notified who is the primary Bureau staff member reviewing the petition, his backup, and supervisor. Such notice shall also include the office address and telephone number of the primary staff member.

(e) A petitioning group may, at its option and upon written request, withdraw its petition prior to publication by the Assistant Secretary of his finding in the FEDERAL REGISTER and, may if it so desires, file an entirely new petition. Such petitioners shall not lose their priority date by withdrawing and resubmitting their petitions later, provided the time periods in paragraph (f) of this section shall begin upon active consideration of the resubmitted petition.

(f) Within 1 year after notifying the petitioner that active consideration of the petition has begun, the Assistant Secretary shall publish his proposed findings in the FEDERAL REGISTER. The Assistant Secretary may extend that period up to an additional 180 days upon a showing of due cause to the petitioner. In addition to the proposed findings, the Assistant Secretary shall prepare a report which shall summarize the evidence for the proposed decision. Copies of such report shall be available for the petitioner and other parties upon written request.

(g) Upon publication of the proposed findings, any individual or organization wishing to challenge the proposed findings shall have a 120-day response period to present factual or legal arguments and evidence to rebut the evidence relied upon.

(h) After consideration of the written arguments and evidence rebutting the proposed findings, the Assistant Secretary shall make a determination regarding the petitioner's status, a summary of which shall be published in the FEDERAL REGISTER within 60 days from the expiration of the response period. The determination will become effective in 60 days from publication unless earlier withdrawn pursuant to § 54.10.

(i) The Assistant Secretary shall acknowledge the existence of the petitioner as an Indian tribe when it is determined that the group satisfies the criteria in § 54.7.

(j) The Assistant Secretary shall refuse to acknowledge that a petitioner is an Indian tribe if it fails to satisfy the criteria in § 54.7. In the event the Assistant Secretary refuses to acknowledge the eligibility of a petitioning group, he shall analyze and foward to the petitioner other options, if any, under which application for services and other benefits may be made.

§ 54.10 Reconsideration and final action.

(a) The Assistant Secretary's decision shall be final for the Department unless the Secretary requests him to reconsider within 60 days of such publication. If the Secretary recommends reconsideration, the Assistant Secretary shall consult with the Secretary, review his initial determination, and issue a reconsidered decision within 60 days which shall be final and effective upon publication.

(b) The Secretary in his consideration of the Assistant Secretary's decision may review any information available to him, whether formally part of the record or not; where reliance is placed on information not of record, such information shall be identified as to source and nature, and inserted in the record.

(c) The Secretary may request reconsideration of any decision by the Assistant Secretary but shall request reconsideration of any decision, which in his opinion:

(1) Would be changed by significant new evidence which he has received subsequent to the publication of the decision; or

(2) A substantial portion of the evidence relied on was unreliable or was of little probative value; or

(3) The petitioner's or the Bureau's research appears inadequate or incomplete in some material respect.

(d) Any notice which by the terms of these regulations must be published in the FEDERAL REGISTER, shall also be mailed to the petitioner, the Governors and attorney generals of the States involved, and to other parties which have commented on the proposed findings.

§ 54.11 Implementation of decisions.

(a) Upon final determination that the petitioner is an Indian tribe, the tribe shall be eligible for services and benefits from the Federal Government available to other federally recognized tribes and entitled to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes with a government-to-government relationship to the United States as well as having the responsibilities and obligations of such tribes. Acknowledgment shall subject such Indian tribes to the same authority of Congress and the United States to which other federally acknowledged tribes are subject.

(b) While the newly recognized tribe shall be eligible for benefits and services, acknowledgment of tribal existence will not create an immediate entitlement to existing Bureau of Indian Affairs programs. Such programs shall become available upon appropriation of funds by Congress. Requests for appropriations shall follow a determination of the needs of the newly recognized tribe.

(c) Within 6 months after acknowledgment that the petitioner exists as an Indian tribe, the appropriate Area Office shall consult and develop in cooperation with the group, and forward to the Assistant Secretary, a determination of needs and a recommended budget required to serve the newly acknowledged tribe. The recommended budget will be considered along with other recommendations by the Assistant Secretary in the usual budget-request process.

GEORGE V. GOODWIN,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 78-24674 Filed 9-1-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

Authority to Issue Subpoenas

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment delegates subpoena authority to the General Counsel and the Deputy General Counsel and redesignates positions already exercising subpoena authority to reflect the recent implementation of the Office of the Inspector General within the Veterans Administration. While the exercise of this authority within the Office of the General Counsel is expected to be infrequent, a need has been experienced in connection with the conduct of certain investigations and cases by that office. In addition minor editorial changes have been made.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Neal C. Lawson, Assistant General Counsel, Veterans Administration, Washington, D.C. 20420, 202-389-3294.

SUPPLEMENTARY INFORMATION: On page 12892 of the FEDERAL REGISTER of March 28, 1978, there was published notice of proposed regulatory development to amend § 2.1 relating to delegation of authority to employees to issue subpoenas.

Public Comment: Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. Two written comments were received. One comment was accepted, insofar as the need to provide citation to the legal basis for making the revision (38 U.S.C. 3311). The citation has been inserted at the end of the amended regulation. No useful purpose can be seen in revising and republishing the changes for additional public comment.

The other comment suggested that the amended regulation clearly state that the subpoena power is effective not only for title 38, United States Code matters, but also for any other matter being lawfully investigated by the agency. We do not believe that the regulation should be amended to include specific mention of subject areas, as suggested. The regulation is based on 38 U.S.C. 3311, and the subpoena authority delegated in this regulation can be no greater than that found in the statute. It is our opinion that the regulation is designed solely for delegation of authority purposes and that it would be inappropriate to attempt to delineate the bounds of the subpoena power in the regulations.

Accordingly, the proposed regulation is amended as set forth below.

Approved: August 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

Section 2.1 is revised to read as follows:

§ 2.1 Delegation of authority to employees to issue subpoenas, etc.

(a) Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for (by countersigning VA form 2-4003) and compel the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Discretion will be used in the exercise of this power which will not be used except when necessary or when the evidence cannot be obtained efficiently in any other way.

(b) Designated positions: Inspector General, Deputy Inspector General, Assistant Inspector General for Investigation, Deputy Assistant Inspector General for Investigation, General Counsel, Deputy General Counsel, Heads of regional offices and centers having insurance activities, regional office activities, or both.

(c) Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States. In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. (38 U.S.C. 3311.)

[FR Doc. 78-24049 Filed 9-1-78; 8:45 am]

[8320-01]

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Procedure Where Violation of Penal Statutes is Involved

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment is intended to make clear an already existing regulation that sets forth the procedures to be followed when submitting a matter involving a violation of law to Federal authorities. This amendment provides for the submission of evidence relating to violation or suspected violation of the penal provisions of the United States to the United States Attorney, Federal Bureau of Investigation, or Department of Justice.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Neal C. Lawson, Assistant General Counsel, Veterans Administration, Washington, D.C. 20420, 202-389-3294.

SUPPLEMENTARY INFORMATION: On page 12893 of the FEDERAL REGISTER of March 28, 1978, there was published a notice of proposed regulatory development to amend § 14.560 relating to procedures followed by the Veterans Administration where violations of penal statutes are involved.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. One written comment was received. The comment requests that appropriate citations of authority, establishing the legal basis upon which the changes are based should have appeared in the issuance, as required by 38 U.S.C. 210(c)(1). It is our opinion that the appropriate citation of authority for the changes to the regulation is 38 U.S.C. 210(c)(1) which gives the Administrator the authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the agency. The changes are not substantive, but are designed to clarify and simplify procedures already in existence for making such referrals.

Accordingly, the proposed regulation is amended as set forth below.

Approved: August 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

Section 14.560 is revised to read as follows:

§ 14.560 Procedure where violation of penal statutes is involved.

(a) The submission to the appropriate U.S. Attorney or FBI, according to local practice, of a violation or suspected violation of the penal provisions of the statutes of the United States, including those offenses coming within the purview of the Assimilative Crimes Act (18 U.S.C. 13), will be made by the District Counsel within whose jurisdiction the alleged offense appears to have been committed. Where the file or record which contains evidence of a penal offense is maintained in a different field station, it will be referred to the appropriate District Counsel in whose area the offense was committed, for referral. Where the file or record is located in or has been forwarded to Central Office, the matter will be referred to the General Counsel for development and transmittal to the appropriate District Counsel or direct to the Department of Justice. (38 U.S.C. 210(c)(1))

(b) In the Central Office, reports of the Office of Inspector General evidencing any criminal acts will be transmitted by the General Counsel to the appropriate District Counsel for referral or, in the discretion of the General Counsel, the matter may be referred directly to the Department of Justice. Investigations conducted by the Office of Inspector General are administrative in nature and development of criminal aspects of a case should only be incidental to the investigation of administrative irregularities. If evidence of administrative irregularities, as set forth in § 1.452 of this chapter, is brought to the attention of a District Counsel, he or she will recommend referral to the Office of Inspector General, VA central Office through appropriate office and department heads. If there is evidence of violation of the law, as well as administrative irregularities, referrals may be made simultaneously to law enforcement authorities and administrative personnel. When evidence of a violation of penal statutes is uncovered during the course of an adminis-

trative investigation by the Office of Inspector General, the investigator will notify the appropriate District Counsel of any referral to the U.S. Attorney or FBI, and, in addition, furnish him or her a copy of any written submission. (38 U.S.C. 210(c)(1)

(c)) The Department of Justice, or the U.S. Attorneys, are charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence in any case is sufficient to warrant prosecution is a matter solely for their determination. No judgments will be made, either at the General Counsel level, or at the District Counsel level, as to whether or not a case should be referred, based on the strength or value of the evidence or nature of the violation alleged. If the Department of Justice or U.S. Attorney decides to prosecute, the District Counsel will cooperate as may be requested. The District Counsel will bring to the attention of the General Counsel any case wherein he or she is of the opinion that criminal or civil action should be initiated, notwithstanding a decision by the U.S. Attorney not to bring such action. Cases deemed essential to protect the interest of the Veterans Administration or which could cause undue publicity, or notoriety will be reported promptly to the General Counsel. Likewise, the District Counsel will report such cases in which, in his or her opinion, prosecution has been delayed for an inordinate amount of time. (38 U.S.C. 210(c)(1))

[FR Doc. 78-24848 Filed 9-1-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 942-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Disapproval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia submitted to EPA regulations controlling hydrocarbon emissions resulting from gasoline transfer operations (vapor recovery—stage I) and control of such emissions from the filling of vehicular tanks (vapor recovery—stage II) in State region 7 (the Virginia portion of the National Capital Interstate Air Quality Control Region (AQCR). The Commonwealth requested that these regulations be reviewed and processed as revisions of the Virginia State implementation plan (SIP).

This notice of final rulemaking announces the Administrator's approval of the Virginia regulations governing vapor recovery—stage I as a revision of the Virginia State implementation plan. Concurrently, this notice announces the retention of 40 CFR Section 52.2438 (a portion of the federally promulgated transportation control plan for the Commonwealth of Virginia) to cover all gasoline handling facilities with an average monthly throughput of under 20,000 gallons, but whose tank capacities are larger than the minimum specified sizes in the federally promulgated regulation. This notice also announces the Administrator's decision to withdraw from further consideration any final action on the Virginia regulation governing vapor recovery—stage II pending EPA's expected promulgation of a revised federal vapor recovery—stage II regulation.

EFFECTIVE DATE: September 5, 1978.

ADDRESSES: Copies of the amendments submitted by the Commonwealth of Virginia, along with accompanying support material, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Va. 23219, Attn: Mr. John Daniel, P.E.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, phone 215-597-8392.

SUPPLEMENTARY INFORMATION: On December 6, 1973 (38 FR 33716), the Administrator of the Environmental Protection Agency promulgated a transportation control plan (TCP) for the Virginia portion of the National Capital Interstate AQCR. This plan, which to the maximum extent practicable reflected the control strategies preferred by the Commonwealth of Virginia, included measures to reduce hydrocarbon emissions, a major contributing factor in the formation of photochemical oxidants. These measures consist of mass transit controls, vehicle emission inspection programs, and additional stationary source controls. As part of this transportation control plan, the Administrator promulgated vapor recovery—stage I and stage II regulations for the Virginia portion of the National Capital Interstate AQCR. The main provision of the vapor recovery—stage I regulation was the recovery of 90 percent (by weight) of the hydrocarbon vapors from all gasoline storage tanks with a capacity greater than 250 gallons with three exceptions:

1. Stationary containers with a capacity of less than 550 gallons and used exclusively for the fueling of implements of husbandry.

2. Any container with a capacity of less than 2,000 gallons before the promulgation of the Federal vapor recovery—stage I regulation.

3. Gasoline transfers from storage tanks equipped with floating roofs or their equivalent.

The Commonwealth of Virginia submitted to EPA, amendments to the Commonwealth regulations for the control and abatement of air pollution governing hydrocarbon emissions in State region 7 (the Virginia portion of the National Capital Interstate AQCR). The Commonwealth requested that these amendments, submitted on April 16, 1974, and revised on June 16, 1976, be reviewed and processed as a revision of the Virginia State implementation plan (SIP) for the attainment and maintenance of national ambient air quality standards.

The amendments consist of additions to part IV, rule EX-5, section 4.52 (former section 4.705.03). Subsection 4.52(e) (4.705.03(e)) refers to control of vapor loss during the transfer of gasoline from delivery trucks to underground storage tanks (vapor recovery—stage I). Subsection 4.52(f) (4.705.03(f)) refers to control of vapor loss during the transfer of gasoline from gasoline pumps to individual automobile, truck, or other vehicle tanks (vapor recovery—stage II). Both regulations require 90 percent control (by weight) of evaporative losses. All facilities whose total average gasoline throughout is less than 20,000 gallons per month based on a 12-month average of bulk receipts are exempt from the above provisions. The provisions of subsection 4.52(e) became effective June 11, 1976. The provisions of subsection 4.52(f) become effective 18 months after the State air pollution control board approves such systems designed to recover the evaporative

losses during vehicular tank filling operations. The alternative systems consist of a vapor return line from the fill nozzle-filler neck interface to either the dispensing tank or to an absorption, adsorption,incineration, refrigeration-condensation system, or the equivalent.

The Commonwealth of Virginia provided documentation demonstrating the effectiveness of the provisions of subsection 4.52(e) in reducing evaporative hydrocarbon emissions, as well as proof that public hearings with regard to these amendments were held on September 19, 1973; November 26, 1973, and March 22, 1976, in Richmond; and September 21, 1973, and March 22, 1976, in Fairfax.

On October 1, 1974 (39 FR 35386), the Regional Administrator acknowledged receipt of the amendments, proposed them as revisions of the Virginia SIP and provided for a 30-day comment period ending October 31, 1974. Subsequent amendments to these provisions were received from the Commonwealth of Virginia and were proposed by EPA as revisions of the Virginia SIP on February 8, 1977 (42 FR 7969), with public comments requested by March 10, 1977. During the combined public comment periods, EPA received comments from the Virginia Petroleum Industries, the Virginia Farm Bureau Federation, and two private citizens. The first two commentors recommended approval of these proposed SIP revisions, while the private citizens recommended disapproval, based on the fact that the requirements of subsection 4.52(e) do not coincide with those of the Federal regulation.

EPA has determined that the amended State vapor recovery—stage I regulation varies from the regulation promulgated by the Administrator for the Commonwealth of Virginia (40 CFR Section 52.2438). Although the 20,000-gallon-per-month throughput exemption limitation is an improvement over the original State regulation which allowed exemptions to facilities with an average monthly throughput of less than 26,000 gallons, it would still permit hydrocarbon emission levels in excess of those levels permitted by the exemptions set forth in 40 CFR 52.2438 (these exemptions being based on the tank size). Data submitted by the Commonwealth of Virginia indicate that an exclusion based on a 20,000-gallon-per-month throughput limitation would result in the exemption of approximately 10 percent of gasoline sales (and therefore 10 percent of vapor emissions) that would be covered by the Federal regulation. According to EPA policy governing nonattainment areas (Virginia region 7 is a nonattainment area for photochemical oxidants) a regulation which deviates from the EPA-promulgated vapor recovery—stage I regulation (e.g., a regulation based on throughput rather than tank size) is considered "equivalent" when the difference in total allowable emissions is less than 5 percent. Apart from this difference of hydrocarbon emission control, subsection 4.52(e) meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves this State regulation, submitted on April 16, 1974, and amended on June 16, 1976, as a revision of the Virginia State implementation plan. However, because the reduction of evaporative hydrocarbon emissions expected under the requirements of subsection 4.52(e) is less than the "equivalent" emission reduction expected under the requirements of 40 CFR Section 52.2438, this latter regulation remains in force for those facilities with tank sizes not specifically exempted from the requirements of the Federal regulation and with an average monthly throughput of less than 20,000 gallons.

The Administrator intends to promulgate a revised vapor recovery—stage II regulation for all jurisdictions requiring such a measure including Virginia (40 CFR Section 52.2439). At that time, Virginia will be required to revise its currently proposed stage II regulation as well. Accordingly, the Commonwealth requested that its vapor recovery—stage II regulation be withdrawn from further consideration at this time as a plan revision. Therefore, the Administrator withdraws subsection 4.52(f) of the Virginia air pollution control regulations from further consideration as a revision of the Virginia State implementation plan.

Effective date: Inasmuch as the concurrent applicability of different State and Federal regulations in the Commonwealth of Virginia may have resulted in confusion for facilities subject to them, the Administrator has determined that the approved revision of the Virginia SIP is effective September 5, 1978.

(42 U.S.C. 7401.)

Dated: August 30, 1978.

DOUGLAS COSTLE,
Administrator.

Subpart VV of part 52, chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, paragraph (c)(24) is added as follows:

§ 52.2420 Identification of plan.

* * * * *

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

* * *

(24) Amendment to subsection 4.52(e) (former section 4.705.03) of the Virginia regulations for the control and abatement of air pollution; submitted on April 16, 1974, as amended June 16, 1976, by the secretary of commerce and resources.

2. In § 52.2431, subsection (d) is added and reads as follows:

§ 52.2431 Control strategy: Carbon monoxide and photochemical oxidants.

* * * * *

(d) The requirements of § 51.14(c) of this chapter are not met with respect to gasoline vapor controls to the extent that Virginia's vapor recovery—stage I regulation may exempt sources subject to control under section 52.2438 of this part.

3. In § 52.2438, subsection (d) is amended by adding a new paragraph (d)(4) to read as follows:

§ 52.2438 Gasoline transfer vapor control.

* * * * *

(d) * * *

(4) Any stationary container at any facility where the average monthly throughput (one-twelfth of the total throughput for the preceding 12 months) equals or exceeds 20,000 gallons per month and which is subject to Virginia Regulation 4.52(e).

[FR Doc. 78-24994 Filed 9-1-78; 8:45 am]

[6560-01]

[FR-951-6]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Calculation and Test Procedures for 1979 and Later Model Year Light Trucks

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action promulgates a regulation originally published as an interim rulemaking on September 13, 1977 (42 FR 45921). These rules set out procedures for determining corporate average fuel economies (CAFE's) for the manufacturers of light trucks (formerly referred to as "nonpassenger automobiles"). These regulations were initially published as final rules for the 1979 model year and as a proposal for 1980 and later model years. This final rulemaking extends the procedures previously issued for passenger cars to apply to light trucks. This includes pickup trucks and vans and other vehicles included in the class by the Secretary of Transportation. The CAFE's generated under

these procedures will be used by the Secretary for determining compliance with light truck fuel economy standards that he has established.

DATE: This rulemaking is effective October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel Hardin, Chief, Fuel Economy Group, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Mich. 48105, 313-668-4222.

SUPPLEMENTARY INFORMATION: Specifically, section 503 of the Motor Vehicle Information and Cost Savings Act (the "Act") requires the Environmental Protection Agency to develop testing and calculation procedures by which the corporate average fuel economy (CAFE) of a manufacturer's passenger automobile and light truck fleets will be determined each model year, beginning in model years 1978 and 1979, respectively. In addition, EPA is required to perform, or to cause to be performed, the fuel economy testing and calculation that is necessary for determining a manufacturer's CAFE and for fuel economy labeling pursuant to section 506.

The manufacturer's CAFE calculated by EPA will be used by the Secretary of Transportation to determine compliance with the applicable fuel economy standards and to assess penalties or credits, as appropriate, under sections 507 and 508 of the Act. [The Secretary has delegated his functions to the National Highway Traffic Safety Administration (NHTSA).] Section 502 establishes average fuel economy standards for model years 1978–80 and 1985 passenger automobiles. That same section requires the Secretary to establish fuel economy standards for 1981–84 passenger automobiles and for model year 1979 and later light trucks, based on technical, economic, and energy-related considerations. NHTSA is also responsible for defining which vehicles are to be considered automobiles for the purposes of the Act and, of those vehicles, which are passenger automobiles and which are light trucks.

Because of concerns expressed by NHTSA about the procedures used to select light trucks for the CAFE determination, EPA and NHTSA consider the regulation promulgated hereunder to be an interim action which is to remain in effect until further rulemaking can be undertaken to improve the vehicle selection process.

(Further discussion of this subject is found below under the heading "Model Years After 1980".)

PUBLICATION WITHOUT FORMAL PUBLIC COMMENT PERIOD

When published on September 13, 1977, the interim rules established procedures for the testing and calculation of a manufacturer's average fuel economy for model year 1979 and later light trucks. The rules were final for the 1979 model year and comments were requested on the action to be considered with respect to model year 1980 and later. A notice of proposed rulemaking (NPRM) was not previously issued.

In developing the testing and calculation scheme for passenger automobiles EPA consulted with and provided drafts to interested parties including manufacturers and other interested agencies. The direction ultimately taken by EPA in formulating the passenger automobile testing and calculation scheme was significantly affected by these consultations, and the resulting rule has been favorably received by all parties. (Background information pertaining to public participation in developing the passenger automobiles rules is available on the public docket.) Because the majority of the provisions for the testing and calculation of a manufacturer's light truck CAFE contained in the interim rules are substantially the same as those established for passenger automobiles, EPA expected that those rules would be favorably received by all interested parties. In addition, EPA provided interested parties the opportunity to comment informally on drafts of the interim rules. The responses received were generally favorable, as were the formal comments on the interim and proposed rules.

BACKGROUND: FUEL ECONOMY REGULATIONS CURRENTLY IN EFFECT

To a large extent, the provisions of this regulation are based on previously published EPA regulations (September 10, 1976, 41 FR 38674 and September 12, 1977, 42 FR 45641). Those regulations establish fuel economy testing and calculation procedures to be used in generating fuel economy label values for all automobiles (i.e., passenger automobiles and light trucks) under section 506 of the Act, as well as a procedure for calculating the passenger automobile CAFE value to be used by NHTSA in enforcing the applicable passenger automobile fuel economy standards. (Additional provisions that pertain specifically to fuel economy labeling under section 506 are contained in the November 10, 1976 FEDERAL REGISTER (41 FR 49752), September 12, 1977, (42 FR 43668) and May 17, 1978 (43 FR 21412). A detailed discussion of the issues involved and the alternatives evaluated in developing the vehicle selection, testing, and calculation procedures established previously is contained in the preambles to the earlier notices.

In consultation with DOT, the EPA has determined that a majority of the provisions of the existing regulations can be extended to apply to the calculation of light truck average fuel economy, since the legal, technical, and administrative considerations are generally the same with respect to both classes of automobiles. In both cases, the statute requires that fuel economy testing be conducted in conjunction with emissions testing to the extent practicable and provides for a civil penalty of $5 per automobile for each 0.1 mpg that the manufacturer's average fuel economy is below the standard. Thus, the test vehicle selection scheme for both passenger automobiles and light trucks should permit average fuel economy calculations to be made with the same degree of accuracy, constrained by the same considerations such as the costs of testing (to both government and industry). Therefore, the provisions of the existing regulations on passenger automobile CAFE calculations are extended by this rule to light trucks except where modifications were necessary to account for inherent differences between passenger automobiles and light trucks or to maintain consistency with actions taken by NHTSA pursuant to its responsibilities under the Act.

It should also be noted that this regulation provides use of the same procedures for test vehicle selection, for the measurement of a test vehicle's fuel consumption, and for salesweighting test results to yeild a single value for a model type established for fuel economy labeling purposes (published in final on September 12, 1977). Although there is no explicit statutory requirement that EPA adopt the same procedures in calculating a manufacturer's light truck CAFE as are used in labeling, it is clearly most reasonable to do do, since it minimizes costs to both industry and government without affecting the program adversely.

This regulation will require an increase in the number of fuel economy tests that must be performed by the industry over that required for labeling purposes early in the model year. For model year 1979, the increase will not be significant. For the 1980 model year the impact is more significant since the CAFE standards set by NHTSA dictate separate standards for two-wheel drive and four-wheel drive light trucks.

In addition, there may be an increase in the number of fuel economy tests required to account for running changes during the model year. A running change is a design modification made by a manufacturer during the model year, usually to correct an un-

expected problem occurring in the field, to optimize fuel ecomomy or performance, or to reduce costs. The provisions that currently apply to running change testing of passenger automobiles for fuel economy purposes are extended by this regulation to light trucks as noted previously. As discussed in the preamble to the passenger car regulations, exemptions from running change testing will be granted if the manufacturer's preliminary average fuel economy calculation exceeds the applicable fuel economy standard by a safety margin. For the 1978 model year this margin was 1.0 mile per gallon. That amount was considered to be of sufficient magnitude to ensure that the manufacturer would remain in compliance during the model year irrespective of the effect of running changes. This margin is not expected to change for 1979 model year passenger automobiles, and a similar margin is anticipated for 1979 model year light trucks. For 1980 and later model years the Agency is examining the possibility of setting the margin equal to the difference between the current model year's standard and the standard for the subsequent model year.

ADAPTATIONS OF THE PASSENGER AUTO PROCEDURES

It was necessary to modify several aspects of the passenger automobile CAFE calculation procedure in establishing a procedure for light trucks to account for inherent differences between passenger automobiles and light trucks as well as to maintain consistency with actions taken by NHTSA. These modifications are discussed below.

1. Test vehicle selection. Rather than requiring the testing of every one of the combination of standard and optional equipment that a manufacturer includes in his model line, the sampling approach used by EPA for picking test vehicles stratifies the product line by grouping together those vehicles which have the same basic engine, transmission and weight, the design elements that have the greatest effect on fuel economy. These groupings are called "base levels." Manufacturers are required to provide test data on at least one configuration within each base level. This is the same for light trucks as it is for passenger cars. However, this regulation contains a provision granting the EPA Administrator authority to select additional test vehicles in those light truck base levels for which he determines that the level of testing under the general vehicle selection rules (§ 600.207 and § 600.506) would not be sufficiently representative of that base level. (In many cases, only one vehicle configuration is tested within a base level.) This could occur if the vehicle configurations comprising that light truck base level exhibit a wide range in magnitude for a specific parameter. It is expected that EPA will invoke this authority mainly to select additional vehicles based on the existence of a wide range of axle ratios among vehicle configurations in a light truck base level. EPA has determined that a range of axle ratios on the order of 0.75 (found in some passenger automobile base levels) can result in relatively high variability within a base level. In fact, EPA explored the possibility of including axle ratio as a determinant in the definition of base level during the development of the passenger automobile regulation. However, the examination showed that this would trigger substantial cost increases (in terms of additional testing requirements) to both EPA and the industry. Additionally, the increased cost would yield very little benefit since very few passenger automobile base levels show a range of 0.75. But in the case of light trucks, it is expected that axle ratio ranges will be greater than 0.75 in about 25 percent of the base levels. Consequently, it is desirable to permit the Administrator to isolate those cases where additional testing is needed to ensure that the test fleet adequately represents the overall fleet. EPA will establish guidelines (such as axle ratio bands) to define where additional testing might be required.

2. Two categories of light trucks with distinct standards (1979 model year). On March 14, 1977, NHTSA published a regulation under section 502 that established two categories of light trucks and a fuel economy standard applicable to each effective in model year 1979 (42 FR 13807). These standards were again published by NHTSA on March 23, 1978 (43 FR 11995) and on April 17, 1978 (43 FR 16181). The two categories are "4-wheel drive general utility vehicles" and "all other light trucks" and the fuel economy standards are 15.8 mpg and 17.2 mpg, respectively. Moreover, in that rule the NHTSA provided that a manufacturer may determine compliance by either (1) comparing the CAFE for his entire light truck fleet to the standard for the "all other light trucks" category, or (2) comparing the CAFE for each category of his light truck fleet to standards for their respective categories.

Accordingly, this regulation establishes a procedure for the separate calculation of CAFE values for a manufacturer's general utility vehicles and for all other light trucks, and a procedure for calculating a single value for a manufacturer's entire light truck fleet. In the case where a manufacturer chooses to demonstrate compliance with the fuel economy standards on a separate basis for each light truck category, the value for each category will be calculated on a production-weighted model type basis. A CAFE value will be calculated for the import portion of the vehicles in each category, and that value will be included in the respective calculations as if it were a model type value. ("Model type" is a grouping used for fuel economy calculations in addition to the "base level" groupings used for test vehicle selections. A model type groups together the vehicles with the same transmission and basic engine that are in the same car line. Model type values therefore are averages of base level test results when there is more than one base level in the model type, i.e., more than one weight class among the vehicles with the same basic engine, transmission and car line designation.)

In the case where a manufacturer opts to demonstrate compliance with the "all other light truck" fuel economy standard on a basis of his entire light truck fleet, average fuel economy will also be calculated on a production-weighted model type basis. A CAFE value will be calculated for the import portion of his entire light truck fleet and that value will be included in the final calculation as if it were a model type CAFE value.

In some cases, vehicles that are grouped in the same car line for labeling purposes will be grouped into different light truck categories. For example, the Ramcharger (a car line) is produced both with and without four-wheel drive. The four-wheel drive version of the Ramcharger is a 4-wheel drive general utility vehicle under the current DOT definition, but the two-wheel drive Ramcharger in not. For the purpose of calculating average fuel economy in the case of vehicles that fall into the same car line but different light truck categories, separate model type fuel economy values will be calculated for the vehicles in each category. However, separate base level and vehicle configuration calculations will not be performed for two-wheel drive and four-wheel drive vehicles for the 1979 model year.

3. Five categories of light trucks with distinct standards (1980 and 1981 model years). On March 23, 1978 (43 FR 11995) and April 17, 1978 (43 FR 16181) NHTSA published the fuel economy standards for 1980 and 1981 model year light trucks. In addition to the numerical differences, these standards abolished the two light truck categories used in 1979 and the optional procedures that were available to the manufacturers for complying with the 1979 model year standards. For the 1980 and 1981 model years there will be five categories of light trucks: two-wheel drive light trucks, two-wheel

drive captive import light trucks, four-wheel drive light trucks, four-wheel drive captive import light trucks, and limited product line light trucks. Each category has a distinct fuel economy standard and separate vehicle configuration, base level, and model type calculations will be made for each category.

4. Inclusion of imports in the calculation of light truck CAFE. The regulations on passenger automobile CAFE calculation limit the volume of imports that may be included in the calculation for model years prior to 1980 and require that the fuel economy of the remaining portion of a manufacturer's import fleet be calculated on a separate basis. In 1980 and later model years, the entire imported light truck fleet will be treated as if produced by a separate manufacturer as noted above.

The Act specifically mandates this approach for passenger automobiles but does not provide similar guidance with respect to imported light trucks. However, the NHTSA rulemaking does not set distinct fuel economy standards for these vehicles until the 1980 model year.

This regulation provides for the calculation of the CAFE value for the import component of a manufacturer's light truck fleet. That import fuel economy value is then treated as a model type fuel economy value in the calculation of a 1979 manufacturer's average fuel economy. The approach is identical to that used for passenger automobiles in model year's 1978 and 1979, except that the production-weighting factor of the import fuel economy value is not limited. The approach reflects the methodology used by NHTSA in establishing the 1979 light truck fuel economy standards as discussed in detail in the March 14, 1977, FEDERAL REGISTER (42 FR 13807).

OTHER ISSUES

NHTSA published a regulation (July 28, 1977, 42 FR 38362) under section 501(d)(1) of the Act establishing which vehicles are to be considered automobiles for the purposes of the Act and, of those vehicles, which are passenger automobiles and which are light trucks. The light truck class, for the 1979 model year includes vehicles which are certified by EPA as light-duty trucks for emission purposes and have a gross vehicle weight rating (GVWR) of no greater than 6,000 lbs., plus vehicles such as the Chevrolet El Camino and the Ford Ranchero. [For the 1980 and later model years the light truck category is expanded to include vehicles with GVWR's no greater than 8500 pounds (42 FR 38362)]. EPA tests the El Camino and Ranchero under the light-duty vehicle emissions testing procedures. The Chevrolet El Camino and Ford Ranchero are classified as light-duty vehicles by EPA for emissions purposes since those vehicles are derivatives of passenger cars and, as such, passenger car emission control technology may be applied. Under the Act, vehicles must be classified based on design intent. NHTSA has classified those vehicles as light trucks based on their similarity to pickup trucks in view of the open bed configurations.

As a result the calculation of a manufacturer's CAFE for light trucks will be based on data generated under different test procedures. The Agency has determined that this will not affect the validity of the calculation, since the fuel economy of the test vehicles are appropriately measured under the respective procedures and the classifications are appropriate with respect to statutory requirements and intent.

It should also be noted that DOT published a regulation (July 28, 1977, 42 FR 38369) that assigns the responsibility for compliance with CAFE standards to the incomplete vehicle manufacturer in the case of vehicles that are completed by a subsequent manufacturer. Incomplete vehicles will be treated as a model type in calculating CAFE.

COMMENTS RECEIVED

These regulations were originally published as interim-final rules on September 13, 1977. Comments were requested, and a comment period was established with a closing date of November 25, 1977. However, on December 15, 1977 (42 FR 63184) NHTSA proposed extending the light truck class to include vehicles up to 8500 pounds GVWR (beyond the former upper limit of 6000 pounds GVWR). Recognizing that this could impact the appropriateness of the proposed calculation procedures, EPA chose to reopen the comment period on the September 13, 1977 interim-final rules. A notice was published in the FEDERAL REGISTER of February 27, 1978 (43 FR 7983) which reopened the comment period on the 1980 and later model year procedures until March 31, 1978. During the two comment periods only three parties responded all of whom were domestic automobile manufacturers.

One commenter did not deal directly with the substance of the proposal, but rather with the nomenclature. American Motors pointed out that a trademark, "Jeep," had been included in one of the definitions in the proposal, "Jeep-type vehicle". NHTSA had originally used this term in their March 14, 1977 rulemaking, and EPA had followed suit. Since DOT has now amended this term, and because of the comment which EPA received from American Motors, all references to "Jeep-type vehicle" in the September 13 rule have been replaced by "4-wheel drive general utility vehicle" in this publication.

The two remaining comments were received from Chrysler and Ford.

(1) *Workload considerations.* Ford commented that the regulations as written would cause a significant increase in the testing workload required of a manufacturer. Included with their comment were supporting data and examples which proposed to show the relative effects of the September 13 regulations and a counter-proposal offered by Ford.

Ford's comments specifically addressed § 600.506 of the regulations, which specify that within a significant base level (one percent or more of the product line), vehicles will be tested until 90 percent of the base level has been represented by test data. Ford's concern was that the 1979 transmission class definition would cause a substantial increase in test load when applied to 1980. Ford proposed to limit this testing in significant base levels to a maximum of two vehicles.

EPA has examined Ford's proposal and has concluded that the small relative savings in testing between Ford's proposal and the published regulations do not justify deviating from a procedure which has now been offered twice for public comment and has been successfully implemented in the passenger automobile program. Also, Ford's analysis of the test load overstated the test burden because Ford has assumed that NHTSA would promulgate separate standards for trucks over 6,000 lbs. and those under 6,000 lbs. GVWR. However, NHTSA did not promulgate separate standards so the test burden will not be as substantial as Ford had projected.

(2) *Labeling of two-wheel drive versus four-wheel drive.* Chrysler commented that the proposal was unclear regarding how two-wheel drive and four-wheel drive vehicles would be labeled. Implicit in this comment is the assumption that EPA would be calculating separate model type fuel economy values for two-wheel drive and four-wheel drive model types in response to the distinct standards for these vehicles (a correct assumption). The Agency has decided that since there is enough of a demonstrated difference in fuel economy between these vehicles to warrant distinct fuel economy standards, distinct fuel economy values should also be published for the consumer information programs. This procedure is also consistent with the past practice of using a common model type definition for both the compliance and the public information programs.

(3) *Calculation of fuel economy values for two-wheel and four-wheel drive vehicles.* Chrysler commented that in order to calculate the necessary model type values for two-wheel and four-wheel drive vehicles, three options were available:

(a) Performance of separate tests for two-wheel and four-wheel drive vehicles (i.e., at the vehicle configuration level).

(b) Separate after vehicle configuration calculations are performed (i.e., at the level of the base level).

(c) Separate after base level calculations have been performed (i.e., at the model type level). Chrysler recommended that the second option be adopted because Chrysler suggested that it gave the highest degree of accuracy without entailing expensive additional testing.

The Agency has examined the available options, including some options not suggested by Chrysler. However, the three Chrysler proposals do seem to have the most merit of any available possibilities. After study of the options EPA has decided to promulgate a plan which would completely separate two-wheel and four-wheel drive vehicles and tests (approximately Chrysler's first proposal). The motivation behind this decision is that if two-wheel and four-wheel drive tests are used together in calculating vehicle configuration fuel economy values, the poorer fuel economy performance of a four-wheel drive vehicle could unjustly jeopardize the chances of a two-wheel drive vehicle passing the standard, while the presence of two-wheel drive data in the data base used to calculate the 4-wheel drive CAFE could artificially boost the four-wheel drive average. EPA realizes that this approach is incrementally more costly than Chryler's recommendation. However it is expected that in many cases the two-wheel drive and four-wheel drive vehicles would be close enough in design and in test parameters that test data from one source could be applied to meet the testing requirements of the other. This administrative procedure would allow avoidance of what would be essentially duplicate testing while preserving the technical integrity of separating vehicles in cases where two-wheel drive and four-wheel drive vehicles are truly different.

Also, beginning in the 1980 model year the calculation procedures call for sales-weighting by road load horsepower setting and test weight within a vehicle configuration. This total separation will insure that two-wheel and four-wheel drive sales are properly assigned within a configuration. It should be noted that EPA does not intend to actually test 4-wheel drive vehicles in the four-wheel drive mode. The vehicle will be tested in a normal two-wheel drive mode. The fuel economy differences addressed above are then attributable to the vehicle characteristics which differ between two-wheel and four-wheel vehicles, such as the four-wheel drives' increased weight, larger frontal area and resulting larger power requirements, and the availability and common usage of high (numerical) drive ratios and oversize tires on four-wheel drives. The actual testing of four-wheel drive vehicles in the four-wheel mode was considered; however, the technical difficulties and costs associated with this testing are unacceptable.

(4) *Distinct truck lines for two-wheel drive and four-wheel drive trucks.* Chrysler recommended that two-wheel drive trucks and four-wheel drive trucks be divided into distinct truck lines. This would cause model types to be divided into two-wheel drive and four-wheel drive, which is a logical extension of the division of test vehicles and base levels, as discussed above. Also, this would allow a more logical presentation of data for labeling purposes. EPA concurs with Chrysler's recommendation, and this distinction will be made beginning with the 1980 model year.

(5) *Redefinition of "car line."* Chrysler recommended that car line (or actually "truck line," since EPA is now introducing this new term in order to minimize the nomenclature confusion) be redefined to separate light trucks between the heavy-load and light-load designs. They recommended that the delineation be made based upon wheel and axle design. This proposal was made to provide a means of separating the wide range of vehicle designs which would otherwise fall within one model type, and therefore be covered by one general label.

EPA has examined Chrysler's proposal and found it to have considerable merit, including their suggestion on the parameters to be used to divide the trucks. Carrying the idea one step further, the Agency investigated the division between base levels so that the potential fuel economy differences would be reflected in testing as well as in sales mix. However, splitting at the base level would cause a significant, probably unmanageable, increase in test burden.

Since this is an area which EPA has not pursued before, the Agency felt it was not appropriate to implement what would be a fairly radical change in the truck line definition without consulting with other parties that might be interested in the change as to the ramifications of the proposal. Although no test volume impact is expected, car line does determine the assignment of optional equipment usage on test vehicles, how frontal area measurements and the resulting road load horsepower settings are determined, the number of different fuel economy labels which a manufacturer would be required to print and use, and the level of detail to which a manufacturer must keep production records. Therefore, the Agency has sent letters to the industry (light truck manufacturers) describing how we would propose to divide their product line (based upon their 1978 and 1979 model year product offerings). Using the responses to these proposals and the results of other studies and comments a policy for the 1980 model year will be formulated. It should be noted that no specific changes in the regulations are necessary to implement this policy, since it falls within the discretionary authority granted the Administrator under the car line definition.

(6) *Interim-final publication of 1980 model year rules.* Chrysler commented that the 1980 and later model year rules should be promulgated as interim-final in order to give the industry additional opportunity to comment after additional experience is gained. EPA has decided not to follow this course for three reasons. First, the procedures are essentially the same as the passenger automobile procedures, with which some experience has been gained already. Second, the procedures have been proposed, and the comment period even extended, in an effort to elicit additional public response. In addition, those responses were very limited in scope. Finally, the industry has, in several past communications, expressed a need to have firm rules and procedures in place well in advance of production in order to allow for efficient product planning.

Terminology Changes

Two terms which were used in the September 13, 1977 publication are being changed in this final rule. First, the interim-final publication referred to "nonpassenger automobiles," which included all automobiles which were not passenger automobiles. However, in the March 23, 1978 rulemaking, NHTSA changed the term "nonpassenger automobiles" to "light trucks." In this rulemaking we are changing all of the references from "nonpassenger automobiles" to "light truck."

Also the term "car line" is being divided into "car line" and "truck line" with no change in meaning. Formerly the term "car line" was applied to trucks also, causing some confusion. By virtue of this rulemaking for part 600, if the reference is exclusively to passenger automobiles, the term "car line" will be used. To refer exclusively to light trucks, the term "truck line" will be used to refer to both passenger automobiles and light trucks. In part 86 "car line" will refer to light-duty vehicles while "truck line" will refer to

light-duty trucks. (Please note that the Chevrolet El Camino, GMC Caballero, and Ford Ranchero will be referred to as car lines under part 86 and truck lines under part 600.)

This rulemaking is only updating those areas which would normally be published for reasons of describing the light truck compliance program. Part 86 of the regulations, and other parts of part 600 which are not being republished will be updated as they are republished.

MODEL YEARS AFTER 1980

In light of the lack of concern expressed by the manufacturers of light trucks in their comments on this rulemaking, it appears that these vehicle selection procedures are adequate from the industry's perspective, i.e., a reasonable balance has been struck between the size of the test fleet and the risk of corporate average fuel economies being understated. However, at the urging of NHTSA, EPA will be pursuing alternative procedures for selecting vehicles for determination of CAFE values for light trucks for model years after 1980. NHTSA and EPA remain somewhat concerned that the procedures in this regulation may not yet yield results which are as accurate as possible, given the need to limit the test fleet size to feasible levels. Of particular concern is the potential for overstatement of CAFE's.

The reason for the inaccuracy is the excessive range of fuel economy values which would be characterized by the calculation of a single base level value. This range is caused both by items which are quantified within a base level, such as axle ratio, and items which are not, such as the vehicular differences between various classes of light trucks. As noted earlier in this preamble both this rulemaking, and procedures attendant to, but not included in, this rulemaking are attempting to cover these deficiencies. The Administrator's option to conduct supplementary tests within a base level allows the Agency to cover the quantifiable parameters, while the revised procedures for implementing the "truck line" definition will have a major impact on the assessment of the impact of the vehicular differences. However, the concern remains that these measures will be inadequate to completely answer the accuracy questions.

For these reasons, as mentioned above in the SUMMARY section of this preamble, EPA and NHTSA have agreed that this rulemaking is to be considered an interim action until such time as vehicle selection procedures that will ameliorate these concerns are developed by NHTSA and EPA. At that time the new selection criteria and methodologies will be opened to public comment through the rulemaking process.

As noted earlier, no comments were received on the calculation procedure itself, with the exception of a proposal from Ford which would only accentuate the current problem. This apparent lack of interest in the procedure probably reflects a lack of concern on the part of the regulated industry in a procedure which is not likely to understate CAFE, and the inability of any other interested parties to absorb, test, and analyze the procedure to determine the risk of overstating CAFE's. Therefore the impetus for a reevaluation of the procedures comes from within the Government.

At this time no specific proposals have been developed for modification of the procedures, and the procedures promulgated in this rulemaking will be effective from the 1980 model year until amended. In the event that the Agency does construct a new procedure, a notice of proposed rulemaking will be issued prior to the promulgation of final amendments to the procedures.

NOTE.—The Environmental Protection Agency has determined that this document is not a "significant" regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Dated: August 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 600 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. Section 600.002-79 is revised to read as follows:

§ 600.002-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.002-78 remain effective except that definition number (14) is hereby superseded, definition numbers (41) and (42) are added. All terms used in this subpart that are not defined herein shall have the meaning given them in the Act.

(1) "Act" means part I of title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 6,000 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal emission test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in part 86 for the respective model year, which are used to derive city fuel economy data.

(8) "Federal highway fuel economy test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in subpart B of this part and which are used to derive highway fuel economy data.

(9) "Fuel" means gasoline and diesel fuel.

(10) "Fuel economy" means the average number of miles traveled by an automobile or group of automobiles per gallon of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207.

(11) "City fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal emission test procedure.

(12) "Highway fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal highway fuel economy test procedure.

(13) "Combined fuel economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

(15) "Certification vehicle" means a vehicle which is selected under § 86.077-24(b)(1) and used to determined compliance under § 86.077-30 for issuance of an original certificate of conformity.

(16) "Fuel economy data vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis.) Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats, or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars. When applied to light trucks, the term "truck lines" will be used.

(21) "Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

(22) "Transmission class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semiautomatic), number of forward speeds (e.g., manual, four speed, three speed automatic, two speed semiautomatic), and other characteristics determined to be significant by the Administrator (e.g., "creeper" first gear, overdrive final gear ratio, or overdrive unit) considering factors such as the manufacturer's recommendation for use and/or the numerical gear ratios.

(23) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

(25) "Engine code" means a unique combination, within an engine-system combination (as defined in part 86 of this chapter), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

(26) "Inertia weight" means the inertia weight class into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of part 86 of this chapter.

(27) "Transmission configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary emission control device (AECD)" means an element of design as defined in part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "round off method" specified in ASTM E 29-67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version or application of a component or component assembly capable of functionally describing its operation over its working range.

(32) "Production volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e. front seat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup truck" means a light truck which has a passenger compartment and an open cargo bed.

(36) "Station wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross vehicle weight rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

(39) "Van" means any light truck having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line.

(41) "Light truck" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 42 CFR 523.5.

(42) "Four-wheel drive, general utility vehicle" means a four-wheel drive, general purpose automobile capable off-highway operation that has a wheelbase not more than 110 inches and that has a body shape similar to 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser.

* * * * *

2. Section 600.002-80 is amended by revising definitions (4), (14), (23), and (24) and by adding new definitions (39), (40), and (41), reading as follows:

§ 600.002-80 Definitions.

(a) * * *

(4) "Automobile" means any four-wheel vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 8,500 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

* * * * *

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

* * * * *

(23) "Base level" means a unique combination of basic engine, inertia weight, and transmission class (and, for light trucks only, two-wheel drive and four-wheel drive).

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio (and, for light trucks only, two-wheel drive and four-wheel drive) within a base level.

* * * * *

(39) "Van" means any light truck having an integral enclosure fully enclosing the driver compartment and load-carrying device, and having no

body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line:

(41) "Light truck" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 42 CFR 523.5.

* * * * *

3. The title of Subpart F is revised to read as follows:

Subpart F—Fuel Economy Regulations for Model Year 1978 Passenger Automobiles and for 1979 and Later Model Year Automobiles (Light Trucks and Passenger Automobiles)—Procedures for Determining Manufacturer's Average Fuel Economy

4. A new § 600.501-79 is added reading as follows:

§ 600.501-79 General applicability.

The provisions of this subpart are applicable to 1979 and later model year automobiles (passenger automobiles and light trucks).

5. A new § 600.502-79 is added reading as follows:

§ 600.502-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.502-78 remain effective except that provision (a)(2)(ii) is hereby superseded. The definitions in § 600.002 also apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or, with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a carline shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such carline as computed from each official dealer price list effective during the course of a model year, and

(ii) The number of automobiles within the carline produced during the part of the model year that the price list was in effect.

6. A new § 600.506-79 is added reading as follows:

§ 600.506-79 Preliminary determination of manufacturer's average fuel economy.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the intial range of fuel economy values of comparable automobiles (ref. § 600.314(d)(1)) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.510 except that:

(1) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(2) the fuel economy data used in the calculation shall be that approved by the Administrator as of the date of the preliminary average calculation including:

(i) All fuel economy data from original certification vehicles and fuel economy data vehicles as required by § 600.207,

(ii) Fuel economy data from all vehicles tested for running changes approved under § 86.077-32, 33, and 34.

(iii) Fuel economy data required by paragraph (d), and

(iv) Other fuel economy data accepted by the Administrator under subpart A of this part.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level).

(1) The sales to be used in this determination are those in paragraph (b)(1) of this section.

(2) For the purposes of this section, the sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001) of projected sales of passenger automobiles (where projected sales are calculated according to § 600.511), light trucks, or category of light trucks (as appropriate), except that projected sales are used in place of production values.

(d) For each significant base level identified in paragraph (c) of this section the manufacturer shall submit prior to the submission of the preliminary calculation, fuel economy data for those vehicle configurations, taken in order decreasing sales (according to the projection submitted in paragraph (b)(1) of this section) whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in subpart B or an approved analytical method as permitted under § 600.006(e); and

(2) Be accepted by the Administrator under the requirements of subpart A.

(f) *For light trucks,* the Administrator may require additional testing to be conducted in a light truck base level if he determines that the vehicle configurations comprising that base level can reasonably be expected to exhibit an unacceptably large range in combined fuel economy. the Administrator will make that determination based upon the data submitted at the time of the preliminary calculation.

7. A new § 600.510-79 is added following § 600.510-78 which retains the provisions of § 600.510-78 except that the entire paragraphs (b) and (e) are hereby revised and paragraphs (a)(3) and (d) are added reading as follows.

600.510-79 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured plus the includable imports as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(3) An average fuel economy calculation will be made either for all light trucks or for each category of light trucks (four-wheel drive, general utility vehicles and all other light trucks) in accordance with the preference indicated by the manufacturer in § 600.512.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base

levels associated with carlines that are:

(A) Domestically produced and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) High altitude test data will be included; and

(vi) If a model type is comprised both of vehicles that are four-wheel drive, general utility vehicles and vehicles that are not, as defined at 49 CFR 533.4 by the Secretary of Transportation, and if the manufacturer has indicated as provided in § 600.512(c)(8) that average fuel economy will be calculated separately for four-wheel drive, general utility vehicles, then separate model-type calculations will be made for those vehicles that are four-wheel drive, general utility vehicles and those that are not.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with carlines that are:

(A) Domestically produced and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles,* average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume plus the includable import volume, as determined in § 600.511, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the includable import volume by the average passenger automobile fuel economy value determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e) of this section.

(d) *For light trucks,* average fuel economy will be calculated as follows:

(1) In the case where a manufacturer elects to calculate a single average fuel economy for all light trucks, divide:

(i) The total number of domestically produced light trucks plus the total number of light trucks which are not domestically produced and are imported by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of light trucks which are not domestically produced and are imported, by the average light truck fuel economy determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(2) In the case where a manufacturer elects to calculate a separate average fuel economy for each category of light trucks (four-wheel drive, general utility vehicles and all other light trucks), for each category divide:

(i) The total number of domestically produced light trucks in that category plus the total number of light trucks in that category which are not domestically produced and are imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of light trucks in that category which are not domestically produced and are imported, by the average fuel economy value for that category determined in paragraph (e) of this section, as applicable, and

(B) Each of the remaining terms corresponds to a domestically produced model type in that category and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(e) An average fuel economy value will be calculated for the domestically produced-but-not-imported component of each category of automobile identified in § 600.510(a) as specified below.

(1) Divide the total production volume of the automobiles which are not domestically produced and are imported in each of the categories identified in paragraph (a) of this section, as appropriate, by

(2) A sum of terms, each of which corresponds to a model type that is not domestically produced and is imported and is a fraction determined by dividing:

(i) The number of automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

8. Section 600.510-80 is amended by deleting paragraphs (d) and (e) and revising paragraphs (a)(1) through (a)(7), (b), and (c) to read as follows:

§ 600.510-80 Calculation of average fuel economy.

(a) • • •

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(3) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(1) and have two-wheel drive.

(4) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(1) and have four-wheel drive.

(5) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(2) and have two-wheel drive.

(6) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(2) and have four-wheel drive.

(7) An average fuel economy calculation will be made for the category of light trucks which are limited product line light trucks, as defined by the Secretary of Transportation at 49 CFR 533.4.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with carlines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) High altitude test data will be included; and

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with carlines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) For each category identified in § 600.510(a), average fuel economy will be calculated individually as follows:

(1) Divide the total production volume of that category of automobiles by

(2) A sum of terms, each of which corresponds to a model type within that category of automobiles and is a fraction determined by dividing

(i) The number of automobiles of that model type produced by the manufacturer in the model year by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section

(d) [Reserved].

(e) [Reserved].

9. Section 600.511-80 is amended by adding a new paragraph (e) reading as follows:

§ 600.511-80 Determination of domestic production.

* * * * *

(e) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of light trucks produced by a manufacturer into the following two categories:

(1) Light trucks which are domestically produced by the manufacturer.

(2) Light trucks which are not domestically produced and which are imported by the manufacturer.

* * * * *

10. A new § 600.512-79 is added following § 600.512-78 that retains the provisions of § 600.512-78 except that paragraphs (b)(3) and (c)(8) are added reading as follows:

§ 600.512-79 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b)(1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.078-37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based, upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in either §§ 600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.

(3) Separate reports shall be submitted for each category of passenger automobiles and light trucks (as identified in § 600.510).

(c) The model year report must include the following information:

(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§ 600.506, 600.507, or 600.508.

(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph 86.078-33.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's product line calculated according to § 600.510.

(5) The manufacturer's average fuel economy value calculated according to § 600.510.

(6) A listing of both domestically and nondomestically produced car lines as determined in § 600.511 and the cost information upon which the determination was made.

(7) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the chief executive officer.

(8) A statement that indicates the manner in which four-wheel drive, general utility vehicles will be included in the average fuel economy calculation for light trucks in accordance with the options established by the Secretary of Transportation at 42 CFR 553.5.

11. A new § 600.512-80 is added following § 600.512-79 that retains the provisions of § 600.512-79 except for paragraph (c)(8). Paragraph (c)(8) is deleted, as follows:

§ 600.512-80 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b) (1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.078-37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in either §§ 600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.

(3) Separate reports shall be submitted for passenger automobiles and light trucks (as identified in § 600.510).

(c) The model year report must include the following information:

(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§ 600.506, 600.507, or 600.508.

(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph 86.078-33.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's product line calculated according to § 600.510.

(5) The manufacturer's average fuel economy value calculated according to § 600.510.

(6) A listing of both domestically and nondomestically produced carlines as determined in § 600.511 and the cost information upon which the determination was made.

(7) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the chief executive officer.

(Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2001, 2003, 2005, 2006).)

[FR Doc. 78-24905 Filed 9-1-78; 8:45 am]

[4310-10]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

MISCELLANEOUS CHANGES

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous changes to the Interior procurement regulations. These changes are necessary in order to recognize recent organizational changes made within the Department; implement recent amendments to the Federal procurement regulations and regulations issued by other Federal agencies; and update several sections of the existing regulations.

EFFECTIVE DATE: This amendment takes effect on October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule if William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202-343-5914.

NOTE.—The Department of the Interior has determined that this document does not contain a major rule requiring preparation of an inflation impact statement under Executive Order 11821 or OMB Circular A-107.

The changes to be made are as follows:

a. Section 14-1.352 is amended by changing the heading and expanding the section to add a requirement for review of certain procurement actions.

b. Paragraphs (a) and (b) of § 14-1.402 are revised to incorporate changes in redelegations of authority by the Secretary under order No. 3005 dated July 8, 1977.

c. Sections 14-1.602, 14-1.603, 14-1.604, 14-1.604-1, 14-1.605-1, 14-1.605-4 and paragraph (a) of § 14-1.606 are amended to correct typographical errors and to change organizational designations.

d. Paragraph (a) of § 14-2.407-1 is revised to incorporate changes made in the reorganization of Secretarial congressional and legislative functions made by the Secretary under order No. 3001 dated April 8, 1977.

e. New subpart 14-4.11 and § 14.1150 are added to reference the requirements for departmental approval of certain automated data processing equipment procurements.

f. New subparts 14-7.2 and 14-7.4 are added to prescribe the use of the clause under § 1-7.203-15 of this title and to modify the optional clause under § 1-7.204-5 of this title to comply with the legal authorities of the Department.

g. The contents of § 14-18.705-10 are transferred to a new § 14-12.150 since its requirements include other contracts in addition to those for construction. Section 14-18.705 is amended to reference the requirements of new § 14-12.150.

h. Subpart 14-18.1 is reestablished and new § 14-18.150 is added to implement the requirements of 24 CFR Part 35 which prohibits the use of lead based paint in Federal or federally assisted construction or rehabilitation of residential structures.

i. Section 14-30.406-50 is amended by adding a new paragraph (d) to provide that the Bureau of Indian Affairs may use advance payments in those circumstances authorized in the annual Interior Appropriation Act.

j. Paragraph (a) of § 14-55.103 is revised to clarify the elements to be considered in determinations concerning contracts for services.

k. Paragraph (b) of § 14-55.104 is revised to clarify the requirements for requesting departmental approval of certain types of contracts for services.

Dated: August 28, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR Chapter 14 is amended as stated below:

PART 14-1—GENERAL

1. The table of contents for subpart 14-1.3 is amended by revising the heading of § 14-1.352 and adding new §§ 14-1.352-1 and 14-1.352-2 as follows:

Subpart 14-1.3—General Policies

Sec.

* * * * *

14-1.352 Review and approval of procurement actions.
14-1.352-1 Review and approval of procurement actions by the Assistant Secretaries.
14-1.352-2 Legal review of procurement actions.

* * * * *

Subpart 14-1.3—General Policies

2. Section 14-1.352 is redesignated as § 14-1.352-2, the heading of § 14-1.352 is changed, and a new § 14-1.352-1 is added as follows:

§ 14-1.352 Review and approval of procurement actions.

§ 14-1.352-1 Review and approval of procurement actions by the Assistant Secretaries.

All reviews and approvals required for procurement actions of a bureau or other Departmental office by an Assistant Secretary under part 200 of the departmental manual shall be obtained before requesting any other reviews or approvals required by this chapter.

§ 14-1.352-2 Legal review of procurement actions.

* * * * *

Subpart 14-1.4—Procurement Responsibility and Authority

3. Section 14-1.402 is amended by revising paragraphs (a) and (b) to read as follows:

§ 14-1.402 Authority of contracting officers.

(a) The authority of the Secretary with respect to all matters relating to procurement of personal property and nonpersonal services (including construction) has been delegated to the Assistant Secretaries under part 205, chapter 11 of the departmental manual (205 DM 11).

(b) The Assistant Secretaries have redelegated their procurement authority to the heads of bureaus and other departmental offices, subject to limitations prescribed in part 200 of the departmental manual. Redelegation of authority to other contracting officer positions by the heads of bureaus and other departmental offices is subject to any limitations prescribed in part 200 of the departmental manual, the requirements of subpart 1-1.4 of this title, and the requirements of this subpart 14-1.4.

* * * * *

Subpart 14-1.6—Debarred, Suspended and Ineligible Bidders

4. Sections 14-1.602, 14-1.603, 14-1.604, 14-1.604-1, 14-1.605-1, 14-1.605-4, and paragraph (a) of § 14-1.606, are revised to read as follows:

Subpart 14-1.6—Debarred, Suspended and Ineligible Bidders

* * * * *

§ 14-1.602 Establishment and maintenance of a list of firms or individuals debarred, suspended, or declared ineligible.

The Division of Procurement and Grants, Office of Administrative and Management Policy, shall maintain a

consolidated list of firms and individuals debarred or suspended as required by § 1-1.602 of this title. The list and all correspondence relating thereto are not to be disclosed to the public. The list will show the authority for and terms of the debarment or suspension.

§ 14-1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

(a) Administration of current contracts in all phases may be continued, and payment of funds due may be made, notwithstanding the listing of a contractor, unless otherwise directed by the Assistant Secretary—Policy, Budget and Administration. The Assistant Secretary—Policy, Budget and Administration, when he considers it in the public interest, may approve the award of a contract to a firm or individual debarred or suspended when such approval is requested by the head of a bureau or office.

(b) Contracting officers may, in their discretion, solicit bids or proposals from and award contracts to firms or individuals found to be ineligible under the Walsh-Healey Act, as provided in § 1-1.603(d) of this title.

§ 14-1.604 Causes and conditions applicable to determination of debarment by an executive agency.

(a) Debarment for any of the causes set forth in § 1-1.604(a) of this title shall be made only by the Assistant Secretary—Policy, Budget and Administration. Whenever cause for debarment becomes known to the head of a bureau or office or a contracting officer thereof, the matter shall be submitted with the recommendations of the head of the bureau or office to the Assistant Secretary—Policy, Budget and Administration for appropriate action.

(b) The removal or extension of a debarment as set forth in § 1-1.604(c) of this title shall be made only by the Assistant Secretary—Policy, Budget and Administration.

§ 14-1.604-1 Procedural requirements relating to the imposition of debarment.

(a) The Assistant Secretary—Policy, Budget and Administration, in seeking to debar a firm or individual (or any affiliate thereof) for a cause, shall furnish that party with a written notice of intent to debar, sent by registered mail:

(1) Setting forth the reasons for the proposed debarment;

(2) Giving the party an opportunity to submit evidence, within thirty (30) calendar days after receipt of the notice of intent to debar; and (3) advising that the party will be accorded a hearing if requested. Whatever response is received to the notice of intent to debar will be considered in determining whether debarment is justified. If no response is received to the notice of intent to debar within the time specified, a determination on the debarment action will be made on the information available. Where a reply is received to the notice of intent to debar and evidence to refute debarment action is furnished but no hearing is requested, the information furnished will be considered in determining the action to be taken.

(b) If a hearing is requested, it shall be conducted by the Assistant Secretary—Policy, Budget and Administration or his designee. The hearing will be held at a location convenient to the parties concerned as determined by the Assistant Secretary—Policy, Budget and Administration and on a date and at a time stated. Subject to the provisions of 43 CFR part 1, the firm or individual against whom the debarment action is taken may be represented by a duly authorized representative. Witnesses may be called to testify by either party. The hearing shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the hearing. A transcript of the hearing will be made and one copy will be furnished free to the party sought to be debarred. From the record established by the hearing, or if no hearing is held, upon the information submitted by the parties, the Assistant Secretary—Policy, Budget and Administration shall determine whether debarment should be effected or the matter dismissed. The Assistant Secretary—Policy, Budget and Administration shall advise the firm or individual in writing of this final decision within a reasonable time after the hearing is concluded. The notice imposing debarment will be sent by certified mail, return receipt requested. It will set forth the scope and period of the debarment together with the reasons for the debarment. The imposition of debarment upon a firm or an individual shall be final and conclusive except that the party debarred may seek relief in a court of competent jurisdiction.

§ 14-1.605 Suspension of bidders.

§ 14-1.605-1 Causes and conditions under which executive agencies may suspend contractors.

(a) All actions required by § 1-1.605-1 of this title shall be taken by the Assistant Secretary—Policy, Budget and Administration.

§ 14-1.605-4 Notice of suspension.

(a) All actions required by § 1-1.605-4 of this title shall be taken by the Assistant Secretary—Policy, Budget and Administration.

§ 14-1.606 Agency procedure.

(a) When in his opinion the facts warrant debarment or suspension, the head of the bureau or office concerned will submit the following to the Assistant Secretary—Policy, Budget and Administration for appropriate action: * * *

* * * * *

Subpart 14-2.4—Opening of Bids and Award of Contract

5. Section 14-2.407-1 is amended by revising paragraph (a) to read as follows:

§ 14-2.407 Award.

§ 14-2.407-1 General.

(a) At least 48 hours prior to award of a contract between $10,000 and $1,000,000, and at least 72 hours prior to award of a contract in excess of $1,000,000, and prior to any other announcement regarding the proposed date of contract award, the following information shall be furnished simultaneously to the Assistant Secretary having jurisdiction over the bureau or office making the award, and to the Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs: * * *

* * * * *

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

6. The Table of Contents for part 14-4 is amended by adding new entries as follows:

Subpart 14-4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies.

Sec.
14-4.1150 Requirements for Departmental approval.

7. New subpart 14-4.11 and § 14-4.1150 are added as follows:

Subpart 14-4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

§ 14-4.1150 Requirements for departmental approval.

Departmental approval requirements and procedures for the procurement of automated data processing equipment, software, maintenance services, and supplies are contained in part 306 of the departmental manual.

PART 14–7—CONTRACT CLAUSES

8. The Table of Contents for part 14–7 is amended by adding new subparts 14–7.2 and 14–7.4 and the following new entries:

Subpart 14–7.2—Cost-Reimbursement Type Supply Contracts

Sec.
14–7.203 Clauses to be used when applicable.
14–7.203–15 Interest.
14–7.204 Additional clauses.
14–7.204–5 Insurance—liability to third persons.

Subpart 14–7.4—Cost-Reimbursement Type Research and Development Contracts

14–7.403 Clauses to be used when applicable.
14–7.403–25 Interest.
14–7.404 Additional clauses.
14–7.404–9 Insurance—liability to third persons.

9. New subpart 14–7.2 and §§ 14–7.203, 14–7.203–15, 14–7.204, and 14–7.204–5 are added as follows:

Subpart 14–7.2—Cost-Reimbursement Type Supply Contracts

§ 14–7.203 Clauses to be used when applicable.

§ 14–7.203–15 Interest.

Whenever amounts due to the Government under a contract are to bear interest, the clause set forth under § 1–7.203–15 of this title shall be used.

§ 14–7.204 Additional clauses.

§ 14–7.204–5 Insurance-liability to third persons.

Whenever the clause set forth under § 1–7.204–5 of this title is used, the phrase in paragraph (c)(2) which reads "without regard to and as an exception to the 'Limitation of Cost' or the 'Limitation of funds' clause of this contract," shall be changed to read "subject to the 'Limitation of Cost' or 'Limitation of Funds' clause of this contract."

10. New Subpart 14–7.4 and §§ 14–7.403, 14–7.403–25, 14–7.404, and 14–7.404–9 are added as follows:

Subpart 14–7.4—Cost-Reimbursement Type Research and Development Contracts

§ 14–7.403 Clauses to be used when applicable.

§ 14–7.403–25 Interest.

The clause set forth under § 1–7.203–15 of this title as prescribed by § 1–7.403–25 of this title shall be used under the conditions set forth under § 14–7.203–15 of this chapter.

§ 14–7.404 Additional clauses.

§ 14–7.404–9 Insurance-liability to third persons.

Whenever the clause set forth under § 1–7.204–5 of this title is used as prescribed under § 1–7.404–9 of this title, paragraph (c)(2) of the clause shall be amended in accordance with the provisions of § 14–7.204–5 of this chapter.

PART 14–12—LABOR

11. The table of contents for part 14–12 is amended by reestablishng subpart 14–12.1 and adding a new entry as follows:

Subpart 14–12.1—Basic Labor Policies

Sec.
14–12.150 Labor standards enforcement report.

12. New section 14–12.150 is added as follows:

Subpart 14–12.1—Basic Labor Policies

§ 14–12.150 Labor standards enforcement report.

(a) The reports required by § 1–18.705–10 of this title shall be prepared by each procuring activity and forwarded to the Chief, Division of Procurement and Grants, Office of Administrative and Management Policy, within 25 days after the close of the reporting period. Within the next 5 days a report will be submitted by the Office of Administrative and Management Policy to the U.S. Department of Labor, Employment Standards Administration, 711 14th Street NW., Washington, D.C. 20210.

(b) The required information shall be stated separately, as applicable, in two columns. One column shall report construction work subject to the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, and the other column shall report nonconstruction work subject to the Contract Work Hours and Safety Standards Act. The report shall contain the following information:

(1) Period covered;

(2) Number of contracts awarded;

(3) Total dollar amount of prime contracts awarded;

(4) Number of contractors and subcontractors against whom complaints were received;

(5) Number of investigations completed;

(6) Number of contractors and subcontractors found in violations;

(7) Amount of wage restitution found due:

(i) Davis-Bacon and Related Acts; and

(ii) Contract Work Hours and Safety Standards Act;

(8) Number of employees due wage restitution under the Davis-Bacon and Related Acts, and the Contract Work Hours and Safety Standards Act;

(9) Amount of liquidated damages assessed under the Contract Work and Safety Standards Act;

(10) Name, title, agency, procuring activity, and telephone number of person submitting the report; and

(11) Remarks.

PART 14–18—PROCUREMENT OF CONSTRUCTION

13. The Table of Contents for part 14–18 is amended by reestablishing subpart 14–18.1 and adding a new entry as follows:

Subpart 14–18.1—General Provisions

Sec.
14–18.150 Prohibition against use of lead-based paint.

14. New § 14–18.150 is added as follows:

Subpart 14–18.1—General Provisions

§ 14–18.150 Prohibition against use of lead-based paint.

(a) Policy. The Lead-Based Paint Poisoning Prevention Act, (42 U.S.C. 4831), as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Sec. 204, Pub. L. 94–317 (42 U.S.C. 4831)), prohibits the use of lead-based paint in Federal or federally-assisted construction or rehabilitation of residential structures. Implementing regulations of the Secretary of Housing and Urban Development under 24 CFR Part 35 requires agencies to include appropriate provisions in contracts or subcontracts for construction or rehabilitation of residential structures.

(b) Definitions. As used in this section, "residential structure" means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as orphanage, boarding school dormitory, day care center, or extended care facility.

(c) Procedures. The following provision shall be included in all solicitations and contracts awarded for construction or rehabilitation of residential structures:

PROHIBITION AGAINST USE OF LEAD-BASED PAINT

No lead-based paint containing more than .5 of 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, or with respect to paint manufactured after June 23, 1977, no lead-based paint containing more than .06 of 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, shall be used in the construction or rehabilitation

of residential structures under this contract or any resulting subcontracts.

(End of Clause)

Subpart 14-18.7—Labor Standards for Contracts Involving Construction

15. Section 14-18.705-10 is revised to read as follows:

§ 14-18.705 Administration and enforcement.

§ 14-18.705-10 Reports.

The reports required by § 1-18.705-10 of this title shall be prepared in accordance with the provisions of § 14-12.150 of this chapter.

Subpart 14-30.4—Advance Payments

16. Section 14-30.406-50 is amended by adding a new paragraph (d) as follows:

§ 14-30.406 Responsibility—delegation of authority.

§ 14-30.406-50 Special approvals.

* * * * *

(d) Advance payments may be made by the Bureau of Indian Affairs for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes without regard to the requirements of §§ 1-30.405(c) and 1-30.410 of this title and § 14-30.406 of this chapter, when the current Department of the Interior Appropriation Act authorizes and requires advance payments in these circumstances.

Subpart 14-55.1—Contracts for Services

17. Section 14-55.103 is amended by revising paragraph (a) to read as follows:

§ 14-55.103 Implementation of policy.

(a) In considering the procurement of services by contract, it must be established beyond a doubt that such services are not for the disposition of accumulated backlogs of day-to-day work where the accumulation is traceable to nonproductivity or diversion of assigned staff. However, procurement of services to dispose of nonrecurring peak loads may be considered. Contracts for services must be for a type of work which can properly be delegated to non-Government personnel. It must also be established that a services contract does not create an employee-employer relationship where detailed Government supervision over contractor personnel is permitted or required. The elements listed below shall be considered in determining whether an improper supervisory relationship exists or would be created under a contract for services. the absence of any one or a number of the elements does not mean that an improper relationship does not exist but that there is less likelihood of its existence. The elements to be considered are as follows: * * *

18. Section 14-55.104 is amended by revising paragraph (b) to read as follows:

§ 14-55.104 Requirements for Departmental approved.

* * * * *

(b) Requests for approval shall include a complete justification, an estimate of cost, information as to whether the services are recurring or nonrecurring, and whether the services are to accomplish a peak load requirement for which it would not be in the public interest to hire additional staff.

[FR Doc. 78-24893 Filed 9-1-78; 8:45 am]

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Educational Assistance to Individuals from Disadvantaged Backgrounds

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations govern grants to provide educational assistance to individuals from disadvantaged backgrounds to undertake training and education to enter the health professions or allied health professions.

DATE: Effective date: September 5, 1978. Comments must be received on or before November 6, 1978.

ADDRESS: Written comments should be addressed to the Associate Administrator for Health Resources Opportunity Programs, Office of Health Resources Opportunity, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Program Coordination Branch, Office of Health Resources Opportunity, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION, CONTACT:

Kinzo Yamamoto, Ph. D., Program Coordination Branch, Office of Health Resources Opportunity, Health Resources Administration, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782, 301-436-7230.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, is amending Subpart S to 42 CFR Part 57, entitled "Special Health Career Opportunity Grants," and renaming it "Educational Assistance to Individuals from Disadvantaged Backgrounds." The purpose of this revision is to establish regulations implementing sections 787 and 798 of the Public Health Service Act ("the Act"), 42 U.S.C. 295g-7 and 42 U.S.C. 295h-7 respectively, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and other public or private nonprofit health or educational entities to assist them in meeting the costs of conducting health career opportunity programs designed to carry out any of the following purposes: (1) To identify, recruit, and select individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession; (2) to facilitate the entry of these individuals into health professions schools; (3) to provide counseling or other services designed to assist disadvantaged individuals to complete successfully their education at a health professions school; (4) to provide for a period prior to the entry of these individuals into the regular course of education of a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at the school, or to refer these individuals to institutions providing this preliminary education; and (5) to publicize existing sources of financial aid available to students in the educational program of a health professions school or individuals who are undertaking training necessary to qualify them to enroll in this program. Section 798 authorizes the Secretary to award grants to schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist them in meeting the costs of conducting health career opportunity programs

designed to carry out any of the purposes listed above for disadvantaged individuals who have a potential for education or training in the allied health professions.

The following is a brief summary of the major features of the regulations:

1. Section 57.1803 sets forth the criteria for determining, for purposes of the program, whether individuals are from disadvantaged backgrounds.

2. Under § 57.1803, public or nonprofit private health or educational entities such as community and professional organizations, colleges and universities, and health professions schools are eligible applicants.

3. Section 57.1803 specifies the purposes for which programs may be funded under this subpart. To be eligible for Federal funds, the applicant must conduct programs directed toward the achievement of at least two of these purposes. However, Federal funds may be made available for only one of the purposes if the applicant has an independently funded program designed to achieve at least one of the other purposes. This requirement insures a continuity of preparation for individuals in these programs.

4. Under § 57.1803, eligible projects may include those which provide preliminary education to assist disdavantaged individuals to successfully complete studies at a health professions school, or which refer disadvantaged individuals to institutions which provide preliminary education. However, the preliminary education may not be offered to students before they start the senior year of high school.

5. With respect to allied health training, § 57.1805 requires that the standards and guidelines for training meet those established by accrediting bodies recognized by the Commissioner of Education, or by Federal or State agencies.

Timely implementation is essential if eligible applicants are to have adequate lead time to comply with the requirements of the statute and this subpart so that grants can be made early in the summer. Therefore, the Secretary has determined pursuant to 5 U.S.C. 533 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations at the address given above. All relevant materials received no later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978.

Accordingly, Subpart S to Part 57 of Title 42 of the Code of Federal Regulations is revised as set forth below.

Dated: July 6, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: August 21, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

Sec.
57.1801 Applicability.
57.1802 Definitions.
57.1803 Eligibility.
57.1804 Application.
57.1805 Project requirements.
57.1806 Evaluation of applications.
57.1807 Grant award.
57.1808 Grant payments.
57.1809 Expenditure of grant funds.
57.1810 Nondiscrimination.
57.1811 Grantee accountability.
57.1812 Publications and copyright.
57.1813 Applicability of 45 CFR part 74.
57.1814 Records, audit, and inspection.
57.1815 Additional conditions.

AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 316); Secs. 787 and 798 of the Public Health Service Act, 90 Stat. 2309, 2313 (42 U.S.C. 295g-7; 42 U.S.C. 295h-7).

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

§ 57.1801 Applicability.

The regulations in this subpart set forth the requirements for support of health career opportunity programs under sections 787 and 798 of the Public Health Service Act.

§ 57.1802 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Allied health professions" means professions which support, complement, or supplement the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or assist environmental engineers and other personnel in environmental health control and preventive medicine activities.

"Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

"Council" means the National Advisory Council on Health Professions Education established by section 702 of the act.

"Health or educational entity" means an organization, agency or combination thereof which has the provision of health or educational programs as one of its major functions.

"Health professions" means the professions of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, and public health.

"Health professions schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine or public health as defined in section 701(4) of the act.

"Nonprofit" as applied to any private entity means that no part of the net earnings of the entity accrues or may lawfully accrue to the benefit of any private shareholders or individuals.

"Project period" means the total time for which support for a project has been approved including any extensions.

"School of allied health" means a school which provides as one of its major functions training in the allied health professions.

"State" means in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1803 Eligibility

(a) *Eligible applicants.* (1) Health professions schools and public or nonprofit private health or educational entities located in a State may apply for a grant under section 787 of the act.

(2) Schools of allied health, State and local educational agencies, and public or private nonprofit entities located in a State may apply for a grant under section 798 of the act.

(b) *Eligible projects.* (1) Grants under section 787 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (3) of this paragraph, to undertake education to enter a health profession may be made to meet the costs of carrying out any of the following purposes:

(i) To identify, recruit, and select individuals from disadvantaged backgrounds for education and training in a health profession.

(ii) To facilitate the entry of these individuals into a health professions school.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at a health professions school.

(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at a health professions school, or to refer these individuals to institutions providing this preliminary education. Preliminary education may not be offered to students before they start the senior year of high school.

(v) To publicize existing sources of financial aid available to students in the education programs of health professions schools or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(2) Grants under section 798 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (3) of this paragraph to undertake education to enter the allied health professions may be made to meet the costs of carrying out any of the following purposes:

(i) To identify, recruit, and select disadvantaged individuals who have a potential for education or training in the allied health professions.

(ii) To facilitate the entry of these individuals into a school of allied health, State or local educational agency, or other public or private nonprofit entity.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at these schools, agencies, or entities.

(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of these schools, agencies, or entities, preliminary education designed to assist them to complete successfully the regular course of education at these schools, agencies, or entities, or to refer these individuals to institutions providing this preliminary education. Preliminary education may not be offered to students before they start the senior year of high school.

(v) To publicize sources of financial aid available to persons enrolled in the education programs of these schools, agencies, or entities or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(3) For purposes of this subpart, an individual will be determined to come from a "disadvantaged background" where the individual:

(i) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession, or

(ii) Comes from a family with an annual income below a level based on low income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs. The Secretary periodically will publish these income levels in the FEDERAL REGISTER. For purposes of health career opportunity grants made under section 798, veterans of the Armed Forces with military training or experience in the health field are individuals with disadvantaged backgrounds.

§ 57.1804 Application.

(a) Each applicant desiring a grant under this subpart must submit an application in the form and at the time which the Secretary may prescribe.[1]

(b) The application shall be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A detailed description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of section 787 or section 798 of the Act, as applicable, and this subpart, and in particular, the requirements of § 57.1805. This description must include a budget for the proposed project and a justification for the amount of grant funds requested.

(2) A detailed description of the applicant's plan, if any, to continue the health career oppportunity program after the termination of grant support under this subpart.

§ 57.1805 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with the requirements of sections 787 and 798, as applicable, this subpart, the approved application, and the terms and conditions of the grant award.

(b) The project must be conducted under the direction of the project director. If the project director becomes unable to function in this capacity, the Secretary must be notified as soon as possible.

(c) With respect to section 798, the education or training in the allied health professions must meet relevant standards and guidelines established by appropriate:

(1) Accrediting bodies recognized by the Commissioner of Education, or

(2) Federal or State agencies.

(d) The grantee must have a systematic plan for evaluating its health career opportunity program.

§ 57.1806 Evaluation of applications.

The Secretary, after consultation with the Council, will approve or disapprove all applications filed in accordance with § 57.1804, taking into consideration among other pertinent factors:

(a) The potential effectiveness of the project in carrying out the requirements set forth in § 57.1805.

(b) The number and types of individuals who can be expected to benefit from the project.

(c) The administrative and managerial ability of the applicant to carry out the project successfully.

(d) The soundness of the fiscal plan for assuming the effective utilization of grant funds.

(e) The potential of the project after the period of grant support has ended, to continue meeting the purposes of section 787 or section 798 without Federal assistance.

§ 57.1807 Grant award.

(a) *General.* (1) Within the limits of funds available, the Secretary may award grants to those applicants whose projects will, in his judgment, best promote the purposes of sections 787 and 798 of the Act, as determined in accordance with § 57.1805. In making these awards, the Secretary will attempt to fund applications which cover all the health professions.

(2) All grant awards will be in writing and will set forth the amount of funds granted and the period for which these funds will be available for obligation by the grantee. The maximum period for which a project may receive grant support under this subpart is 3 years.

(3) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to all or any part of an approved project. For continuation support, grantees must make separate application at the time and in the form as the Secretary may prescribe.

(b) *Determination of grant amount.* The Secretary will determine the

[1] Applications and instructions may be obtained from the Office of Health Resources Opportunity, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782.

amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any. The Secretary will make this determination on the basis of either (1) his or her estimate of the actual indirect costs of the project, or (2) a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of this percentage will not exceed the approximate actual indirect costs. The award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items.

(c) *Noncompeting continuation awards.* If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if, on the basis of progress and accounting records as may be required, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he or she will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide financial support for the orderly phase-out of the supported project, if he or she determines that this support is necessary.

§ 57.1808 Grant payments.

The Secretary will from time to time make payments to the grantee of all or part of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he or she determines that these payments are necessary to promote prompt initiation and advancement of the approved project.

§ 57.1809 Expenditure of grant funds.

(a) Any funds granted under this subpart may be expended solely for carrying out the approved project in accordance with sections 789 and 798 of the Act, the regulations of this subpart, and the terms and conditions of the award.

(b) Grant funds may be used to provide support to individual participants in the health career opportunity programs only when a determination has been made that:

(1) No other Federal financial assistance program is authorized to provide this support, and

(2) That this support is needed by the individual in order to participate in the health career opportunity program.

(c) Grant funds may be used to provide one round trip for each individual participant in the program between his or her place of residence and the training site.

(d) Grant funds may not be expended for tuition and fees, the training of any program staff, or the retraining of health professionals.

(e) Funds granted under this subpart may not be expended for sectarian instruction or for any religious purpose.

(f) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.1810 Nondiscrimination.

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin).

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et. seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs).

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.1811 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other grant awards. With respect to each approved project, the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart. When the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of the predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* The policies of 45 CFR 74.44 apply to grants made under this subpart.

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee must submit with respect to each approved project, a full account as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for under paragraphs (a) and (b) of this section; and

(ii) Any other amounts due under Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. The total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other lawful action.

§ 57.1812 Publications and copyright.

The policies of 45 CFR 74.140 apply to grants made under this subpart.

§ 57.1813 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:
A General.
B Cash Depositories.

C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

§ 57.1814 Records, audit, and inspection.

The provisions of section 705 of the Act apply to grants made under this subpart.

§ 57.1815 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-24367 Filed 9-1-78; 8:45 am]

[4110-83]

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for implementing the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning.

DATES: These regulations are effective September 5, 1978. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before November 6, 1978.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Merrill DeLong, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Room 5-27 at the above address (telephone, 301-436-6824).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare with the approval of the Secretary of Health, Education, and Welfare, is adding a new Subpart D entitled "Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions, other than Schools of Public Health" to Part 58 of Title 42, Code of Federal Regulations.

Section 749 of the Public Health Service Act (42 U.S.C. 294s) provides that the Secretary may make grants to public or nonprofit private educational entities (including graduate schools of social work, but excluding schools of public health) to provide traineeships in the graduate educational programs of these entities in health administration, hospital administration, or health policy analysis and planning. The purpose of this new subpart D is to establish regulations implementing this authority.

Particular attention is drawn to the following provisions of the regulations:

Section 58.223. Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis and planning? Section 749 of the act specifies that in order to be eligible to apply for a traineeship grant, an applicant public or nonprpfit educational entity must offer a graduate educational program, which is accredited for the training of individuals for health administration, hospital administration, or health policy analysis and planning by a recognized body or bodies approved for this purpose by the Commissioner of Education. The Secretary has determined that the body currently recognized for this purpose by the Commissioner of Education is the Accrediting Commission on Education for Health Services Administration.

It should be noted that under these regulations, if another body were granted initial or expanded recognition by the Commissioner to accredit programs in these areas, institutions with programs accredited by that body would also become eligible for traineeship grants under this subpart.

Section 58.224. How is application made for a grant? It should be noted that in accordance with the statute these regulations require under § 58.224(c)(3) that eligible applicants provide assurance that in selecting individuals to receive traineeships, at least 80 percent of the grant funds received for any fiscal year will go to individuals pursuing a graduate program in health administration, hospital administration, or health policy analysis and planning, who have previously received a postbaccalaureate degree, or have 3 years of work experience in health services.

Timely implementation is essential if eligible applicants are to have adequate leadtime to comply with the requirements of the statute and this subpart so that grants can be made prior to June 30, 1978. Therefore, the Secretary has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978.

Accordingly Subpart D is added to Part 58 of Title 42 of the Code of Federal Regulations and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 17, 1978.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: August 14, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

Sec.
58.221 To what educational institutions are these regulations applicable?
58.222 Definitions.
58.223 Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis and planning?
58.224 How is application made for a grant?
58.225 What are the requirements for traineeships and the appointment of trainees?
58.226 Who is eligible for financial assistance as a trainee?
58.227 Duration and termination of traineeships.
58.228 How will grant awards be made?
58.229 How will grant payments be made?
58.230 For what purposes may grant funds be spent?
58.231 What prohibitions against discrimination are applicable to these traineeship grants?
58.232 How must a grantee account for the grant funds it receives?
58.233 What record keeping, audit and inspection requirements apply to these grants?
58.234 What provisions of 45 CFR Part 74 apply to these grants?
58.235 What additional conditions may apply to these grants?

AUTHORITY: Sec. 749 of the Public Health Service Act (42 U.S.C. 294s).

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

§ 58.221 To what educational institutions are these regulations applicable?

The regulations of this subpart are applicable to the award of grants to eligible educational entities under section 749 of the Public Health Service Act (42 U.S.C. 294s) to provide funds for traineeships for students enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning.

§ 58.222 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Educational entity" means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Commissioner of Education.

"Fiscal year" means the Federal fiscal year, beginning October 1 and ending the following September 30.

"Full-time student" means a student who is enrolled on a full-time basis in a graduate program in health administration, hospital administration, or health policy analysis and planning, and who is enrolled for a sufficient number of credit hours in any semester or other academic term to enable the student to complete the course of study within not more than the number of semesters or other academic terms normally required to complete that course of study at the school in which the student is enrolled.

"Graduate program" means a program of education leading to a master's degree or equivalent or a doctoral degree or equivalent.

"National of the United States" means: (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

"Nonprofit," as applied to any entity, means one which is a corporation or association, or is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare or any officer or employee of the Department to whom the authority involved has been delegated.

"School of public health" means a school which provides training leading to a graduate degree in public health or equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Stipend" means a sum of money from a grant made under this subpart given to a student for living expenses during the period of traineeship.

"Trainee" means a student who is receiving traineeship funds from a grant made under this subpart.

§ 58.223 Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis planning?

Any public or nonprofit private educational entity (excluding schools of public health) located in a State is eligible to apply for a grant under section 749 of the Act and this subpart to support traineeships in their graduate program in health administration, hospital administration, or health policy analysis and planning which has been accredited by a body or bodies approved for this purpose by the Commissioner of Education.

§ 58.224 How is application made for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time the Secretary may require.[1]

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award made under section 749 of the Act, including the regulations of this subpart.

(c) In addition to other pertinent information the Secretary may require, an application for a grant under this subpart must contain the following information:

(1) A description of the graduate programs offered by the applicant for which funds for traineeships are requested.

(2) A description of the qualifications and experience of the director of each graduate program for which funds for traineeships are requested.

(3) An assurance that at least 80 percent of the grant funds received will be awarded to individuals who have previously received a post-baccalaureate degree or have 3 years work experience in health services.

§ 58.225 What are the requirements for traineeships and the appointment of trainees?

(a) The grantee must appoint as trainees only individuals who meet the eligibility requirements of § 58.226 and must terminate trainees in accordance with § 58.227.

(b) The grantee must only offer traineeships to individuals enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning, which are accredited by a body or bodies approved for this purpose by the Commissioner of Education. These programs may not include more than 4 months of field training unless expressly approved by the Secretary.

(c) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The original copy must be submitted to the Secretary by the grantee as soon as it is completed. A copy of the statement must be retained by the grantee to be available for program and financial audits.

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782.

(d) Full-time trainees must be required to sign a statement that, as a condition of their traineeship, they will not undertake employment during their traineeship which would interfere with their ability to satisfactorily complete in a timely fashion the training program in which they are enrolled, and the trainee must agree to respond to communications from the Secretary regarding the trainee's professional activities for a period of 10 years following completion of the training program for which the traineeship is awarded.

(e) Trainees may not be required, as a condition of their traineeships, to perform any work which is not an integral part of their training program and required of all students in the program. Trainees may not be required to perform services which detract from or prolong the training for which their trainships are awarded.

(f) Where trainees are enrolled in a course of study requiring more than 12 months to complete, the grantee must advise these trainees that continued support from funds awarded under this subpart is contingent upon the continued availability of grant funds and the ability of the trainee to continue in attendance in accordance with the standards and practices of the institution at which the trainee is enrolled.

§ 58.226 Who is eligible for financial assistance as a trainee?

Trainees must meet the following criteria to be eligible for grant support:

(a) A trainee must be a national of the United States, a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) A trainee must be enrolled in a public or nonprofit private educational entity which has been awarded a grant under section 749 of the Act and enrolled in a graduate program that meets the requirements of § 58.225.

(c) A trainee may not be receiving concurrent support from any other Federal source except education benefits under the Veterans Readjustment Benefits Act.

§ 58.227 Duration and termination of traineeship.

(a) A traineeship must be for a full academic year except that an appointment for less than a full academic year may be made to a student who will complete his or her program of study in a lesser time. A traineeship may not exceed 12 months in duration. However, consecutive traineeship appointments may be made on a year-to-year basis to students whose required program of study exceeds 12 months. Training for which a student receives a traineeship must begin during the period for which funds are made available, but may extend beyond that period.

(b) The grantee must terminate a traineeship at any time:

(1) Upon request of the trainee;

(2) If the trainee withdraws from the grantee institution; or

(3) Upon a determination by the grantee that—

(i) The trainee is no longer an enrolled student; or

(ii) Is not eligible or able to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled. In the event that a traineeship is terminated for any reason, the grantee must notify the Secretary as soon as possible.

§ 58.228 How will grant awards be made?

(a) The traineeship funds to be awarded under this subpart will be awarded on a formula basis among the educational entities whose applications have been approved by the Secretary.

(b) The amount of the grant to be awarded to each educational entity with an approved application will be determined in accordance with the formula:

$$G=SS/TS\times AF$$

in which G is the amount of the grant award to be made; SS is the number of students enrolled in approved graduate programs in health administration, hospital administration, or health policy analysis and planning at a particular school with an approved application; TS is the total number of students in these programs at all schools with approved applications and AF is the amount of available funds authorized under section 749 for traineeships in a given fiscal year. In determining the number of students enrolled in these programs at any given school, (SS), the following formula will be used:

$$SS=FTS+(PTC)/(9)$$

in which FTS is the number of full-time students enrolled in these programs and PTC is the number of credits for which part-time students in these programs are enrolled. The figure for (PTC)/(9) will be rounded upward, if necessary, to the next whole number. Students will be counted as of October 15 of the fiscal year in which the application is made. In no case will the amount of the grant exceed the amount requested by the applicant.

(c) All grant awards will be in writing and will specify the amount of funds granted and the period for which the funds will be available for obligation by the grantee.

(d) Neither the approval of any application or the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application. Only annual formula grants will be made under this subpart for which separate applications must be submitted at the time and in the form the Secretary may require.

§ 58.229 How will grant payments be made?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 58.230 For what purposes may grant funds be spent?

(a) Any funds granted under this subpart must be expended solely for providing traineeships to eligible individuals in accordance with section 749 of the act (42 U.S.C. 294s), the regulations of this subpart, the approved application, and the terms and conditions of the award.

(b) Expenditures are limited to (1) payment of stipends within the limitations set forth in paragraphs (d) and (e) of this section, (2) tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary, and (3) transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) The grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site only in cases of extreme need.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to and from field training which is at a site beyond a reasonable commuting distance and which requires the trainee to establish a temporary new residence. No allowance shall be paid for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay the trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(c) Use of traineeship funds for dependency allowances or to meet indirect costs (overhead) of the training institution is not authorized.

(d) The grantee may pay each trainee whatever stipend and allowance the grantee determines is required to enable the trainee to pursue the training program in which the trainee is enrolled, except that the stipend amount may not exceed amounts

established by the Secretary for both predoctoral and postdoctoral trainees.

(e) A grantee may not give a stipend or allowance to a part-time trainee but may give a traineeship award to pay a part-time trainee's tuition and fees.

(f) A grantee may obligate traineeship funds awarded under this subpart at any time within the period specified in the grant award document. At the end of this period, any unobligated grant funds must be refunded to the Federal Government.

§ 58.231 What prohibitions against discrimination are applicable to these traineeship grants?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations, the following laws and regulations are applicable to the administration of these grant awards:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color or national origin);

(2) Title IX of the Educational Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap);

(4) Section 704 of the act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to its training programs or in the award of traineeships).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs or in the award of traineeships.

§ 58.232 How must a grantee account for the grant funds it receives?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures meeting the requirements of this subpart.

(b) Grant closeout.—(1) *Date of final accounting.* The grantee must submit, with respect to each grant under this subpart, a full account, as provided in this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraph (a) of this section and (ii) any other amounts due under subparts F and M of 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and may be recovered from the grantee or its successors or assignees by setoff or other lawful action.

§ 58.233 What record keeping, audit, and inspection requirement apply to these grants?

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain records which the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to the grantee from other sources, and other records which will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the act. The audit must be conducted by and certified to be accurate by, an independent certified public accountant utilizing generally accepted auditing standards. A report of the audit must be filed with the Secretary at the time and in the manner which the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all these books, documents, paper, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon reasonable request.

§ 58.234 What provisions of 45 CFR Part 74 apply to these grants?

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart:

A. General.
B. Cash Depositories.
C. Bonding and Insurance
D. Retention and Custodial Requirements for Records.
F. Grant-related Income.
K. Grant Payment Requirements.
L. Budget Revision Procedures.
M. Grant Closeout, Suspension and Termination.

§ 58.235 What additional conditions may apply to these grants?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his/her judgment such conditions are necessary to assure or protect advancement of the approved program, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-24366 Filed 9-1-78; 8:45 am]

[6325-01]

Title 45—Public Welfare

CHAPTER VIII—CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A: Alabama

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This identifies the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles J. Dullea, Coordinator, Voting Rights Program, U.S. Civil Service Commission, Washington, D.C. 20415, 202-632-4604.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Pickens County, Ala., as coming under the provisions of the Voting Rights Act of 1965, as amended.

Accordingly, 45 CFR Part 801, Appendix A, is amended to show an additional place under the heading "Dates, Times, and Places" for filing in Alabama, as follows:

ALABAMA

County, place for filing, beginning date

* * * * *

Pickens; Carrollton—U.S. Post Office, Room 200, Courthouse Square, Highway 86; September 5, 1978.

* * * * *

(Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g).)

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

[FR Doc. 78-25020 Filed 9-1-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-139; RM-3064]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Beaverton, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a class A FM channel to Beaverton, Mich., as that community's first FM assignment. Petitioner, Mid West Communications, states the proposed station could render a first full-time local aural broadcast service to Beaverton.

EFFECTIVE DATE: October 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER

Adopted: August 23, 1978.

Released: August 29, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments, FM broadcast stations (Beaverton, Mich.), BC docket No. 78-139, RM-3064.*

1. The Commission has before it the notice of proposed rulemaking, adopted April 21, 1978, 43 FR 19240, proposing the assignment of channel 249A to Beaverton, Mich., as that community's first FM assignment. The notice was issued in response to a petition of Mid West Communications ("petitioner"). Petitioner filed supporting comments reaffirming its intention to apply for the channel, if assigned. Comments in opposition were filed by the Gladwin Broadcasting Co. ("WJEB"), licensee of AM station WJEB, and permittee of an FM station, Gladwin, Mich., and David C. Schaberg ("Schaberg") of Lansing, Mich. Reply comments were filed by petitioner.

2. Beaverton (pop. 945), in Gladwin County (pop. 13,471),[1] is located approximately 64 kilometers (40 miles) northwest of Bay City, Mich. There is no local aural broadcast service in Beaverton.

3. Petitioner states that Beaverton is the second largest community in Gladwin County and, according to a recent Beaverton school survey, has had a substantial gain in population. It notes that Beaverton's present industries include plastic thermo-forming equipment, plastics manufacturing, precision cutting tools, lumbering, livestock and dairy farming. Petitioner asserts that there is only one weekly newspaper serving the county and believes that there is a need for a broadcast facility to serve Beaverton and the surrounding communities.

4. WJEB claims, in opposition, that, since Beaverton and Gladwin are located only 12 kilometers (8 miles) apart, WJEB will provide broadcast service to Beaverton when it commences operation of its Gladwin FM station.[2] It believes that the public interest would be better served if the proposed channel were assigned to a larger community, where there is presently no FM service, rather than to Beaverton. Further, WJEB questions the good faith of the petitioner in applying for the proposed channel. It alleges that the Beaverton station would have to look to Gladwin for its economic support.

5. Schaberg, in opposing comments, raises the issue of fair distribution of broadcast facilities and whether the proposed assignment would serve the public interest. He also questions whether the community could support a station.

6. In reply comments, petitioner states, among other things, that with its commitment to programing and community service, it intends to serve Beaverton and the surrounding communities.

[1] Population figures are taken from the 1970 U.S. Census.

[2] An application for a construction permit filed by Gladwin Broadcasting Co. for an FM station (channel 276A) at Gladwin, Mich., was granted on June 1, 1978 (BPH-10470).

7. We have carefully considered the record in this proceeding and believe that channel 249A should be assigned to Beaverton, Mich., because of the need shown for a local aural broadcast service. Even if nearby stations were to provide broadcast coverage of Beaverton and offer some programing directed to Beaverton, this is not a basis for refusing to provide a community with an opportunity to acquire its own first broadcast outlet for local expression. An FM channel assignment here would provide for a local station which could broadcast programs directed to meeting special needs, interests and problems of Beaverton and the surrounding area. No station, owing its primary obligation to another locality, could be expected to provide the equivalent of such local service. As to the questions of fair distribution of broadcast facilities and whether the proposed channel assignment would serve the public interest, these matters are given full consideration in our decision. No other community has expressed interest in the channel which can be used at Beaverton to provide a first local service. Nor does the fact that such a station could also cover Gladwin raise a Berwick issue in light of its small size. The issue of the possible economic impact on other stations are matters which should be raised at the application stage when it would be possible to investigate and weigh the merits of various allegations rather than in a rulemaking proceeding.

8. In view of the foregoing: *It is ordered,* That effective October 6, 1978, § 73.202(b) of the Commission's rules, the FM table of assignments is amended to read as follows:

City and Channel No.
Beaverton, Mich., 249A.

9. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc. 78-24832 Filed 9-1-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Amendment No. 192-33; Docket No. PS-50]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Corrosion Control Requirements

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous changes to MTB's corrosion control requirements for natural gas and other gas pipelines. The amendments update and clarify several of the existing regulations and modifies others to provide flexibility in conducting the required periodic operational and maintenance inspections. These changes are based on recommendations of the Technical Pipeline Safety Standards Committee after their review of the existing regulations.

EFFECTIVE DATE: This amendment becomes effective on September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

George Mocharko, 202-426-2082.

SUPPLEMENTARY INFORMATION: In accordance with article 11 of the Department of Transportation (DOT) policy of improving Government regulations issued March 1, 1978 (43 FR 9582), the Materials Transportation Bureau (MTB) has initiated a program for reviewing its existing regulations and revoking or revising those regulations which it determines are not achieving their intended purpose. MTB initiated a systematic review of the existing pipeline safety regulations in 1977, with the aid of the Department's Technical Pipeline Safety Standards Committee (TPSSC). The first segment of the regulations chosen for review was subpart I, Requirements for Corrosion Control, since that segment had been the subject of more inquiries and interpretations than any other. On January 18, 1978, the TPSSC completed its review of the corrosion regulations and recommended some changes.

In consideration of the TPSSC recommendations and other factors, MTB is by this document amending several of the corrosion control regulations as discussed and set forth hereafter. Some of the other changes to the regulations suggested by the TPSSC were not adopted while one suggestion serves as the basis for a notice of proposed rulemaking on cathodically protected transmission lines published elsewhere in the FEDERAL REGISTER.

Because the amendments contained herein either clarify existing requirements or establish equivalent safety requirements, and impose no added compliance burdens, MTB finds that notice and public procedure are unnecessary and good cause exists for making the amendments effective on less than 30 days' notice.

Section 192.465(b). By a unanimous affirmative vote, the TPSSC proposed to require the inspection of each cathodic protection rectifier or other impressed current power source six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.465(c). By unanimous vote, the TPSSC proposed a revision to require an operator to check each reverse current switch, each diode, and each interference bond whose failure could jeopardize its structure six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.467(b). By a vote of 10 affirmative to 1 negative, the TPSSC proposed a change to provide that "one or more" insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control. The current regulation calls for an insulating device to be installed, but more than one insulating device may be required to adequately isolate a portion of a pipeline.

Section 192.477. By a unanimous vote, the TPSSC proposed that each coupon or other means of monitoring internal corrosion must be checked two times annually, but at intervals not exceeding 7½ months. MTB agrees that the current regulation calling for the checks to be conducted at intervals not exceeding 6 months does not allow sufficient flexibility in scheduling personnel.

Section 192.481. By a unanimous affirmative vote, the TPSSC proposed a revision to require operators to reevaluate offshore pipelines that are exposed to the atmosphere once each calendar year but with intervals not exceeding 15 months. MTB agrees that the current regulation calling for these checks to be conducted at intervals not exceeding 1 year does not allow sufficient flexibility in scheduling personnel.

Section 192.485(a). This regulation provides that generally corroded transmission line pipe with a remaining wall thickness less than that required for maximum allowable operating pressure of the pipeline must be replaced or the operating pressure reduced commensurate with the actual remaining wall thickness except that a small area of general corrosion may be repaired. By a vote of nine affirmative, one negative, and one nonvoting, the TPSSC proposed to allow pressure reduction commensurate with the remaining strength of the pipe. The TPSSC pointed out that there can be significantly pitted areas in the pipe wall that reduce wall thickness but do not reduce the pipe strength materially. MTB agrees that the remaining strength of the pipe is the important determinative criterion and that wall thickness is only a measure of that strength. This point is recognized in § 192.485(b) which provides for pressure reduction commensurate with pipe strength for localized corrosion pitting. The amendment to paragraph (a) therefore clarifies the intent of the rule and makes the language consistent with that of paragraph (b).

Evaluating the strength of corroded pipe to contain pressure is a complex problem which can be done in different ways. The ASME Guide for Gas Transmission and Distribution Piping Systems provides operators with suggested methods to evaluate the pressure strength of a corroded area of transmission pipelines. A report, "Summary of Research To Determine the Strength of Corroded Areas in Line Pipe," July 20, 1971, conducted by Battelle Columbus Laboratories for the American Gas Association line pipe research program also describes methods for predicting estimates of remaining pressure strength of corroded pipe based on the principles of fracture mechanics.

In addition to the above changes recommended by the TPSSC, MTB is amending several sections in subpart I by deleting effective dates that were codified to provide adequate notice of leadtime available to comply with new or amended requirements. Now that these effective dates have passed, retaining them in a codified form is unnecessary.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

§ 192.451 [Amended]

1. In § 192.451, paragraph (b) is deleted.

§ 192.457 [Amended]

2. In § 192.457, the following phrases and punctuation marks are deleted:

In the first sentence of paragraph (a), delete ", not later than August 1, 1974,", and in the first sentence of paragraph (b), delete ", not later than August 1, 1976,".

3. In § 192.465, paragraphs (b) and (c) are amended to read as follows:

§ 192.465 External corrosion control: monitoring

* * * * *

(b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to insure that it is operating.

(c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

* * * * *

4. Section 192.467(b) is amended to read as follows:

§ 192.467 External corrosion control: electrical isolation.

* * * * *

(b) One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

* * * * *

§ 192.473 [Amended]

5. In § 192.473(a), the following phrase is deleted: "After July 31, 1973,".

§ 192.475 [Amended]

6. In § 192.475(a), the following phrase is deleted: "After July 31, 1972,".

7. Section 192.477 is amended to read as follows:

§ 192.477 Internal corrosion control: monitoring.

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7½ months.

§ 192.479 [Amended]

8. In § 192.479(b), the following phrase is deleted: "Not later than August 1, 1974,".

9. Section 192.481 is amended to read as follows:

§ 192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of § 192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and at least once each calendar year, but with intervals not exceeding 15 months, for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.

10. Section 192.485(a) is amended to read as follows:

§ 192.485 Remedial measures: Transmission lines.

(a) *General corrosion.* Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for the maximum allowable operating pressure of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on the actual remaining wall thickness. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

* * * * *

§ 192.491 [Amended]

11. In § 192.491(a), the following phrase is deleted: "After July 31, 1972,".

NOTE.—MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

(49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR App. A of Part 1.)

Issued in Washington, D.C., on August 28, 1978.

L. D. SANTMAN,
Acting Director, Materials Transportation Bureau.

[FR Doc. 78-24843 Filed 9-1-78; 8:45 am]

[4910-59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-16; Notice 21]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: NHTSA amends its standard No. 121 for the regulation of braking system performance of air-braked trucks, buses, and trailers to specify test procedures and conditions for frictional characteristics of the test track surface, duration of time intervals between road tests, duration of permissible wheel lockup during road tests, and the amount of curving in the test track. This action is in fulfillment of the remand of the Ninth Circuit Court of Appeals in *PACCAR* v. *National Highway Traffic Safety Administration and Department of Transportation* with regard to modification of test procedures, which is the only aspect of the order not subject to further judicial review. The agency also makes final a long-standing proposal (40 FR 45200, October 1, 1975) to modify the means for establishing the frictional resistance of the road test surface.

DATES: The amendment is effective August 25, 1978. Petitions for reconsideration must be received no later than September 27, 1978.

ADDRESS: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Tad Herlihy, Office of Chief Counsel; National Highway Traffic Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Requirements are established for the service, emergency, and parking brake systems, including a requirement that the service brakes provide retardation, power, and recovery capabilities. Road test procedures are set forth to advise manufacturers how the NHTSA will conduct its com-

pliance tests of the manufacturers' products.

In January 1975, a truck manufacturer petitioned for judicial review of the standard's promulgation in accordance with section 105 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1394). The petitioner was subsequently joined by a trade association of truck users and a trade association representing the small manufacturers that complete trucks by mounting the bodies on incomplete truck chassis. The three actions were consolidated for argument in the Ninth Circuit U.S. Court of Appeals.

The ninth circuit recently entered its order on the petition for review and remanded the standard to the agency for further proceedings (573 F. 2d 632). The Federal Government has since petitioned for review of two aspects of that order in the Supreme Court. The purpose of this notice is to set forth the agency's actions in fulfillment of the third aspect of the remand, which was not a subject of the Government's petition.

The court remanded several issues to the agency concerning the standard's test procedures, all of which are easily resolved by modifications in the standard's wording which do not affect the requirements for any person. The court stated that "the manufacturers are entitled to formal and reasonably specific testing criteria" in the area of frictional characteristics of the test track surface, duration of time intervals between repetitive road tests, duration of permissible wheel lockup during stopping distance tests, and the amount of curving in the test track.

Interpretation must be made of the court's remand on frictional characteristics of the test track. A first reading of the decision might suggest that a measurement technique (in the case, the "skid number" method of measuring road surface friction) may not be used in standards setting if it does not produce exact measurements. It is acknowledged that the skid number measurement has an accuracy tolerance, and that the tolerance can vary from measurement to measurement for a variety of reasons.

The agency does not believe the court intended this literal a reading, because no measurement can be exact, as a matter of physical science. This exaggerated a reading of the decision would preclude all motor vehicle safety regulations, because all regulation involves measurement criteria and none is perfect. The agency's view is that the court objected only to reliance on a measurement technique that varies too widely in response to road surface conditions and that specified use of a no-longer-manufactured tire.

Because the tire specified is no longer manufactured, the NHTSA has already replaced the skid number measurement in all of its stopping distance standards other than 121. The only reason the technique was not replaced in standard No. 121 was to comply with the ninth circuit's wish that the standard change as little as possible. (41 FR 24592; June 17, 1976.) Now that review of the standard by the ninth circuit is complete, the agency can and does make final its longstanding proposal to use the new measuring technique. Comments received with regard to standard No. 121 were discussed in conjunction with the June 1976 amendment.

The court also stated that the margin of variation in the measuring technique would not permit a manufacturer to conduct its tests by a means that insured its vehicles would meet the requirement set forth in the standard. While the agency has always taken the position that an exact value (such as "skid number 75") is the clear and unambiguous way to state a legal requirement so that manufacturers are best on notice of what performance is required (e.g., 40 FR 47141; October 8, 1975), the agency can instead state a range of skid numbers in such a way that the manufacturer will be able to test to the exact skid number encountered in its testing, knowing that its vehicle has complied with the standard so long as the number used falls within the specified range. Essentially, the test procedure can be restated as a range (representing the anticipated tolerance in the new measuring method) in which the manufacturer has its choice of what skid number it uses. As long as this range includes the criterion specified in the past by the NHTSA and is already being met by manufacturers, it is no more stringent than the past requirement. Similarly, the other skid numbers from which manufacturers could choose would fall in the range of those that they have been using previously, but without the certainty that the chosen number will be the one by which their vehicles are measured. This approach recognizes the physical impossibility of finding any measuring technique which is exact, and the agency finds that it accurately fulfills the court's remand. The skid number ranges established are from 20 to 30 for the wet surface, and from 71 to 81 for the dry surface, to reflect the different values obtained when the new test tires are used. It is noted that this revised specification of skid numbers is no more severe a requirement than the single values previously referenced in the standard.

As for the remaining test conditions which the court questioned, the agency has monitored these conditions as a part of its compliance program and the development of its compliance test procedures. It is apparent that manufacturers, permitted to choose reasonable values for these aspects of the test protocol in the absence of criteria set forth in the standard, have chosen values that fall within an easily adoptable level. No manufacturer, for example, has chosen to test on other than a straight test track, which is sensible in view of the fact that a straight track offers the easiest means of staying within a 12-foot-wide-lane. Comparably, no antilock manufacturer has chosen other than reasonable "wheel lockup" times for its antilock systems because overly long lockups significantly and adversely reduce the stopping performance of the brakes on the controlled axle, which would sacrifice the other major characteristics of the vehicle being measured—that is, stopping distance. As for the interval between dynamic tests of the vehicle, the relevant factor is the relationship between the time interval and brake temperature, because a short interval could result in an adverse effect on braking capabilities due to fade or other thermal effects. Therefore, the NHTSA hereby adopts a specification for initial brake temperature, which will in turn determine the interval between tests. A review of NHTSA compliance test results has shown that the performance of all complying vehicles tested to date has been within the requirements specified in this amendment. Adoption of these values therefore does not adversely affect any person subject to the standard, and they can be incorporated for the benefit of remand without the delay occasioned by notice and opportunity for comment.

The decision to revise the standard in this fashion has been evaluated in accordance with the requirements of Executive Order 12044 (43 FR 12660; March 24, 1978) and the corresponding review procedures within the Department of Transportation (43 FR 9582; March 8, 1978). It has been determined that this rulemaking is governed by short-term judicial considerations and that, despite its connection with standard No. 121, does not qualify as a rulemaking that raises issues of cost or controversy necessitating the level of review and comment contemplated by the two directives.

EFFECTIVE DATE: With regard to the establishment of a new test tire for pavement resistance measurement, because the older test tire is no longer manufactured, and because the amendment of the procedure and test tire is intended only to duplicate the existing procedure and tire, this amendment creates no additional requirements for any person, and an immediate effective date is found to be in the public interest.

With regard to the modification of test procedures and conditions not

based on a proposal, the agency finds that they do not impose additional requirements on any person, and that delay of a proposal is unnecessary and would be contrary to the public interest in responding to the court's remand as expeditiously as possible.

§ 571.121 [Amended]

In consideration of the foregoing, standard No. 121 (49 CFR 571.121) is amended as follows:

1. In section S4 (definitions), the definition of "Auto transporter" is relocated between the definitions of "Antilock system" and "Heavy hauler trailer", and a new definition is added to section S4 preceding the definition of "Load divider dolly" to read:

"Initial brake temperature" means the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application.

2. In the definition of "Skid number" in section S4 the designation "E-274-65T" is amended to read "E-274-70 (as revised July 1974)" and the reference to "paragraph 7.1" is amended to read "paragraphs S7.1 and 7.2."

3. References to "skid number of 30" and "Skid No. 30" in tables I and II are amended to read "skid number range 20-30," and "Skid No. 20-30", respectively.

4. References to "skid number of 75" and "Skid No. 75" in tables I and II are amended to read "skid number range 71-81" and "Skid No. 71-81," respectively.

5. Paragraph S5.3.1(a) is amended to read:

S5.3.1 * * *

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

6. Paragraph S5.3.2(a) is amended to read:

S5.3.2 * * *

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

7. Reference to "skid number of 30" in paragraphs S5.3.1 and S5.3.2.1 are amended to read "skid number in the range of 20 to 30, inclusive, chosen at the option of the manufacturer."

8. References to "skid number of 75" in paragraphs S5.3.1.1, S5.3.2.1, and S5.7.1 are amended to read "skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer."

9. The second sentence in section S6 is amended to read:

Except as otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range.

10. Paragraph S6.1.7 is amended to read:

Unless otherwise specified, stopping tests are conducted on a 12-foot wide level, straight roadway having a skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer. The vehicle is alined in the center of the roadway at the beginning of the stop.

11. A new paragraph S6.1.15 is added to read:

S6.1.15 Initial brake temperature. The temperature of each brake is measured by a single plug-type thermocouple installed in the center of the lining surface of the most heavily loaded shoe or pad as shown in figure 2. The thermocouple is outside any center groove. With the exception of conditions specified for burnishing brakes in paragraph S6.1.8, repetitive test runs are separated by an interval of time sufficient to reach any initial brake temperature in the range of 150° F to 200° F. If the initial brake temperature for the first stop in a test procedure has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 to 10 mph at a deceleration not greater than 10 fpsps.

The program official and lawyer principally responsible for this document are Duane Perrin and Tad Herlihy, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on: August 25, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-24903 Filed 9-1-78; 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.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule changes the procedure for inspecting inedible almonds to allow the inspection agency the same flexibility as it has on incoming receipts of unsorted almonds. The rule also removes the opportunity for handlers to waive part of their obligation to dispose of inedible almonds. Handlers apparently have no need for the provision.

DATES: Written comments of this proposal must be received by September 22, 1978.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the hearing clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981-481) by revising § 981.442. The subpart is issued under the marketing agreement, as amended and order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposals are based on a recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing. Section 981.442 implements § 981.42.

Section 981.442(a)(5) details how each handler shall meet his disposition obligations. Among other requirements, it provides that the inspection agency or the Board shall sample each disposition of material in satisfaction of the obligations, and the almond meat content determined, at the time of loading for delivery to the accepted user, or at the user's destination. The Board now believes, however, that the inspection agency should be allowed the same flexibility on outgoing inspection of inedible material as it has with regard to incoming receipts.

Therefore, the proposal is to change the second sentence of § 981.442(a)(5) to provide that for dispositions by handlers with mechanical sampling equipment, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination.

Section 981.442(a)(6) provides that any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this obligation and his disposition obligation. The paragraph details the circumstances when such a waiver may be granted by the Board. The Board, however, has found that handlers who do not generate inedible material from such sources as blanching or manufacturing have not sufficiently used this waiver provision, and thus there is no need for the provision. Therefore, the proposal is to delete § 981.442(a)(6), and renumber the present subparagraph (7) as subparagraph (6).

The proposals to amend Subpart—Administrative Rules and Regulations are as follows:

1. Revise § 981.442(a)(5) to read as follows:

§ 981.442 Quality Control.

* * * * *

(a) * * *

(5) *Meeting the disposition obligation.* Each handler shall meet his disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes on record with the Board as Accepted Users. For dispositions by handlers with mechanical sampling equipment, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The almond meat content of each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation. Deliveries containing less than 10 percent almond meat content shall be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred.

* * * * * *

2. Delete § 981.442(a)(6) and renumber § 981.442(a)(7) as § 981.442(a)(6).

Dated: August 30, 1978.

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

[FR Doc. 78-24835 Filed 9-1-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[9 CFR Part 317, 318, and 319]

MILK ALBUMINATE

Use in Certain Sausage Products; Withdrawal of Proposed Regulation

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: This notice withdraws a notice of proposed rulemaking which would have allowed the use of a product the Department referred to as "milk albuminate" in certain sausage products. The majority of comments received regarding the proposal opposed it on the basis that "milk albuminate" is a misnomer. Furthermore, the Food and Drug Administration recently ruled that, with regard to this product, "albumin/caseinate product" is a more accurate term than "milk albuminate." "Albumin/caseinate product" is a generic term for products in addition to the product covered under the proposed rulemaking. Therefore, the Food Safety and Quality Service has determined to withdraw the proposal and to consider the use of albumin/caseinate products in sausage products at a later date.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Staff, Scientific and Technical Services, Meat and Poultry Inspection Program. Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION: On February 15, 1977, the meat and poultry inspection program of the Food Safety and Quality Service published a proposed rule (42 FR 9182-9183) to amend 9 CFR 317.8, 318.7, 319.140, and 319.180 of the Federal meat inspection regulations that would have allowed the use of a product the Department referred to as "milk albuminate" in certain sausage products. Such proposal was initiated as a result of a petition by the First Spice Mixing Co., Inc., Long Island City, N.Y. The majority of the comments received on the proposal opposed it on the basis that "milk albuminate" is a misnomer. This matter was also addressed by the Food and Drug Administration, which concluded that "milk albuminate" did not accurately describe the product referred to in the proposal and that "albumin/caseinate product" was more descriptive of this product. However, that term is very general and could be inclusive of other products which differ from that referred to in the proposal by composition. Therefore, the Administrator finds good cause to withdraw the proposal, in order to avoid confusion and to further consider whether any "albumin/caseinate product" can be used in sausage products.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (42 FR 9182-9183) on February 15, 1977, is hereby withdrawn.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on August 22, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-24947 Filed 9-1-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 130]

SMALL ENERGY-ORIENTED FIRMS

Proposed Energy Loan Assistance Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is proposing to implement Pub. L. 95-315, the Small Business Energy Loan Act, approved on July 4, 1978. This proposal would establish a small business energy loan program which would assist small energy-oriented firms.

COMMENTS BY: November 6, 1978.

ADDRESSES: Comments, in duplicate, may be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Evelyn Cherry, Chief, Special Projects Division, Office of Financing, Small Business Administration, telephone 202-653-6696.

SUPPLEMENTARY INFORMATION: On July 4, 1978, the President signed Pub. L. 95-315, 92 Stat. 377, the "Small Business Energy Loan Act," which established a new small business energy loan program as section 7(1) under the Small Business Act ("Act") in the Small Business Administration. The legislation requires SBA to consult with the Department of Energy (DOE) and other appropriate Federal departments and agencies. It is anticipated that during the comment period the DOE will define the terms in § 130.3 which are contained in the energy conservation measures list published by the Secretary of Energy (42 FR 37800, July 25, 1977). SBA and DOE will also establish procedures for determining the projected and actual energy savings resulting from each loan approved under this authority. SBA encourages all knowledgeable persons and small firms to suggest definitions for the terms in § 130.3, methods of quantifying energy savings for each measure, and to comment on all other aspects of the proposed rule, since SBA does not have technical expertise in these energy matters.

The Small Business Administration (SBA) proposes its regulations based on the following analysis of the Act:

(1) The principal elements of the loan program established by new section 7(1) are:

(a) The basic purposes of loans are to finance plant facilities and the acquisition of equipment and supplies needed in specified energy measures, with a limited amount of the loan for research and development, and for working capital, as necessary and appropriate;

(b) Ceilings on loans are $350,000 for direct SBA loans and the SBA share of immediate participation loans, and $500,000 as the SBA share of guaranteed loans;

(c) Non-Federal sources must be used prior to SBA loans or guarantees when available on reasonable terms;

(d) SBA may make an immediate participation loan only when a deferred participation (guaranteed) loan cannot be obtained, and may make a direct loan only when an immediate participation is not available;

(e) SBA may participate in a guaranteed loan only up to 90 percent of the outstanding balance;

(f) Interest rates are to be the same as for section 7(a) business loans, which are set by the Agency from time to time and published in the FEDERAL REGISTER;

(g) Energy loans may have a maximum maturity up to 15 years, including extensions and renewals;

(h) Energy loans must be of such sound value as reasonable to assure repayment, and will be evaluated recognizing the greater risk involved in this field; and

(i) The paperwork required of loan applicants will be kept to the minimum consistent with the Agency's need for information on which to base sound credit decisions.

(2) The purposes of new section 7(d)(2) of the Act are to:

(a) Authorize SBA to hold seminars to inform loan applicants of this new

and related Government assistance programs;

(b) Authorize SBA to make grants to qualified organizations for training seminars for small firms engaged or to be engaged in energy measures as cited in the Act; and

(c) Limits training grants to organizations which are not recipients of section 7(l) energy loans.

(3) The remaining sections of the Act make technical changes in existing legislation, authorize funding of the program, and require SBA reporting to the Congress.

In proposing the following regulation SBA considered and rejected the following options:

(1) *Working capital.* Although the new statute makes no provision for the inclusion of working capital in the loan amount, as section 7(a) of the Act does, SBA has determined that the "necessary and appropriate" language of the statute authorizes such inclusion, and that such inclusion furthers the purpose of the statute.

(2) *Plant acquisition.* While the statute speaks of plant construction, expansion, etc. "(including acquistion of land for such a plant)", and such language differs from the broader language in section 7(a) which does not contain the limiting words "for such a plant," SBA has determined that acquisition of an existing plant, including the land, is within the intent of the statute, since the acquisition of an existing plant may be less expensive and more expeditious.

(3) *Startup.* The statute leaves the word "startup" undefined, but the legislative history indicates that Congress intended to assist the establishment of a new business or assisting such a business in becoming fully operational, or one that has been in operation for less than 2 years (H. Rept. 95-1071, p. 7). SBA's definition of "startup" adopts this legislative intent.

(4) *Research and development.* While the statute merely requires that loan proceeds "shall not be used primarily for research and development," SBA decided to allow as much as 30 percent of the proceeds to be so used where a business plan or a product or service is sufficiently advanced to support the conclusion that such additional research and development will warrant market acceptance, and therefore a finding of reasonable assurance of repayment. Congress intended that basic or initial research and development be supported by funds from the Department of Energy. See S. Rept. 95-828, pp. 10-11.

(5) *Choice of programs.* The statute allows loans under this program to be made under less stringent criteria of soundness and security than regular business loans. Accordingly, loans meeting the standards of section 7(a) of the Small Business Act, but serving the purposes of the new statute, could be made under section 7(a). SBA, however, has decided to make all eligible loans under the new provision, in order to facilitate compliance with section 6 of Pub. L. 95-315, which requires a special report item on energy loans under section 10(b) of the Act, to be transmitted annually to the President and the Congress.

(6) *Administrative loan ceiling.* While SBA imposes an administrative loan ceiling below the statutory limit, on regular business loans, in compliance with a congressional admonition to apply the full ceiling sparingly, SBA has decided not to impose such an administrative ceiling on energy loans, because such loans serve a national program objective. See addendum 2 to amendment 11, revision 3 of part 122, 43 FR 19849. On the other hand, SBA has retained the 75-percent limit on SBA's share of immediate participation loans, also in use in the regular business loan program, in order to encourage deferred participation (guaranteed) loans and the use of non-Federal funds which are the objectives of new section 7(l)(3).

In consideration of the foregoing, it is proposed to amend 13 CFR, chapter I, by inserting a new part, as follows:

PART 130—SMALL BUSINESS ENERGY LOANS

Sec.

130.1 Statutory provisions.
130.2 Program objectives.
130.3 Eligible energy measures.
130.4 Eligible applicants.
130.5 Eligible participants.
130.6 Use of proceeds.
130.7 Loan criteria.
130.8 Other financing.
130.9 Loan amount.
130.10 Interest rate.
130.11 Loan maturity and repayment terms.
130.12 Applicability of other SBA regulations.
130.13 SBA seminars.
130.14 Training grants.

AUTHORITY: Pub. L. 95-315, 92 Stat. 377 (15 U.S.C. 631 note).

§ 130.1 Statutory provisions.

The statutory provisions will be found at 5 U.S.C. § 636.

§ 130.2 Program objectives.

The objectives of this program are to provide a means for small business concerns to enter (startup), continue, or expand in the fields of manufacturing, selling, installing, servicing, and developing specific energy measures, through loans and loan guarantees, seminars, and training grants. Startup, for this purpose, means a small firm which, together with any predecessor or related concern, has been in existence for less than 2 years.

§ 130.3 Eligible energy measures.

Only the energy measures cited in the Act are eligible for assistance under this program. These measures are:

(a) Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer; or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types;

(b) Photovoltaic cells and related equipment;

(c) A product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossile fuels, and which is on the energy conservation measures list of the Secretary of Energy or which the Administrator determines to be consistent with the intent of subsection 7(l) of the Act;

(d) Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy;

(e) Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste;

(f) Hydroelectric power equipment;

(g) Wind energy conversion equipment;

(h) Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (a) through (g) of this section.

§ 130.4 Eligible applicants.

All applicants for these loans must be small business concerns as defined in §§ 121.3-121.10 of this chapter.

§ 130.5 Eligible participants.

Participating lenders must meet the definition of an eligible loan participant in § 120.4 of this chapter.

§ 130.6 Use of proceeds.

Loan funds can be used for vacant land immediately necessary for the construction of a plant, and for buildings, machinery, equipment, furniture, fixtures, facilities, supplies, or materials for an eligible loan measure. While the Act does not cite working capital as an eligible use of proceeds, SBA considers it necessary and appropriate to allow loan funds to be used for cash working capital up to (a) ten percent (10%) of the loan if the borrower is an existing business or (b) up to twenty-five percent (25%) of the loan if the borrower is a new (startup) business as defined in § 130.2 herein. It is the general policy that loan funds will not be used for research and development

which should be completed before the loan application. Where, however, development of a product or service may be completed under a business plan that provides reasonable assurance of repayment, or where the further development of a product or service already on the market is involved, a portion of the loan proceeds not to exceed 30 percent may be used for such purposes.

§ 130.7 Loan criteria.

The Act provides that all loans made under this authority shall be of such sound value as reasonable to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field: *Provided,* That factors in determining sound value shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *And provided further,* That such status need not be as sound as that required for business loans under part 122 of this chapter.

§ 130.8 Other financing.

No loan will be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-Federal sources. Also, an immeidate participation will not be approved unless a guaranty (deferred) participation is not available, and a direct loan will not be approved unless an immediate participation is not available. The requirements of § 120.2(a) (1) and (2) except § 120.2(a)(2)(iv) of this chapter, relating to documentation of efforts to find other Government financing, shall apply to loans under this program. Any "energy" loan will be made under section 7(l) regardless of whether it might have qualified under section 7(a) of the Small Business Act.

§ 130.9 Loan amount.

The maximum combined loan exposure of SBA for any one small business concern, together with all its affiliates, under this program, the regular business program, economic opportunity program, handicapped assistance program, but excluding any disaster program authorized by section 7(b) or 7(g) of the Small Business Act, is $350,000 for SBA's direct and immediate participation exposure, and $500,000 for SBA's guaranty (deferred) exposure. SBA's share of an immediate participation shall not exceed 75 percent and SBA's share of a guaranty (deferred) participaton shall not exceed 90 percent of the outstanding balance of an approved loan. The exception to the limitation on SBA's share of an immediate participation in § 120.2(b)(2) of this chapter, also applies to this program.

§ 130.10 Interest rate.

The interest charged or permitted by SBA for these loans is the same as for regular business loans, as described in § 120.3(b)(2) of this chapter.

§ 130.11 Loan maturity and repayment terms.

The maturity of a small business energy loan will be established on the basis of the borrower's ability to repay, up to the maximum maturity of fifteen (15) years, including extensions and renewals. Loans under this program will normally require level, monthly payments of principal and interest.

§ 130.12 Applicability of other SBA regulations.

All applicable provisions of parts 120, 121, and 122 of this chapter shall apply to energy loans except where other provision is made in this part.

§ 130.13 SBA seminars.

Under new section 7(d)(2) of the Act, SBA is authorized to hold seminars in order to inform potential applicants for small business energy loans of the policies and procedures relating to such loans, as well as other related Government energy programs. SBA, together with representatives of the Department of Energy, will develop the agendas for such seminars to meet the needs of the audiences in the various parts of the country, and will issue appropriate public notice of such seminars.

§ 130.14 Training grants.

SBA is also authorized to make grants to qualified organizations to conduct seminars for small business in order to train them in practical and easily implemented methods of design, manufacture, installation, and servicing of equipment identified in § 130.3. Such grants may also be used for services to recipients of grants provided for in section 7(d)(1) of the Small Business Act. Grant recipients are limited to those organizations that have not received loans under the small business energy loan program. (This portion of the legislation will be implemented at such time as funds are appropriated for the purpose.)

(Catalog of Federal Domestic Assistance Program No. 59.028, Energy Loan Program.)

Dated: August 30, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-24943 Filed 9-1-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10379, File No. S7-698]

INVESTMENT COMPANY ANNUAL REPORTS

Revision of Regulations; Withdrawal of Proposed Rule Amendment

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rule amendment.

SUMMARY: The Securities and Exchange Commission is withdrawing the proposed revision of its regulations on the filing of investment company annual reports which would have required that such reports be filed within 90 days (rather than the current 120 days) after the end of the fiscal year. The proposed rule amendment is being withdrawn because investment companies are already subject to a substantial reporting burden at the end of their fiscal years.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Esq., Special Counsel, 202-755-1739, or Dianne E. O'Donnell, Esq., 202-755-1796, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is withdrawing a proposed amendment of rule 30a-1(a) (17 CFR 270.30a-1(a)) under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a et seq.) which would have reduced by 30 days the filing deadline for the anual report required by section 30(a) of the Act (15 U.S.C. 80a-29(a)). This reduction in the filing deadline was proposed to enable the staff of the Commission to use information furnished in form N-1R (17 CFR 274.101) in its review of annual amendments to the registration statements filed by management investment companies. It was also noted in Investment Company Act Rel. No. 9783 (May 31, 1977), (42 FR 29828, June 9, 1977) that this reduction in the filing time would make the deadline for filing form N-1R the same as the deadline for industrial companies filing annual reports with the Commission. However, the comments that were received by the Commission on this proposed rule change were uniformly adverse; many commentators cited the heavy reporting burden at the close of the fiscal year faced by investment companies from many sources, such as proxy filing require-

ments, annual reports to shareholders required by rule 30d-1 (17 CFR 270.30d-1) under the 1940 Act, tax returns, and State law requirements. Other commentators questioned the appropriateness of the use of information contained in form N-1R, which is intended to be a compliance report, in examination of disclosure documents, such as registration statements. Furthermore, the commentators noted that the reporting burden on investment companies filing form N-1R is not wholly comparable to the reporting burden on industrial companies filing annual reports. In view of the substantial reporting requirements to which investment companies filing form N-1R are already subject, the Commission is withdrawing the proposed amendment to rule 30-a-1. However, the Commission has instructed the staff of the Division of Investment Management to examine how the filing of form N-1R fits into the integrated reporting system for management investment companies adopted today (see Securities Act Release No. 5964) and, after the integrated system has been in operation for a reasonable period of time, to reconsider whether the deadline for filing the form should be changed. Thus, the filing deadline for form N-1R will remain 120 days after the close of the fiscal year.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 28, 1978.

[FR Doc. 78-24855 Filed 9-1-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 959-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Bowling Green State University in Athens, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an Administrative Order to Bowling Green State University. The Order requires the university to bring air emissions from its boilerhouse in Bowling Green, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Because the university is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal Enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before October 5, 1978, and requests for a public hearing must be received on or before September 20, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael G. Smith, Enforcement Attorney at the above address, or telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: Bowling Green State University operates a boilerhouse at Bowling Green, Ohio. The proposed Order addresses emissions from coal-fired boilers at this facility, which are subject to Ohio Regulation AP-3-11. The regulation limits the emissions of particulate matter, and is part of the federally approved Ohio State Implementation Plan. The Order required final compliance with the regulation by July 1, 1979, and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7691.)

Dated: August 18, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR, Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of Bowling Green State University, Bowling Green, Ohio. Proceeding under section 113(d) Clean Air Act, as amended.

This following Order is issued this date pursuant to section 113 (a) and (d) of the Clean Air Act, as amended, 42 U.S.C. 741(a),(d), (hereinafter referred to as "the Act"). The Order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring reporting requirements. Public notice, opportunity for a public hearing, and notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On September 28, 1976, the U.S. Environmental Protection Agency (hereinafter referred to as "U.S. EPA") issued Notice of Violation EPA-5-77-A-89, pursuant to section 113(a)(1) of the Act, to Bowling Green State University (hereinafter referred to as "the University") upon a finding that the University's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110 (d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 28, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the University, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the University is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this Order comply with section 113(d) of the Act. Therefore, it is hereby Ordered:

ORDER

I. That Bowling Green State University shall achieve compliance with Ohio Implementation Plan Regulation AP-3-11, by installation of an electrostatic precipitator (ESP) to control particulate emissions of all the University's coal-fired boilers, in accordance with the following schedule:

Award contract to install ESP equipment—October 15, 1978.
Delivery of ESP equipment—February 1, 1979.
Commence installation—March 1, 1979.
Complete installation—June 30, 1979.
Achieve final compliance with Ohio Implementation Plan Regulation AP-3-11—July 1, 1979.
Submit stack test results demonstrating final compliance by all boilers with Ohio Implementation Plan Regulation AP-3-11—December 31, 1979.

II. The foregoing schedule provides for final compliance with Ohio Implementation Plan Regulation AP-3-11 by July 1, 1979, as required by section 113(d)(1)(D) of the Act. Final compliance will occur on this date when uncontrolled operation of the boilers shall have ceased, and said boilers will not operate again until pollution controls have been installed.

III. Pursuant to section 113(d)(7) of the Act, during the period of this Order, until completion of the program set out in paragraph I herein, the University shall use the best practical systems of emission reduction so as to minimize particulate emissions and shall further comply with the requirements of the applicable implementation plan insofar as it is able to.

IV. That the University shall comply with the following emission monitoring the reporting requirements on or before the dates specified:

A. Emission monitoring:

1. The University shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack.

B. Reporting requirements:

1. No later than 5 days after any date for achievement of an incremental step or final compliance, specified in this Order, the University shall notify U.S. EPA in writing of its compliance or noncompliance and reasons therefor with the requirement. If delay is anticipated in meeting any requirement of this Order, the University shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack data for a minimum of 3 years.

3. All submittals and notifications to U.S. EPA pursuant to this Order shall be made to James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604; with a copy sent to the Northwest District Office, Ohio Environmental Protection Agency, 1035 Devlae Grove Drive, Bowling Green, Ohio 43402.

V. Nothing herein shall affect the responsibility of the University to comply with any State, local, or other Federal regulations.

VI. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7503.

VII. The University is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the University will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. Nothing herein shall be construed to be a waiver by the University of its rights to challenge any regulations promulgated under section 120, as authorized by section 307(d)(1) of the Act.

XI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

X. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution;

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph;

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

XI. This Order is effective upon final publication in the FEDERAL REGISTER.

Administrator, U.S. Environmental Protection Agency.

The Bowling Green State University, has reviewed this Order, consents to terms and conditions of this Order, and believes it to be a reasonable means by which the Bowling Green, Ohio, facility can achieve final compliance with Ohio Regulation AP-3-11.

Dated: August 1, 1978.

DR. HOLLIS A. MOORE, Jr.,
President,
Bowling Green State University.

[FR Doc. 78-24757 Filed 9-1-78; 8:45 am]

[6560-01]

[40 CFR Part 233]

[FRL 959-8]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Application Filing Deadlines

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Notice of application filing deadlines.

SUMMARY: Preliminary application for modifications of EPA's secondary treatment requirements under Section 301(h) of the Clean Water Act must be submitted to EPA no later than Monday, September 25, 1978. Completed applications will be due no later than three (3) months after the date of promulgation of final regulations implementing section 301(h).

DATE: See summary above.

ADDRESS: Send preliminary applications to contact person at the address below.

FOR FURTHER INFORMATION CONTACT:

Thomas P. O'Farrell, Municipal Construction Division (WH-547), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-8976.

SUPPLEMENTARY INFORMATION: Section 301(h) of the Clean Water Act ("Act") authorizes EPA to issue a permit which modifies the Agency's secondary treatment requirements (i.e., effluent limitations for biochemical oxygen demand (BOD), suspended solids and pH) for publicly owned treatment works ("POTWs") which discharge into certain ocean and estuarine waters if the POTW demonstrates, to EPA's satisfaction, that it meets eight statutory criteria. Under section 301(j) of the Act, applications for section 301(h) modifications must be submitted to EPA no later than September 24, 1978 (270 days after the enactment of the 1977 amendments to the Act).

On April 25, 1978, EPA published proposed regulations implementing section 301(h) of the Act and a proposed application form which POTWs would be required to complete in order to be considered eligible for a section 301(h) modification (43 FR 17484). Among other things, these proposed regulations required that completed applications for modifications be submitted to EPA no later than September 24, 1978.

Shortly after its section 301(h) regulations were proposed EPA announced that it hoped to promulgate a final version of the regulation approximate-

ly 2 months after the close of the public comment period—i.e., the first part of August 1978. Because of the volume of comments received in response to the proposed regulations, and the complexity of the issues raised, development of final regulations has taken longer than the Agency originally anticipated. As a result, prospective section 301(h) applicants may now be confused as to exactly what material they will be required to submit by September 24, 1978.

Because it now appears the EPA's final regulations will not be published far enough in advance of September 24, 1978 to provide dischargers with sufficient lead time to submit a completed application based on the final regulations by that date, EPA will consider an applicant to have complied with the September 24, 1978 statutory deadline in the Act and its regulations if it files with EPA a preliminary section 301(h) application, postmarked no later than September 25, 1978 (September 24, 1978 being a Sunday), containing the following information:

(1) The name and address of the applicant.

(2) A statement that the applicant is requesting a modification of EPA's secondary treatment requirements under Section 301(h) of the Clean Water Act.

(3) A copy of the applicant's current NPDES permit, if any.

(4) A short description of the wastewater treatment system and outfall for which a modification is requested, including:

Location of plant and outfall;

Treatment system (e.g., primary chemical primary, mixed primary/secondary); Nature of sewer system (combined or separate);

Outfall size and depth;

Average flow (in gallons per day);

Effluent quality (i.e., BOD, suspended solids, and pH limitations); and.

The portion of the applicant's flow which is attributable to industrial users.

(5) The name, title, address, and phone number of the person to be contacted concerning the application.

The preliminary application should be sent by certified or registered mail to Thomas P. O'Farrell, whose address appears above.

A POTW which fails to submit an application by September 25, 1978 will be ineligible for a section 301(h) modification.

Completed section 301(h) applications will be due three (3) months after the date of promulgation of final regulations implementing section 301(h).

Dated: August 25, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-24775 Filed 9-1-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[46 CFR Parts 531 and 536]

[General Order 13; Docket No. 78-30]

TIME LIMIT FOR FILING OF OVERCHARGE CLAIMS

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes a rule to prohibit any tariff rule of a common carrier by water which limits to less than the 2-year period prescribed by section 22 of the Shipping Act, 1916 the time within which a shipper must submit a claim to the carrier to recover overcharges based on errors in weight, measurement, or description. The purpose of and need for such a rule is to benefit the shipping public by clarifying the statute of limitations and to relieve carriers, shippers, and the Commission of the excessive number of formal and informal proceedings resulting from restrictive tariff rules.

DATE: Comments on or before September 29, 1978. (Original and 15 copies.)

ADDRESS: Comments to Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is charged under section 14 fourth of the Shipping Act, 1916, with the responsibility to insure that no common carrier by water unfairly treats or unjustly discriminates against any shipper in the adjustment or settlement of claims. The proposed rule is based on these responsibilities and is consistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit; *Kraft Foods* v. *Federal Maritime Commission*, July 13, 1976, and *Federal Maritime Commission Report on Remand*; Docket 73-44, November 26, 1976. The decision of the court of appeals indicated that a tariff rule published in an ocean freight tariff is invalid if it requires a shipper to submit any claim for the assessment of proper freight charges within a period of less than 2 years as provided by section 22 of the Shipping Act, 1916.

By allowing continued publication of the time limitation and custody rules, the Commission is accepting an additional administrative burden which rightfully belongs with the carriers. These rules as presently published screen the provisions of section 22 from the shipper. The Commission believes that such rules constitute unfair treatment of shippers requiring remedial action based on section 14 fourth of the Shipping Act.

The proposed rulemaking is designed to eliminate any tariff rule which restricts shippers from filing a claim for any period less than 2 years and requires that every tariff contain a rule which advises the shipper of the right to file a claim within 2 years.

The majority of the present restrictive rules fall under two categories. One restricts the shipper to filing an overcharge claim within 6 months and the other requires the shipper to file for discrepancies in weight and measurement to only that period of time that the cargo is in the custody of the carrier. It is not intended that this rulemaking will alter the heavy burden of proof already required of the shipper for those claims where a shipment has left the custody of the carrier.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 14 fourth, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 813, 821, and 841a) it is proposed to amend parts 531 and 536 of 46 CFR by adding new §§ 531. and 536. reading as follows:

§§ 531. and 536.

(a) No tariff shall contain any provision which limits to less than 2 years from the date of payment of freight charges the time within which a shipper must submit a claim to a carrier to recover overcharges based on error in weight, measurement, or description. Nor shall a tariff contain any provision which limits the carrier's ability or right to consider claims submitted within the 2-year period.

(b) Every tariff shall contain a rule which clearly advises shippers/consignees of their right to file such a claim within 2 years for reparations with this Commission pursuant to section 22, Shipping Act, 1916.

(c) The carrier shall within 10 days of the receipt of such a claim forward a written notice to the claimant advising of the governing and pertinent provisions of the applicable freight tariff.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24896 Filed 9-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-272; RM-2945]

TELEVISION BROADCAST STATIONS

TV Channel Assignment to Angola, Ind.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action herein proposes the assignment of UHF television channel 63 to Angola, Ind., as that community's first television assignment. Petitioner, James A. Chase, states that the proposed channel could bring a first local television service to Angola.

DATES: Comments must be filed on or before October 24, 1978, and reply comments on or before November 13, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 24, 1978.

Released: August 30, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Angola, Ind.), BC Docket No. 78-272, RM-2945.

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by James A. Chase ("petitioner"), requesting the amendment of the television table of assignments (§ 73.606(b) of the Commission's rules) by the assignment of channel 51 to Angola, Ind. However, the proposed channel assignment would require the deletion of channel 51 from Sandusky, Ohio, and channel 65 from Defiance, Ohio. The channels assigned to Sandusky and Defiance are unoccupied and unapplied for. No responses have been received to the proposal.

2. Angola (pop. 5,117), in Steuben County (pop. 20,159),[2] is located in the extreme northeastern part of Indiana. Angola has no local television broadcast service.

3. Petitioner contends that the proposed assignment could provide for a local television broadcast service to Angola and surrounding area, and that the television station would be made available to local schools and the university for dissemination of classroom instruction and training. It states that basic television service to the area is received from Fort Wayne and South Bend stations but Angola and areas north of the city are located in the fringe areas of both services. Petitioner claims that the major resort area north of Angola sits in a deep hole, well shelded from the Fort Wayne and South Bend television signals, and that, at times, they are unviewable in these areas unless served by a local cable system. Petitioner asserts that since no interest has been demonstrated in either channel 51 in Sandusky or channel 65 in Defiance, there can be no harmful impact if they are deleted as is necessary in order to assign channel 51 to Angola.

5. Although no interest has yet been expressed for the use of the Sandusky and Defiance channels, there may well be a demand in the future for a local television service. In fact, it is to protect such future needs that the table of assignments was developed. Thus, we do not believe it would be in the public interest to deny these communities of an opportunity to acquire such a service. Since substitute channels are not available for both communities, we do not believe the public interest would be served by asigning channel 51 to Angola, even though it might be possible for petitioner to use it at a somewhat lower cost through use of equipment on hand. However, a staff study shows that channel 63 is available for assignment to Angola in conformity with the distance separation requirements and other technical criteria and requires no change in the existing television assignments. Channel 63 will therefore be proposed for Angola as its first television channel assignment.

6. As Angola is within 402 kilometers (250 miles) of the United States-Canadian border, Canadian concurrence of the proposal to amend the television table of assignments will be necessary before the assignment can be adopted.

7. Accordingly, pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is proposed to amend the television table of assignments (§ 73.606(b) of the Commission's rules) as follows:

City	Channel No.	
	Present	Proposed
Angola, Ind.		63

8. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before October 24, 1978, and reply comments on or before November 13, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as commments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing intitial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice

[1] Public notice of the petition was given on Aug. 29, 1977, report No. 1073.

[2] Population figures are taken from the 1970 U.S. census.

of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.40 (a), (b), and (c) of the Commission rules.

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-24856 Filed 9-1-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 192]

[Docket No. PS-52; Notice 1]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Cathodically Protected Transmission Lines

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise the testing requirements for determining the effectiveness of cathodic protection in controlling corrosion on transmission pipelines. This proposed rule would delete the requirment that cathodically protected transmission lines be monitored annually for corrosion and would include transmission lines within the same monitoring procedures that are provided for service lines and mains. This action is based on recommendations of the Technical Pipeline Safety Standards Committee and upon petitions from various State public service commissions. The proposed change would simplify the monitoring requirements for short sections of protected transmission lines and reduce the economic burden of testing such sections.

DATE: Comments must be received on or before October 15, 1978.

ADDRESS: Send comments to the Docket Branch, Room 6500, Materials Transportation Bureau, Trans Point Building, Washington, D.C. 20590. Comments should identify the docket and notice numbers and be submitted in triplicate. They will be available to the public for review at the above location.

FOR FURTHER INFORMATION CONTACT:

Peggy Hammond, 202-426-0135.

SUPPLEMENTARY INFORMATION: In accordance with article 11 of the Department of Transportation (DOT) policy of improving Government regulations issued March 1, 1978 (43 FR 9582), the Materials Transportation Bureau (MTB) had initiated a program for reviewing its existing regulations and revising or revoking those regulations which it determines are not achieving their intended purpose. MTB initiated a systematic review of the existing gas pipeline safety regulations in 1977, with the aid of the Department's Technical Pipeline Safety Standards Committee (TPSSC). The first segment of the regulations chosen for review was subpart I, Requirements for Corrosion Control, since that segment had been the subject of more inquiries and interpretations than any other. On January 18, 1978, the TPSSC completed its review of subpart I and recommended a few changes. In consideration of those recommendations, MTB is proposing by this Notice to amend § 192.465(a) as discussed hereafter. Some of the TPSSC recommended changes are not being proposed for adoption while others are being adopted as final rules which will be published separately in the FEDERAL REGISTER.

By a unanimous affirmative vote, the TPSSC proposed a change to § 192.465(a) to include transmission lines within the sampling procedure now provided for monitoring service lines and mains. Cathodically protected transmission lines now must be monitored annually. The TPSSC pointed out that requirements for monitoring short sections of transmission lines should not be different from those for short sections of distribution lines since cathodic protection is equally effective on both transmission and distribution lines and hazards are not any greater. The TPSSC argues that the proposed change would simplify the monitoring of short sections of protected transmission lines and reduce the economic burden of testing all such sections. MTB also had received petitions from the Arkansas Public Service Commission (Docket No. 76-29), the Virginia State Corporation Commission (Docket No. 76-12), and the Cathodic Protection Service (Docket No. 76-30) to undertake rulemaking action to permit the monitoring of short sections of transmission lines on other than an annual basis.

The current § 192.465(a) requires that each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

The rule specifically limits application of the sampling procedure to certain distribution lines. An MTB review of the gas pipeline accident data contained in its leak-reporting and information system shows that corrosion does not present any greater problem on transmission pipelines than on distribution pipelines. In consideration of this data and the technical fact that cathodic protection is an equally effective method for controlling corrosion on transmission pipelines, MTB believes that the extra precaution of the present regulation requiring that all short sections of transmission pipelines under cathodic protection be monitored annually is too stringent. Furthermore, because transmission lines are usually located away from populated areas whereas distribution mains and services are generally in populated areas, MTB believes the more stringent annual monitoring requirement for short sections of transmission lines is not warranted on a public safety basis.

In consideration of the foregoing, MTB proposes that part 192 of title 49 of the Code of Federal Regulations be amended by revising paragraph (a) of § 192.465 to read as follows:

§ 192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains and transmission lines, not in excess of 100 feet, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be sur-

veyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

* * * * *

NOTE.—MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

(49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR App. A of Part 1 and App. A of Part 102)

Issued in Washington, D.C., on August 28, 1978.

CESAR DE LEON,
Acting Director,
Office of Pipeline Safety Operations.

[FR Doc. 78-24935 Filed 9-1-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

[49 CFR Part 195]

[Docket No: PS-53; Notice 1]

TRANSPORTATION OF LIQUIDS BY PIPELINE

Valve Spacing on Pipelines Carrying Highly Volatile Liquids

AGENCY: Materials Transportation Bureau.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes new regulations to reduce the amount of liquid spilled in accidents involving pipelines carrying highly volatile liquids (HVL) in inhabited areas. Remotely controlled or automatic valves would be required on new pipelines and on certain existing pipelines at points more than 6.0 km (3.7 mi) from another valve. Also, most existing valves would be required to be equipped for remote control unless they are designed for automatic control. This action is taken because MTB accident reports show that HVL pipelines have caused a substantially higher percentage of deaths, injuries, and property damage than liquid pipelines carrying less volatile commodities.

DATE: Comments must be received by October 31, 1978. Late filed comments will be considered so far as practicable.

ADDRESS: Comments should identify the docket and notice numbers and be submitted in triplicate to the Docket Branch, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590. Comments are available at Docket Room 6500.

FOR FURTHER INFORMATION CONTACT:

Peggy Hammond, 202-426-0135.

SUPPLEMENTARY INFORMATION: *Need for this proposal.* This rulemaking proceeding concerns the safety problem of limiting the amount of highly volatile liquid spilled from a pipeline in areas inhabited by people. The need to reduce the amount of highly volatile liquid spilled in a pipeline accident is demonstrated by the Materials Transportation Bureau's (MTB) pipeline accident reports filed by carriers under part 195, by the National Transportation Safety Board's "Special Study of Effects of Delay in Shutting Down Failed Pipeline Systems and Methods of Providing Rapid Shutdown" (Report No. NTSB-PSS-71-1), by the Mechanics Research, Inc. report, "Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failure Due to Overpressure" (DOT-OS-30008), and by the Battelle Laboratories' report, "Transportation of Highly Volatile, Toxic, or Corrosive Liquids by Pipeline" (DOT/OPSO-75/06). Copies of these published reports are available for inspection in the docket for this proceeding at MTB's Docket Room 6500.

A definition of a "highly volatile liquid" has been proposed for adoption under part 195 in notice 1 of docket PS-51 (43 FR 35513, August 10, 1978), but is repeated here for clarity: "A highly volatile liquid (HVL) means a liquid which has an absolute vapor pressure of 10 kPa (14.5 psia) or more at 37.8° C (100° F)."

The MTB accident reports show that over the past 9 years, HVL pipelines have caused a substantially higher percentage of deaths, injuries, and property damage than liquid pipelines carrying less volatile commodities. The record of liquid pipeline accidents reported on form DOT-7000-1 from 1968 through 1977 shows that although HVL pipeline accidents comprise only 10 percent of the total number of accidents involving liquid pipelines, the HVL pipeline accidents caused 66 percent of the deaths, 50 percent of the injuries, and 30 percent of the property damage. Thus, a reduction in either the number of accidents or severity of accidents involving HVL would result in significant reductions in deaths, injuries, and property damage caused by liquid pipelines overall.

Also, these statistics clearly illustrate the higher risk posed by an HVL spill than by spills of other liquids. The higher potential for damage is due to the fact that when HVL is released into the atmosphere, it forms a gas cloud, which is a markedly different and more insiduous hazard than that presented by spills of less volatile liquids. Inside a pipeline, HVL will remain a liquid as long as the pressure is higher than the vapor pressure of the liquid. If a pipeline rupture occurs, and the pressure is reduced to atmospheric, some of the escaping liquid will immediately flash to gas. The remainder will turn to gas as it picks up heat from its surroundings. The gas forms a cloud that will move downhill or downwind depending on the terrain, type of liquid involved, and atmospheric conditions. Because it is generally heavier than air, the rapidly expanding gas cloud will tend to hug the ground as it continues to move. If a source of ignition is encountered, a petroleum gas cloud will burn or explode. In the case of anhydrous ammonia, the greatest danger is that of toxicity or asphyxiation. For either commodity, the hazards are severe.

The amount of HVL spilled in a pipeline accident is affected by a number of factors including the size of the pipeline and rupture, liquid flow rate and flow characteristics, the natural boiling point of the liquid, the time to detect a failure, time to isolate and shut down a failed section, topography of the area, and spacing of valves or other means of isolating a line section. Of these factors, only the time to detect a failure, time to isolate and shut down a failed section and spacing of valves or other means to isolate a line section can be readily affected by regulation.

Objectives. To reduce the amount of HVL spilled in pipeline accidents in inhabited areas, MTB proposes to establish two new regulations on the spacing and operation of valves. The present regulation on installation of valves, § 195.260, does not require uniform or close valve spacing, and currently part 195 does not contain a specific regulation on valve operation.

Under the proposed §§ 195.260(g) and 195.407, automatic or remote control valves would have to be installed in inhabited areas on newly constructed HVL pipelines, and on existing HVL pipelines that are replaced, relocated, or otherwise changed (see § 195.200), at points on the pipeline which are more than 6.0 km (3.7 mi) from a sectionalizing valve. In addition, the proposed § 195.407 would require that each newly installed or existing block valve on an HVL pipeline in an inhabited area be equipped for remote operation from an attended location unless the valve operates automatically or lies 6.0 km (3.7 mi) or less from a sectionalizing valve that operates remotely or automatically.

On new HVL pipelines this proposal would result in line sections 12 km (7.5 mi) or less in length that can be isolated rapidly with remote control or automatic valves. Thus, the amount of spill after a rupture is detected could be limited to that contained in a 12 km (7.5 mi) line section plus the volume

discharged before the line section is shut down.

For existing HVL pipelines, the proposal would have a somewhat different effect since line sections and valves are already in place. While under the proposed § 195.407 existing line sections that are more than 12 km (7.5 mi) long would have to be equipped for remote or automatic shutdown, those line sections would not have to be reduced in length by the installation of new valves under § 195.260(g) until a carrier replaces, relocates, or otherwise changes a part of the line section.

The use of sectionalizing valves to aid rapid shutdown and limit the amount of HVL released in a pipeline accident is supported by the NTSB study (PSS-71-1) which states on page 19: "A large proportion of the loss in the accidents was due to the inability or failure to shut down rapidly, not to the original failure * * *. By reducing the time to shut down a failed pipeline system to minimize the loss of material, the hazardous effects to the public, to persons working near the pipeline, and to property can be minimized or eliminated * * *."

The MRI study (DOT-AS-30008) also supports this approach by stating in paragraph 5.3.1.3: "* * * it is obvious that the use of remotely controlled valves could drastically decrease the amount of product loss compared to the use of manual valves." And in paragraph 5.2.3.1.2: "Strong correlations were found to exist between accident effects (the number of fatalities, the number of injuries, and the amount of property damage) and the amount of product discharge."

The benefits of rapid shutdown and sectionalizing a pipeline are discussed by the Battelle study (DOT/OPSO-75/06) which states on page 93: "The time to isolate a pump station and/or shut down the pipeline system varies with the degree of automatic controls * * *. The fact that a majority of block valves must be manually closed indicates a very long timelag in closing off a section of a damaged pipeline * * *. One remedy would be to install remote control operators on the block valves. This is only a partial solution, however, since the spacing of the valves is also a factor."

In developing this proposal, MTB has also considered the industry code for Liquid Petroleum Transportation Piping Systems, ANSI B31.4 (1974 ed.). This code in section 434.15.2 requires remote control valve installation at 7.5-mile maximum spacing in industrial, commercial, or residential areas. The ANSI B31.4 does not define "industrial, commercial, or residential areas."

MTB is proposing that valves be installed in "inhabited areas." The proposed definition of this term would include virtually all of the industrial, commercial, and residential areas mentioned in ANSI B31.4. MTB believes that an economic burden unmatched by safety benefits would be placed on those pipelines in sparsely populated areas if similar valving were required in those areas.

The proposed definition of "inhabited area" is based on the projected area that might be subjected to a hazard should an accidental release of HVL occur. NTSB accident reports show that an HVL vapor cloud has migrated as far as 1 mile before being ignited or dispersed (see NTSB-PSS-71-1, Effects of Delay in Shutting Down Failed Pipeline Systems and Methods of Providing Rapid Shutdown). The area subjected to hazard by an accidental release therefore can reasonably be described as a circle 1 mile in diameter centered on the point of release. For simplicity, an area 2 miles by 2 miles can be substituted for this circle, giving an area of 4 square miles that might be subjected to hazard by an HVL release.

To distinguish those areas where the proposed valving would be required, an "inhabited area" would be defined as those areas with more than 10 buildings intended for human occupancy within the hazardous area. The proposed level of occupancy is based on the criteria for a class 2 location for gas pipelines subject to 49 CFR Part 192.

Alternatives. The time to detect a failure and the time to isolate and shut down a failed line section are subjects of an MTB rulemaking proceeding on procedures and training for personnel in handling operational and emergency situations (43 FR 35513, August 10, 1978). Improving human response time only partially resloves the problem of limiting an HVL spill, however, because of the additional time it takes to travel to and close manually operated valves or shut down a pipeline by some other manual method. MTB believes, therefore, that HVL pipelines must have appropriately spaced automatic or remote control valving, as proposed by this notice, to adequately reduce the time it takes to isolate and shut down a line section.

Means to rapidly isolate and shut down a line section other than by automatic or remote control valving have been considered and rejected as possible regulatory alternatives. For example, strategic placement of stopple equipment and mechanical pipeline pinchers has been rejected because in addition to the traveltime involved, there also would be a long time required to uncover the pipeline and install this equipment.

Issues. MTB recognizes that compliance with this proposal might not be equitable for all carriers. Carriers who transport HVL only on an occasional basis would be required to install the same number and type of valves as those carriers transporting HVL continuously. Comment on this issue is specifically requested.

In the case of new or existing pipelines, it is important to note that in some situations new valves might have to be installed as close as 6.0 km (3.7 mi) from another valve. Although this close a spacing would be half that required for new pipelines in general, MTB believes that the situation should not arise often and it is preferable to the alternatives of not installing any valve or providing longer line sections overall.

Full retroactive application to existing HVL lines of the rule being proposed for new HVL pipelines is not considered economically feasible or prudent. In order to install valves every 12 km (7.5 mi) or less on existing HVL pipelines, it would be necessary to shut down and cut the line a great number of times. Such action would be inordinately expensive, would cause large temporary reductions in pipeline throughput, and would be hazardous in itself.

Effective date. MTB is also interested in receiving comments on what would be an appropriate effective date for the proposal, particularly how much leadtime would be needed to meet § 195.407 on existing pipelines.

NOTE.—MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

In consideration of the foregoing, MTB proposes to amend part 195 of title 49 of the Code of Federal Regulations as follows:

1. By adding a new definition to § 195.2 as follows:

§ 195.2 Definitions.

* * * * *

"Inhabited area" means an onshore area that extends 1 mile on either side of the centerline of any continuous 2-mile length of the pipeline that has more than 10 buildings intended for human occupancy. Each separate dwelling unit in a multiple dwelling unit is counted as a separate building intended for human occupany.

* * * * *

2. By adding a new paragraph (g) to § 195.260 to read as follows:

§ 195.260 Valves: Location.

* * * * *

(g) On a pipeline in an inhabited area that transports a highly volatile liquid, at locations that are more than 6.0 km (3.7 mi) from a sectionalizing valve.

3. By adding a new paragraph § 195.407 to read as follows:

§ 195.407 Sectionalizing valves.

Each sectionalizing valve on a pipeline in an inhabited area that transports a highly volatile liquid must be either equipped for operation at an attended location or designed to operate automatically unless it is located 6.0 km (3.7 mi) or less from a sectionalizing valve that is so equipped or designed.

(Sec. 6, Pub. L. 89-670, 80 Stat. 437 (49 U.S.C. 1655; 18 U.S.C. 831-835); 49 CFR 1.53, app. A of pt. 1, and app. A of pt. 102.)

Issued in Washington, D.C., on August 28, 1978.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc. 78-24898 Filed 9-1-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1320, 1322]

[Ex Parte Nos. 73, MC-1]

REGULATIONS FOR PAYMENT OF RATES AND CHARGES AND PAYMENT OF RATES AND CHARGES OF MOTOR CARRIERS

Informal Conferences

AGENCY: Interstate Commerce Commission.

ACTION: Informal conference to discuss modification and improvement of credit regulations.

SUMMARY: Various parties have requested the Commission to hold an informal conference to discuss the Commission's credit regulations. An informal conference with the Commission's staff will therefore be held on September 25, 1978, to discuss what would be reasonable credit regulations for rail and motor carriers.

DATE: Persons intending to participate are requested to notify the Commission by September 19, 1978.

ADDRESSES: Letters of intent to participate to: Interstate Commerce Commission, Room 5342, Washington, D.C. 20423. Informal conference scheduled for September 25, 1978, at 9:30 a.m. at 12th and Constitution Avenue NW., Hearing Room F, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7693.

SUPPLEMENTARY INFORMATION: In an order served April 20, 1977, the Commission decided to hold this proceeding in abeyance for 1 year. During this period, the Bureaus of Operations and Accounts were ordered to gather data on the frequency and magnitude of violations of the existing credit regulations including the circumvention of such rules by transport clearing organizations. In addition, the Commission indicated that it would further investigate the feasibility of implementing the proposed rules or modifications thereof as necessary to insure compliance with the Interstate Commerce Commission.

Various parties to this proceeding have filed petitions requesting that an informal conference be held where shippers, carriers, other interested persons, and the Commission's staff, can discuss the present credit regulations and how they can be modified and improved. It is hoped by petitioners that a compromise can be reached and that proposed rules be suggested. These proposed rules would then be subject to notice and formal comment by the public.

In order to provide shippers and carriers with a forum to informally discuss and eliminate areas of controversy in the area of credit regulation, an informal conference is scheduled for September 25, 1978, at 9:30 a.m. at the Commission's Offices in Washington, D.C. Persons intending to participate are requested to notify the Commission by September 19, 1978. Letters of intent to participate should be addressed to the Interstate Commerce Commission, Room 5342, Washington, D.C. 20423.

To promote an informative discussion of needed changes, a summary of the Commission's Bureaus of Operations' and Accounts' survey of the payment and collection of freight bills is attached. Those parties who want a copy of the complete report can request a copy by writing to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

After completion of the informal conference, a decision will be made as to whether an additional stay or relief is warranted and to what extent further Commission action is needed.

By the Commission, Chairman O'Neal.

H.G. HOMME, Jr.,
Acting Secretary.

RESULTS

	Average	Standard error
Railroads		
Workdays:		
From delivery to payment	[1]12.8	[1]1.1
From delivery to presentation of bill	[1]2.5	[1]0.7
From presentation of bill, on delivery to payment	[1]8.7	[1]1.4
Calendar days:		
From delivery to payment	[1]18.6	[1]1.1
From delivery to presentation of bill	[1]3.6	[1]1.8
From presentation of bill or delivery to payment	[1]12.7	[1]1.3
Average value of bills	$1,423	$428
Average dollar-days (calendar) from delivery to payment	$23,225	$3,949
Total dollar-days (calendar) (for all railroads)	$647,000,000,000	$110,000,000,000
Motor carriers		
Workdays:		
From delivery to payment	[1]12.6	[1]1.9
From delivery to billing	[1]0.8	[1]1.3
From billing to payment or delivery to payment	[1]10.8	[1]3.3
Calendar days:		
From delivery to payment	[1]17.7	[1]2.8
From delivery to billing	[1]1.3	[1]3.1
From billing to payment or delivery to payment	[1]14.5	[1]2.0
Average value of bills	$108	$138
Average dollar-days (calendar) from delivery to payment	$2,341	$2,601
Total dollar-days (calendar) (for all motor carriers)	$766,000,000,000	$851,000,000,000

[1]Days.

[FR Doc. 78-24779 Filed 9-1-78; 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.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32797]

CORPORACION AERONAUTICA DE CARGA, S.A.

Notice of Hearing

A hearing will be held in this proceeding on September 19, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connnecticut Avenue NW., Washington, D.C.

The issues involved in this proceeding are discussed in a notice issued in this proceeding on July 18, 1978. See also the transcript of the prehearing conference in this proceeding held on August 29, 1978. (The notice and transcript are on file in the Docket Section of the Civil Aeronautics Board.)

Dated at Washington, D.C., August 29, 1978.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc. 24868 Filed 9-1-78; 8:45 am]

[6320-01]

[Docket Nos. 33112, 33136; Order 78-8-150]

TEXAS INTERNATIONAL-NATIONAL ACQUISITION CASE AND ENFORCEMENT INVESTIGATION [1] AND NORTH CENTRAL-SOUTHERN MERGER CASE

Order Instituting Poceedings; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of August 1978.

The above order inadvertently omitted granting a number of outstanding petitions for leave to intervene. Accordingly, on page 38892, paragraph 4 should read:

4. The petitions for intervention of Continental Air Lines, Inc., Braniff Airway, Inc., Delta Air Lines, Inc., Western Air Lines, Inc., the City of Harlingen, Tex., the U.S. Department of Transportation, the Flight Engineers International Association, AFL-CIO, United Air Lines, American Airlines, *Transport Workers Union of America, AFL-CIO, Frontier Airlines, Inc., Northwest Airlines, Inc., Eastern Air Lines, Inc., Allegheny Airlines, Inc., Ozark Air Lines, Inc., Seaboard World Airlines, Inc., Air Line Pilots Association, International, the City of Houston and the Houston Chamber of Commerce, and Pan American World Airways, Inc.*, in Docket 33112, and Western Air Lines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Minneapolis-St. Paul Metropolitan Airports Commission, United Air Lines, American Airlines, the Master Executive Council of North Central Pilots, *Transport Workers Union of America, AFL-CIO, the U.S. Department of Transportation, Allegheny Airlines, Inc., Air Line Employees Association, International, Frontier Airlines, Inc., Master Executive Council of North Central Flight Attendants, Northwest Airlines, Inc., Eastern Air Lines, Inc., Continental Air Lines, Inc., Ozark Air Lines, Inc., and Seaboard World Airlines, Inc.*, in docket 33136, be granted:

Dated: August 29, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24869 Filed 9-1-78; 8:45 am]

[1] See FR Doc. 78-24575, 43 FR 38886, Aug. 31, 1978.

[6335-01]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a Conference of the Connecticut Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 p.m. on September 26, 1978, Hartford, Conn.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this conference is to release the battered women's video tape.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24758 Filed 9-1-78; 8:45 am]

[6335-01]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on September 25, 1978, Maine Teachers Association, Augusta, Maine.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24760 Filed 9-1-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 2:30 p.m. on September 13, 1978, 911 Walnut, Room 3100, Kansas City, Mo. 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to discuss the scope, principal issues and structure of a possible conference on desegregation.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24761 Filed 9-1-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end and 2:30 p.m. on September 27, 1978, 911 Walnut Street, Room 3100, Kansas City, Mo. 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to continue planning for the desegregation conference.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24762 Filed 9-1-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 2:30 p.m. on October 11, 1978, 911 Walnut Street, Room 3100, Kansas City, Mo. 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to continue planning for a desegregation conference.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24763 Filed 9-1-78; 8:45 am]

[6335-01]

NORTH DAKOTA ADVISORY COMMITTEE

Meeting; Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a Planning and Conference of the North Dakota (SAC) of the Commission originally scheduled for September 7, 1978 (FR Doc. 78-21237) on page 33796 has been changed to September 14, 1978, Federal Office Building, 220 E. Rosser, Conference Room 450, Bismarck, N. Dak. 58501.

The time will remain the same.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24764 Filed 9-1-78; 8:45 am]

[6335-01]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on September 27, 1978, Tavern Motor Inn, Montpelier, Vt.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24765 Filed 9-1-78; 8:45 am]

[6335-01]

WYOMING ADVISORY COMMITTEE

Meeting: Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission originally scheduled for September 9, 1978 (FR Doc. 78-23131) on page 36670 has been changed to September 23, 1978.

The meeting place and time will remain the same.

Dated at Washington, D.C., August 29, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24766 Filed 9-1-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

RIO GRANDE VALLEY SUGAR GROWERS, INC., ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Rio Grande Valley Sugar Growers, Inc., P.O. Drawer A, Santa Rosa, Tex. 78593, a processor of sugar (accepted August 24, 1978); (2) Goodimade Manufacturing Co., 1010 Race Street, Philadelphia, Pa. 19107, a producer of children's shirts and blouses (accepted August 28, 1978); and (3) Biflex International, Inc., One Penn Plaza, New York, N.Y. 10001, a producer of women's body-supporting garments (accepted August 29, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 11974 (Pub. L. 930618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230,

no later than the close of business of the 10th calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-24777 Filed 9-1-78; 8:45 am]

[3510-25]

Industry and Trade Administration

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, September 20, 1978, at 1 p.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has nine parts:

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Review of recommendations to be made to the full Computer Systems Technical Advisory Committee:
   a. Increasing the validity period of licenses to two years.
   b. Revocation of the requirement to return used licenses to the Department of Commerce.
4. Status of and discussion on industry recommendation for establishment of a Qualified Product Distribution License.
5. Status of and discussion on raising the parameters for the Distribution License.
6. Discussion of technical data to be provided in advance of the issuance of a license related to customer training and software.
7. Requirement for full information of add-ons to small computers, i.e., below certain PDR levels.
8. Requirement for extensive information on form DIB-6031P related to add-ons for computer installed several years previously.
9. Delegation of authority for parts and supplies and other items.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone, 202-377-4196.

Dated: August 21, 1978.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-24945 Filed 9-1-78; 8:45 am]

[3510-15]

Maritime Administration

[Docket No. S-620]

CHAS. KURZ & CO., INC.

Notice of Application

Notice is hereby given that Chas. Kurz & Co., Inc., 313 Chestnut Street, Philadelphia, Pa. 19106 has filed an application dated August 17, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1978, unless extended, to operate the SS *Chilbar*, 33,692 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before *September 13, 1978*, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the act is ordered to be held with respect to the subject application, the purpose of such hearing will be receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes

and policy of the act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

By order of the Maritime Subsidy Board.

Dated: August 30, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-24894 Filed 9-1-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Mangement Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee (SSC). The Committee will meet to review drafts of fishery management plans for shrimp and groundfish, and socioeconomic factors related to each of these plans.

DATES: The Committee will review the shrimp fishery management plan on Tuesday, October 3, 1978, 1 p.m. until 5 p.m.; and Wednesday, October 4; 1978, 8 a.m. until 12 noon. The Committee will review the groundfish fishery management plan on Wednesday, October 4, 1978, 1 p.m. until 5 p.m. and Thursday, October 5, 1978, 8 a.m. until 5 p.m.

ADDRESS: The meetings will take place in the Belmont and Preakness Rooms of the Holiday Inn Airport, 2929 Williams Boulevard, Kenner, La.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, 813-228-2815.

Dated: August 30, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-24838 Filed 9-1-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

SHRIMP ADVISORY SUBPANEL

GROUNDFISH ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Mangement Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established Advisory Subpanels on Shrimp and Groundfish. These subpanels will meet to review drafts of fishery management plans for shrimp and groundfish.

DATES: The Groundfish Advisory Subpanel will convene on Tuesday, October 3, 1978, 8 a.m. until 5 p.m.; and Wednesday, October 4, 1978, 8 a.m. until 12 noon. The Shrimp Advisory Subpanel will convene on Thursday, October 5, 1978, 10 a.m. until 5 p.m. and Friday, October 6, 1978, 8 a.m. until 3 p.m. This meeting is open to the public.

ADDRESS: The meetings will take place in the Derby, Belmont, and Preakness Rooms of the Holiday Inn Airport, 2929 Williams Boulevard, Kenner, La.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, 813-228-2815.

Dated: August 30, 1978.

WINFRED H. MEIBOHM,
Associate Director, National, Marine Fisheries Service.

[FR Doc. 78-24839 Filed 9-1-78; 8:45 am]

[3510-22]

WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Hawaii section of the Advisory Sub-Panel on Spiny Lobster and the Spiny Lobster Planning Team of the Western Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Mangement Act of 1976 (Pub. L. 94-265), will meet to discuss management measures for the spiny lobster fishery of the northwestern Hawaiian Islands. For more information on seating, changes to the agenda or written comments, contact the Executive Director.

DATE: The meeting will convene at 10 a.m. on Tuesday, September 25, 1978, and adjourn at approximately 4 p.m. the meeting is open to the public.

ADDRESS: The meeting will be held in the conference room of the National Marine Fisheries Service Southwest Fisheries Center located at 2570 Dole Street in Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT:

Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, 808-523-1368.

Dated: August 30, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-24840 Filed 9-1-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

Changes in Correlation Tariff Sheet

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes in the "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated."

SUMMARY: A notice, published in FEDERAL REGISTER on January 4, 1978, Part VI, announced details of the new textile category system which became effective January 1, 1978. On January 25, 1978, FEDERAL REGISTER, Vol. 43, No. 17, page 3421; and on March 3, 1978, FEDERAL REGISTER, Vol. 43, No. 43, page 8828 listed certain corrections and changes in the textile category system. There is published below a list further amending the system to reflect corrections and changes in the "Tariff Schedules of the United States Annotated."

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles,

U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4212.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, Department of Commerce.

CORRELATION CHANGE SHEET—TEXTILE CATEGORIES

Page and Action
46—Add 380.3941 to Cat. 333
51—Add 382.0031
51—Add 382.0684
59—Delete 382.0038
59—Add 382.0037
60—Add 382.0697
60—Delete 382.0698
61—Delete 380.3984
61—Add 380.3986
69—Delete Conversion factor 36.8 for Cat. 445
69—Add Conversion factor 14.88 for Cat. 445
69—Delete Conversion factor 36.8 for Cat. 446
69—Add conversion factor 14.88 for Cat. 446
70—Delete Conversion factor 36.8 for Cat. 446
70—Add Conversion factor 14.88 for Cat. 446
70—Delete 382.6033
70—Add 382.6045
70—Delete 382.6046
71—Add 382.6333
71—Add 382.6336
71—Delete 382.6345
78—Delete 376.5610
78—Add 376.5609
78—Add 376.5612
87—Delete 376.1600
91—Add 376.1600
91—Delete 380.8486
91—Add 380.8487
92—Delete 382.8156
92—Add 382.8157
92—Delete 703.1500
92—Add 703.1530
93—Delete 363.6030
97—Delete 360.7600
97—Add 360.7610
98—Add 363.6030
100—Delete 366.4500
100—Add 366.4510
100—Delete 366.4600
100—Add 366.4610
103—Delete 360.0500
103—Add 360.0510
103—Delete 360.1000
103—Add 360.1010
103—Delete 360.1500
103—Add 360.1510
104—Delete 361.4200
104—Add 361.4210
104—Delete 361.4400
104—Add 361.4410
108—Delete 360.7800
108—Add 360.7810
108—Delete 361.5425
108—Add 361.5426
108—Delete 361.5422
108—Add 361.5420.

CERTIFIED HANDLOOMED AND FOLKLORE PRODUCTS
(Add to Page 119)

360.0505, 360.1005, 360.1505, 360.7605, 360.7805, 361.4205, 361.4405, 361.5418, 366.4505, 366.4605.

[FR Doc. 78-24917 Filed 9-1-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78-3]

CO-2 BEER DISPENSING SYSTEMS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition to develop mandatory safety standards for consumer use of CO-2 beer dispensing systems to address the hazards of explosion due to over-pressurization of the keg that may result from malfunctioning or misused pressure regulators. The Commission concludes from the information available that a mandatory consumer product safety standard is not reasonably necessary at this time to reduce or eliminate any risk of injury that may be associated with CO-2 beer dispensing systems.

FOR FURTHER INFORMATION CONTACT:

Irwin Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the FEDERAL REGISTER.

On September 27, 1977, Mr. Nixon deTarnowsky submitted a petition (CP 78-3) requesting: (a) that the Commission require all beer dispensing systems with compressed CO-2 gas to have pressure relief valves, and (b) that brewers and distributors of keg beer be required to place a warning on the keg concerning the dangers of over-pressurization and provide instructions on the safe operation of the system. The petitioner believes that beer keg explosions caused when faulty or misused regulators permit excessive buildup of CO-2 gas in the keg can be prevented by pressure relief valves.

Steel tanks containing high-pressure, liquified carbon dioxide (CO-2) are often used to dispense beer from aluminum or steel kegs in bars and restaurants. Members of the industry state that CO-2 is occasionally used to provide the pressure to dispense beer in private homes or at picnics, although hand pumps are most frequently used by consumers dispensing draft beer. The keg pressure desirable for proper dispensing of draft beer is about 15 pounds per square inch (psi), while the pressure in the CO-2 bottle is about 850 psi. A regulator attached to the CO-2 cylinder, when functioning and adjusted correctly, will permit a proper output pressure of about 15 psi. Improper use of malfunctioning of the regulator may result in a keg pressure sufficient to explode the keg and cause death or serious injury.

The interface between the consumer and the supplier of a total beer dispensing system takes a variety of different forms, involving wholesale, retail, and service industry segments, as well as component manufacturers and brewers. Who in this chain of distribution may provide the consumer with the complete dispensing system, i.e., draft beer, keg, tap, hose, regulator and bottle of CO-2, varies considerably from jurisdiction to jurisdiction.

Injury data available to the Commission indicate that over the past 14 years there have been six incidents in consumer-settings such as picnics of beer keg explosions caused by over-pressurization from CO-2 gas. These six explosions resulted in five deaths and one injury. One explosion was attributed to a malfunctioning regulator, another to the consumer's failure to reset the regulator after installing a fresh bottle of CO-2, and a third involved the use of equipment not intended for beer dispensing systems. Three more explosions resulted when consumers unfamiliar with the proper use of CO-2 systems and the hazards associated with over-pressurization released excessive amounts of CO-2 into the keg. According to reports provided to the Commission, at least four, possibly all six, of the dispensing systems in question lacked pressure relief valves.

The Commission is aware of several safety devices currently available, including a pressure relief valve in the regulator, and automatic shutoff valve in the regulator, a pressure relief valve in the keg tapping mechanism, and a rupture-disc for the hose linking the CO-2 bottle and the keg. These devices, particularly when used in combination, appear to address adequately any risk of injury that may be associated with malfunctioning or misused regulators. Industry sources indicate that the difference in cost between systems with safety devices and systems without is negligible. Retrofits for existing regulators and/or tapping heads also appear to be technologically feasible and economically practicable.

On April 25, 1978, the American National Standards Institute (ANSI) sponsored a meeting to consider the hazards associated with CO-2 beer dis-

pensing systems. The petitioner chaired the conference, which was attended by representatives of 17 component and container manufacturers, the National Soft Drink Association, the American Society of Mechanical Engineers (ASME), and the Consumer Product Safety Commission. As a result of the meeting, the American Society of Mechanical Engineers has agreed to expand the work of its food, drug, and beverage equipment committee to develop voluntary standard specifically for CO-2 dispensing systems. The committee will consider both a "technological fix" and cautionary labeling, as suggested by the petitioner. Although representatives from the U.S. Brewers Association did not attend the conference, they subsequently expressed a willingness to cooperate in the development of a voluntary standard. The willingness expressed by these diverse groups to cooperate in such volutary efforts suggests that a high degree of conformance with any voluntary standard developed could result.

The Commission has carefully considered the matters raided in the petition and all the injury and techical information available to the Commission. The Commission has also observed the industry's voluntary progress toward resolving hazards of concern to the petitioner. Based on these considerations, the relative priority of the risk of injury, and Commission resources available for rulemaking procedures for all consumer products, it does not appear tht a mandatory standard is reasonably necessary at this time to address any risk of injury that may be associated with CO-2 beer dispensing systems. Accordingly, the petition is denied.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission 1111 18th Street NW., Washington D.C. 20207.

Dated: August 29, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-24772 Filed 9-1-78; 8:45 am]

[6355-01]

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council (PSAC) on Monday, September 25, 1978 from 9:30 a.m. to 5 p.m. and Tuesday, September 26, 1978 from 9 a.m. to 4 p.m. in the Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dee Wilson, Committee Management Officer, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

SUPPLEMENTARY INFORMATION: The Advisory Council was established by Section 28 of the Consumer Product Safety Act (CPSA), which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the act.

The proposed agenda for this meeting includes on Monday an orientation session and current update of CPSC activities intended to familiarize newly appointed Council members with the legislative mandate of the Commission and to bring the full Council up to date on current activities. On Tuesday, the Council will be briefed on CPSC's implementation of the interim safety standard on cellulose insulation; CPSC participation in the development of a voluntary safety standard to reduce the risk of injury associated with chain saw kickback, and the Commission's policy on classifying, evaluating, and regulating carcinogens in consumer products.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Council should notify the Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, by September 18, 1978. The notification should list the name of the individual who will make the presentation, the person, company, group, or industry on whose behalf the presentation will be made, the subject matter and the approximate time requested.

Dated: August 29, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-24774 Filed 9-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS, NATIONAL PETROLEUM COUNCIL, SUBCOMMITTEE ON UNCONVENTIONAL GAS SOURCES

Meeting

Purusant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Unconventional Gas Sources of the National Petroleum Council will meet on Tuesday, September 26, 1978, at 9 a.m., in the Columns Auditorium, 2 Houston Center, 909 Fannin Street, Houston, Tex.

The parent Committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

The subcommittee will discuss the scope of a study for an analysis of unconventional gas sources and will report its findings to the parent Committee.

The tentative agenda is as follows:

Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of unconventional gas sources.
Discuss an organizational structure for the study.
Discuss a timetable for completion of the study.
Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on August 29, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24767 Filed 9-1-78; 8:45 am]

[3128-01]

Energy Information Administration

OWNERS OF STORED PRODUCT REPORT

Cancellation of Data Reporting Requirement

AGENCY: Energy Information Administration.

ACTION: Notice of cancellation of data reporting requirement.

SUMMARY: The Energy Information Administration (EIA) hereby gives notice of the cancellation of the form FEA-101A, Owners of Stored Product Report.

EFFECTIVE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Anna Leimanis (Data Collection and Operations Division), EIA, Room 7312, 2000 M Street NW., Washington, D.C. 20461, 202-254-3047.

SUPPLEMENTARY INFORMATION: EIA has cancelled the form FEA-101A, Owners of Stored Product Report. The FEA-101A, filed on a monthly basis, provided the means by which all owners of stored product reported information to their respective storage operators, pursuant to the requirement of the mandatory petroleum allocation regulations. The completed FEA-101A was sent by the owner of stored product to the storage operator to facilitate the latter's filing of the FEA-103B, Storage Operators Monthly Report, which was a mandatory data collection report filed with DOE. In view of the expiration of the FEA-103B (43 FR 34524), EIA has determined that it is no longer necessary for owners to file the FEA-101A. Therefore, effective with the issuance of this FEDERAL REGISTER notice, filing of the FEA-101A is no longer required.

Issued in Washington, D.C. on August 22, 1978.

C. WILLIAM FISCHER,
Deputy Administrator, Energy Information Administration.

[FR Doc. 78-24900 Filed 9-1-78; 8:45 am]

[3128-01]

Office of Energy Research

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel will meet on Sunday, September 24, 1978, at 7:30 p.m. and Monday, September 25, 1978, from 9 a.m. until 3 pm., in the Program Control Room, 8222C, 20 Massachusetts Avenue NW., Washington, D.C.

The Panel was established to provide advice and guidance on a continuing basis to the Secretary of Energy through the Director, Office of Energy Research, with respect to the high energy physics research program.

The tentative agenda for the meeting is as follows:

Status of the fiscal year 1979 budgets for the National Science Foundation and the Department of Energy programs in high energy physics.
Factors toward the creation of an accelerator research and development subpanel
Plans and projects of the LBL Particle Data Group.
United States-Japanese collaborations and options.
Relative funding situations for university-based and laboratory-based research groups in high energy physics.

The meeting is open to the public. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management Office, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on August 31, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24963 Filed 9-1-78; 8:45 am]

[3128-01]

Office of the Secretary

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

I. A meeting of subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 12, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks, including a review of developments since the last meeting.
2. Settlement of disputes.
3. Pricing in an emergency.
4. Extraordinary and additional costs.
5. Status of legal clearances.
6. Future work of subcommittee C.

II. A meeting of the ad hoc working group of subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 12, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 2 p.m. The agenda is as follows:

1. Opening remarks.
2. Distinction between phases 1 and 2 in a real emergency.
3. Future work program.

III. A meeting of subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 13, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 9:30 a.m. The agenda is as follows:

1. Opeing remarks.
2. Procedures for securing antitrust clearances of oil company activities in an emergency.
3. Distinction between phases 1 and 2 in a real emergency.
4. Review Secretariat papers:
A. Improvement of voluntary offer allocation using mathematical methods.
B. National emergency tests.
C. Optimum design of emergency tests.
D. Procedures regarding oil movements counter to AR/AO directions.
5. Other AST-2 follow-up work:
A. Computer logging of voluntary offers.
B. Product imbalance calculations and procedures.
C. Questionnaire A and B reporting instructions.
D. Base period final consumption work program.
6. Future work program.

IV. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 14, 1978, at the offices of British Petroleum Co. Ltd., Britannic House, Moor Lane, London, England, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by the Chairman, including:
A. Communications to and from the IEA.
B. Report on SEQ meeting of July 6, 1978.
2. Matters arising from the record note of IAB meeting on June 4, 1978.
3. Position of reporting companies under:
A. EEC competition regulations.
B. U.S. voluntary agreement.
4. Report of subcommittee C including:

A. Opening remarks, including a review of developments since the last meeting.

B. Settlement of disputes.

C. Pricing in an emergency.

D. Extraordinary and additional costs.

E. Status of legal clearance.

F. Future work of subcommittee C.

5. Report of subcommittee A including:

A. Procedures for securing antitrust clearances of oil company activities in an emergency.

B. Distinction between phases 1 and 2 in an emergency.

C. Review of secretariat papers dealing with AST-2 follow-up activities.

D. Other AST-2 follow-up work.

E. Future work program.

6. Report of ISAG Manager.

7. Procedure for changing chairmanship of IAB and subcommittees.

8. Future work program for the IAB.

9. Dates and venues of future meetings of IAB and subcommittees.

V. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on September 12 and 13, 1978, at the offices of Shell International Petroleum Co., Ltd., Shell Centre, London, England, beginning at 9:30 a.m. on September 12. The agenda is as follows:

1. Status of SOM and IWP activities and arrangements for future meetings.

2. Report on IWP meeting with ad hoc group and SOM 20/21st June, 1978.

3. Discussion of FIS forms IV and V and the instructions for their completion. Preparation of response to SOM.

4. Consideration and preparation of a response to SOM on the subject of publication of oil market data.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., August 31, 1978.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc. 78-25064 Filed 9-1-78; 10:55 am]

[3128-01]

Economic Regulatory Administration

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Allocation Period of October 1, 1978 through March 31, 1979

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation program is hereby issued for the allocation period of October 1, 1978 through March 31, 1979.

The buy/sell list for refiners for the allocation period commencing October 1, 1978, is set forth as an appendix to this notice. The provisions of 10 CFR 211.65 apply to all transactions made under the buy/sell list. Included as part of the list, as required by 10 CFR 211.65(g), are: the names of refiner-buyers and their eligible refineries; the quantity of crude oil each refiner-buyer is eligible to purchase; the total allocation obligation for all refiner-sellers; the fixed percentage share for each refiner-seller; and the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers.

The allocations shown on the buy/sell list for refiner-buyers were determined in accordance with 10 CFR 211.65(b). For the allocation period of October 1, 1978 through March 31, 1979, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period October 1, 1977 through March 31, 1978, and (2) the volume of crude oil runs to stills (not including crude oil purchased pursuant to 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period April 1, 1978 through September 30, 1978 (calculated by using the level of the crude oil runs to stills at the paricular refinery in the period April 1, 1978 through July 31, 1978 for the entire 6-month period).

The buy/sell list sets forth separately the allocations for refiner-buyers with eligible newly constructed refinery capacity and reactivated refineries and refinery capacity. Pursuant to 10 CFR 211.65(a)(1)(iii), ERA has assigned such refinery capacity an allocation equal to twenty-five (25%) percent of the capacity for the allocation period commencing October 1, 1978. The allocation for newly constructed refinery capacity and reactivated refineries and refinery capacity were calculated on the basis of estimated capacities and the assumption that such refineries have commenced operations or will commence operations on or about October 1, 1978. ERA will review each such allocation after the capacity has been certified by ERA pursuant to 10 CFR 211.67(a)(2) and the start-up dates are verified. In the event that ERA subsequently determines that any such allocation is incorrect, ERA will adjust the allocation in this allocation period or in the allocation period commencing April 1, 1979.

Pursuant to 10 CFR 211.65(c)(1), any small refiner may apply to ERA for review of the denial of eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occured since the refinery was determined by ERA to be ineligible for an allocation. Any refiner-buyer may apply to ERA for an adjustment to an allocation as an eligible refinery to compensate for reductions in crude oil runs to stills due to unusual or non recurring operating conditions or an unconsummated directed sale under 10 CFR 211.65(j) due to documented delays in delivering allocated crude oil. Applications for review of eligibility for an allocation or adjustment to an allocation for the allocation period commencing April 1, 1979, must be received by ERA no later than February 1, 1979.

Pursuant to 10 CFR 211.65(c)(2), any refiner-buyer may apply to ERA at any time for an emergency supplemental allocation for one or more of its eligible refineries for one or more allocation periods, or for part of an allocation period; *Provided,* that such refiner will be required to demonstrate that it has incurred or will incur a reduction in its crude oil supply (excluding crude oil allocated under 10 CFR 211.65 or under 10 CFR 211.63) for the eligible refinery for which an emergency allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding 6-month period.

The buy/sell list covers PAD districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to section 211.65(f), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation plus any portion of that refiner-seller's sales obligation as to which ERA directs a sale pursuant to 10 CFR section 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telex the details of each transaction under the buy/sell list within 48 hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request ERA to direct one or more refiner-sellers to sell a suitable type of

crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Upon such request, ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing a refiner-seller to make such sales, the ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to section 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligation for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by the ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers requesting directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to the ERA:

(i) Name of the refiner-buyer and person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specification of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as the ERA may request.

All reports and applications made under this notice should be addressed to:

Program Manager, Crude Oil Allocation, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

This notice is issued pursuant to subpart G of DOE's regulations governing its administration procedures and sanctions, 10 CFR part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with subpart H of 10 CFR part 205. Any such appeal shall be filed on or before October 5, 1978.

Issued in Washington, D.C., August 28, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulations, Economic Regulatory Administration.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period October 1, 1978, through March 31, 1979, is as follows. The first part of the list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, and the volumes of crude oil that each such refiner-buyer is eligible to purchase for each eligible refinery, as the case may be. Refiner-sellers' sales obligations were adjusted to reflect some refiner-buyers' allocations shown in error in prior allocation periods.

Allocations for newly constructed refinery capacity and reactivated refineries and refinery capacity are set forth in the second part of the list.

Crude oil allocation program for the period

[Oct. 1, 1978, to Mar. 31, 1979]

Refiner-sellers	Share	Sales obligation (barrels)
Amoco Oil Co	0.039	110,926
Atlantic Richfield Co	.072	1,033,033
Cities Service Co	.023	1,477,267
Chevron U.S.A., Inc	.035	1,937,516
Continental Oil Co	.034	0
Exxon Co., U.S.A	.112	0
Getty Refining & Marketing Co	.020	0
Gulf Refining & Marketing Co	.035	376,478
Marathon Oil Co	.022	0
Mobil Oil Corp	.039	590,947
Phillips Petroleum Co	.030	0
Shell Oil Co	.107	24,055
Sun Co	.052	78,913
Texaco Inc	.107	162,689
Union Oil Co. of California	.043	873,023
Total sales		6,719,817

Eligible refineries

[October 1978 to March 1979]

Refiner	Refinery location	Allocation (barrels)
Asamera Oil, Inc	Denver, Colo	175,206
Bi-Petro, Inc	Paris, Ill	0
Caribou Four Corners	Woods Cross, Utah	0
CRA-Farmland Independent, Inc	Scottsbluff, Nebr	0
Do	Phillipsburg, Kans	0
Dow/Refinery	Bay City, Mich	446,902
Evangeline Refinery	Jennings, La	0
Farmers Union Central Exchange	Laurel, Mont	1,296,657
Giant Industries	Bloomfield, N. Mex	0
Hunt Oil Co	Tuscaloosa, Ala	1,155,516
Kentucky Oil Refining Co	Betsy Layne, Ky	4,897
Little America Refinery	Sinclair, Wyo	0
Do	Casper, Wyo	24,762
Macmillan RF Oil Co	Norphlet, Ark	152,109
Marion Corp	Mobile, Ala	0
Mid-Tex Refinery	Hearne, Tex	0
Mount Airy	Mount Airy, La	0
Newhall Refinery Co	Newhall, Calif	0
OKC Corp	Okmulgee, Okla	0
Pennzoil Co. (Atlas)	Shreveport, La	743,837
Plateau, Inc	Bloomfield, N. Mex	0
Do	Roosevelt, Utah	116,027
Pride Refinery Inc	Abilene, Tex	906,452
Somerset Refinery Inc	Somerset, Ky	0
Southern Union	Lovington, N. Mex	466,862
Do	Monument, N. Mex	663,930
Southwestern Refinery Co	La Barge, Wyo	1,748
Texas American Petrochemicals, Inc	West Branch, Mich	54,432
Thunderbird Resources (Westco)	Cut Bank, Mont	43,462
Thunderbird Resources (Westland)	Williston, N. Dak	0

Eligible refineries—Continued

[October 1978 to March 1979]

Refiner	Refinery location	Allocation (barrels)
Western Refinery Co	Woods Cross, Utah	0
Wyoming Refinery (Tesoro)	Newcastle, Wyo	39,358
Total		6,292,117

Additional allocations for newly constructed and expanded refining capacity and reactivated refineries

Refiner	Refinery location	Estimated capacity (barrels per day)	Allocation (barrels)
Southwestern	La Barge, Wyo	1,000	45,500
Western Refinery	Woods Cross, Utah	1,500	68,250
Plateau, Inc	Bloomfield, N. Mex	6,900	313,950
Total			427,700
Total all allocations			6,719,817

[FR Doc. 78-24786 Filed 9-1-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

ATLANTIC RICHFIELD CO., ET AL.

[Docket Nos. CI77-772, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 28, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-772, C, Mar. 13, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., University Block 11, Andrews County, Tex.	(1)	14.65
CI77-832, C, Apr. 3, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Certain acreage located in the Shugart North field, Eddy County, N. Mex.	(1)	14.73

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-24792 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP78-66]

CIMARRON TRANSMISSION CO.

Proposed Rate Increase

AUGUST 25, 1978.

Take notice that Cimarron Transmission Co. on August 16, 1978, tendered for filing proposed changes in its gas rate schedule No. 1. The proposed changes would increase revenues from jurisdictional sales by $34,067.33 annually based upon the test period of twelve (12) months ending April 30, 1978. Cimarron Transmission Co. states the principal reasons for the proposed rate increases are: (1) Increased costs of operation, (2) decreased sales volumes which increase unit costs, (3) increased costs associated with increase need for compression, (4) increased depreciation rates to reflect downward estimates of

gas reserves, and (5) the need to provide a return of 11 percent on its utility investment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before September 6, 1978. 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. 78-24793 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RA78-4]

BAYOU STATE OIL CORP.

Granting Motion For Extension of Time

AUGUST 25, 1978.

On August 1, 1978, the Office of Hearings and Appeals, Department of Energy, issued a final decision and order in case No. FEE-4264, upon an application for exception of Bayou State Oil Corp. with respect to allocation of increased crude oil costs.

On August 9, 1978, Bayou State Oil Corp. moved this Commission for an extension of time by which to file a petition for review of those orders of thirty (30) days from the date on which the Commission adopted and published its rules and procedures to govern petitions for review filed pursuant to section 504(b) of the Department of Energy Organization Act, 42 U.S.C. § 7194(b) (1977 Supp.).[1]

Upon consideration of this motion for extension of time, good cause has been shown to extend the time for filing the petition for review required by section 1.40(d)(2) of the Commission's rules of practice and procedure until 30 days from August 8, 1978, the date the Commission issued its rules governing petitions for review of adjustment request denials, to and including September 7, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24804 Filed 9-1-78; 8:45 am]

[1] Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy, docket No. RM78-17, issued August 8, 1978.

[6740-02]

[Docket No. ER78-414]

DELMARVA POWER & LIGHT CO.

Order Granting Rehearing In Part, Denying Rehearing in Part, and Establishing Certain Procedures

AUGUST 25, 1978

On May 31, 1978, the Delmarva Power & Light Co., (Delmarva) tendered for filing with the Federal Energy Regulatory Commission proposed revisions and rates for wholesale electric service applicable to sales of electric power and energy to all wholesale customers of Delmarva. Petitions to intervene were filed by certain cities[1] on June 19, 1978. By order issued June 30, 1978, the Commission accepted the tendered rates for filing, suspended the rates until December 1, 1978, to become effective subject to refund, granted interventions and set the matter for hearing.

The Commission's June 30, 1978 order further indicated that certain statements set forth in the petitions to intervene did not constitute an allegation of price squeeze which would require an investigation pursuant to section 2.17 of the Commission's regulations.

On July 27, 1978, the petitioners filed with Commission a petition for rehearing which, among other things, requested the Commission to modify its June 30, 1978 order and institute a price squeeze investigation. In support of its request, petitioners set forth additional data constituting a sufficient allegation of price squeeze pursuant to section 2.17 of the Commission's regulations.

Delmarva, on August 8, 1978, filed an answer to petitioners request for institution of a price squeeze investigation. Delmarva's answer correctly observes that section 2.17 of the Commission's regulations imposes upon any wholesale customers seeking to raise price squeeze issues the burden of presenting its allegation at the time intervention in the proceeding is sought. Petitioners in this proceeding did not comply with this requirement. The Commission recently stated:[2]

> • • • (O)ne of the purposes of 18 CFR 2.17 is to provide expedited price squeeze discovery procedures. In this regard, the specificity of section 2.17 overrides the general provisions of 18 CFR 1.11 permitting amendment of pleadings until shortly before the beginning of hearings. Moreover, to the extent that price squeeze serves as a basis for a Commission decision as to whether a filing should be suspended, price squeeze allegation, like other issues raised in petitions to intervene, must be before the Commission at the time the Federal Power Act requires action on rate filings. Therefore, we must henceforth require strict compliance with section 2.17 of our regulations, and that the allegations specified in that section (e.g., price discrimination and anticompetitive effect) be contained in petitions to intervene if the issue is to be raised by intervenors • • •.

The Commission in its *Monongahela Power* order noted that it had in the past permitted some deviation from the practice and therefore granted the petitioners 20 additional days in which to submit supplementary pleadings containing price squeeze allegations.

Inasmuch as petitioners' intervention petition was filed prior to our *Monongahela Power Company* order of August 10, 1978, announcing strict compliance with the requirements of section 2.17, we find good reason not to require strict compliance in the instant case. Since petitioners have in their petition for rehearing subsequently complied with the provisions of section 2.17 of the Commission' regulations by adequately setting forth allegations of price squeeze, the Commission will grant petitioners' request to institute a price squeeze investigation.

Petitioners also request, as they did in their petition to intervene, that the Commission make summary disposition the portion of the rate filing that is based on the double inclusion in rate base of investment in an energy control center. In its answer, Delmarva concedes that this rate base item was included twice, but contends that its costs of service justification for the proposed rates (should it prevail on all issues) exceeds the revenues to be received under the rates by some $246,000. Since the revenue requirement related to the energy control center is $122,000, Delmarva contends that the elimination of the double counting does not compel a revision of the filed rates. Delmarva's conclusion that no revision is necessary at this time is correct.

The Commission finds: It is appropriate and proper in the administration of the Federal Power Act and the public interest to grant rehearing of the Commission's order issued in this docket on June 30, 1978

The Commission orders: Petitioners' request set forth in their petition for rehearing filed July 27, 1978, is hereby granted to the extent that a price squeeze investigation in this docket is hereby instituted pursuant to the further requirements of section 2.17 of the Commission's regulations. All other requests set forth in the petition for rehearing of the Commission's

[1] Cities of Newark, Seaford, and Milford, Del.; the town of Smyrna, Del.; the Board of Public Works of the city of Lewes, Del.; and the mayor and council of the city of New Castle, Del.

[2] *Monongahela Power Company*, docket No. ER78-484, order issued August 10, 1978.

June 30 order in this docket are hereby denied.

The Commission further orders that the presiding administrative law judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present its case on the price squeeze issue.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24805 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-567]

Florida Power & Light Co.

Filing

AUGUST 28, 1978.

Take notice that Florida Power & Light Co. (FPL) on August 21, 1978, tendered for filing an amendment to an agreement executed by it, entitled "Amendment Number One to Agreement To Prrovide Specified Transmission Service Between Florida Power & Light Company and Tampa Electric Company." FPL states that under the amendment, FPL will transmit power and energy for the Tampa Electric Cl. (TECO) as is required by TECO in the implementation of its interchange agreement with the city of Vero Beach. FPL requests an effective date of no later than 30 days after the date of filing.

According to FPL, a copy of this filing was served upon the senior vice president of TECO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 (18CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24806 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-566]

FLORIDA POWER & LIGHT CO.

Filing

AUGUST 28, 1978.

Take notice that Florida Power & Light Co. (FPL), on August 21, 1978, tendered for filing as an initial rate an agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Vero Beach." FPL states that under the agreement, FPL will transmit power and energy for the city of Vero Beach (Vero Beach) as is required by Vero Beach in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co. and Florida Power Corp.

FPL requests an effective date of no later than 30 days after the date of filing. According to FPL copies of this filing were served on the city manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 September 8, 1978. 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24807 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-355]

LOCKHART POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Allowing Intervention, Providing for Hearing, and Establishing Procedures

AUGUST 25, 1978.

On May 3, 1978, Lockhart Power Co. (Lockhart) submitted for filing a proposed rate increase of $41,485 for the 12-month period succeeding the proposed effective date of June 2, 1978.[1] The proposed increase is applicable for full-requirements service to the city of Union, S.C. (Union), Lockhart's single wholesale for resale customer.

Notice of the filing was issued on May 10, 1978, with responses due on or before May 22, 1978. On May 19, 1978, Union filed a "protest, petition to intervene, and motion to reject of the city of Union, S.C.," and on June 2, 1978, Lockhart filed a response.

CONTENTIONS OF THE PARTIES

Union has requested that the Commission reject the purchased power adjustment clause (PPA) included in Lockhart's filing and also seeks rejection of Lockhart's new PPA clause surcharge under which Lockhart proposes to bill Union an additional $52,160. Union argues that the proposed PPA clause and surcharge have uniformly been disapproved by this Commission and the Federal Power Commission. Union also requests a maximum 5-month suspension.[2] Other objections to Lockhart's filing raised by Union include opposition to Lockhart's proposed rate of return as well as to the alleged inclusion of construction work in progress in Lockhart's rate base.[3]

In response, Lockhart contends that its PPA clause is just and reasonable. It further explains that its PPA clause surcharge revenues represent amounts already owed the company at the moment that the new rates become effective. According to Lockhart, there will be no charge to Union for purchased power during the first month that the PPA clause is in effect.

THE PROPOSED RATE SCHEDULE

The proposed wholesale rate provides for a demand charge on a monthly basis, an energy charge per kWh and a monthly facilities charge. There is also a demand ratchet.

Monthly charges are subject to a purchased power adjustment (PPA) clause. Under the terms of this clause, increases or decreases in the cost of power purchased by Lockhart from Duke Power Co. (Duke), above or below Duke's rate for service in effect on August 17, 1976, are reflected proportionately in Lockhart's rates to Union.[4]

In addition, the new PPA clause provides that for the first 12 months it is

[1] After a deficiency letter was set out by the Secretary, Lockhart's filing was completed on July 27, 1978.

[2] In its petition, Union also sought rejection of Lockhart's filing in its entirety on the grounds that Lockhart's filing was patently deficient. Since Lockhart has cured the deficiencies in its filing, such a basis for rejection no longer exists. *Municipal Light Boards* v. *Federal Power Commission*, 450 F. 2d 1341 (D.C. Cir. 1971).

[3] Lockhart's filing, completed after Union submitted its petition, includes in its rate base no claim for plant not now in service.

[4] Lockhart purchases approximately 65 percent of its electric energy requirements from Duke.

effective, Union's monthly bill will be subject to an additional adjustment, or surcharge, to recover certain "unbilled" purchased power costs existing at the time the new PPA clause becomes effective.

LOCKHART'S PURCHASED POWER ADJUSTMENT CLAUSE

In docket No. E-9469, Lockhart's prior rate filing, the company sought approval of a purchased power adjustment clause. Our review of the record in that proceeding is currently ongoing and action in that proceeding is still pending.[5] We shall defer ruling on the appropriateness of Lockhart's proposed PPA clause at this time, until we have made our decision in docket No. E-9469.

LOCKHART'S PURCHASED POWER ADJUSTMENT CLAUSE SURCHARGE

Union asserts that Lockhart's proposed PPA clause surcharge is indistinguishable from surcharges which we have consistently rejected in the past. Accordingly, it argues that the proposed surcharge filed for in this proceeding should be summarily dismissed.

Union is correct in its observation that we have consistently rejected various fuel adjustment clause surcharges, where approval would have been a form of retroactive ratemaking.[6] While there are some obvious similarities between fuel adjustment clause surcharges and the proposed purchased power adjustment clause surcharge, we are unable to reject Lockhart's proposal at this preliminary stage. Instead we shall address the surcharge question in an order to be issued prior to the expiration of the period to be established herein for suspension of the surcharge.

In order to assist us in determining whether summary dismissal of the proposed surcharge is or is not appropriate, we are directing our advisory staff to conduct an investigation of the past and present operation terms and conditions of the PPA. In the conduct of this investigation, Staff may ask the parties for written submissions including, inter alia, briefs and affidavits. We hereby direct the parties to comply with Staff requests for any such material.

Our review indicates that the proposed increased rates tendered by Lockhart have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will therefore accept Lockhart's tender for filing, suspend operation of the proposed surcharge for 5 months, until January 28, 1978, and suspend the remainder of Lockhart's proposed rate schedule for 1 day, until August 28, 1978, when they shall respectively become effective subject to refund. The suspension of the surcharge is intended merely to postpone the initiation of the charge, not to deny Lockhart the recovery of any part of the alleged deficiency. If there is found to be a deficiency, we may provide for the recovery of the full amount over an appropriate time period.

Additionally, as stated above, the lawfulness of Lockhart's PPA is pending before us in docket No. E-9469, and our decision in that proceeding will determine the disposition of the issue of the proposed PPA in this proceeding.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act (18 CFR, chapter ——), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Lockhart in this proceeding.

(B) Pending such hearing and determination, the increased rates proposed by Lockhart are hereby accepted for filing, suspended, the use of the surcharge deferred until January 28, 1979 and the use of the remainder of the rate schedule deferred until August 28, 1978, when they shall respectively become effective subject to refund.

(C) The issue of Lockhart's proposed PPA surcharge provision will be addressed in an order to be issued prior to January 28, 1979.

(D) Union is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation by such intervenor shall be limited to matters set forth in its 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 by any order or orders of the Commission entered in this proceeding.

(E) The Commission's advisory staff should conduct an investigation of the proposed surcharge related to the operation of the PPA and report back to the Commission so that the Commission may act prior to January 28, 1979.

(F) An administrative law judge to be designated by the chief administrative law judge for that purpose (see, Delegation of Authority, 18 CFR 3.5(d)), shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said law judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(G) The Staff shall prepare and serve top sheets on all parties within 90 days of the date of the issuance of this order.

(H) 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. 78-24808 Filed 9-1-78; 8:45 am]

[5] The initial decision in *Lockhart Power Company,* docket No. E-9469, et al., was issued on November 10, 1976.

[6] See, e.g. *Pennsylvania Electric Company,* Docket No. ER76-607, order issued Dec. 19, 1977; *Public Service Company of New Hampshire,* Opinion No. 790, 790-A, issued Mar. 22, 1977, May 20, 1977, petition for review pending, *Public Service Company of New Hampshire* v. *FERC,* D.C. Cir. No. 77-1592; *Virginia Electric and Power Company,* Docket No. ER76-415, orders issued June 20, 1977, Aug. 5, 1977, aff'd *Virginia Electric and Power Company* v. *FERC,* —— F. 2d —— (CA-4, No. 77-2153, Aug. 3, 1978); but see, *Maine Public Service Company,* Docket No. E-8264, orders issued June 27, 1977, and Aug. 25, 1977, rev'd and remanded, *Maine Public Service Company* v. *FERC,* CA-1, No. 77-1438, June 26, 1978, rehearing denied July 20, 1978.

[6740-02]

[Docket No. CI78-1076]

MAY PETROLEUM INC.

Limited-Term Certificate Application

AUGUST 25, 1978.

Take notice that on August 10, 1978, May Petroleum Inc. (May), 4925 Greenville Avenue, Suite 1000, Dallas, Tex. 75206, filed in docket No. CI78-1076 an application for a limited-term certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and the Commission's regulations thereunder.

Applicant proposes to sell gas for resale and delivery in interstate commerce to Cities Service from the J. C. Carroll No. 1 well located in Canadian County, Okla., pursuant to a contract between May and Cities Service dated June 8, 1978. This agreement provides that Cities Service's obligation to purchase gas shall be limited to a total of 1,500,000 Mcf of gas. The price paid for this gas shall not exceed the national rate. It is anticipated that this volume of gas will be purchased during the eighteen (18) month period following Commission approval. The gas had previously been dedicated to an intrastate Oklahoma market for a higher price, but the 1,500,000 Mcf has been released for resale. The intrastate purchaser had failed to take its dedicated

share of the daily split sales production. Since this sale is to be limited to a total of 1,500,000 Mcf of gas which represents the total amount of reserves not already dedicated under existing contracts, it is requested that the order issuing a limited-term certificate to applicant also include pregranted authority for applicant to abandon the sale of gas to Cities Service under the subject contract when 1,500,000 Mcf of gas has been purchased.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 78-24794 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP76-114]

MIDWESTERN GAS TRANSMISSION CO.

Filing of Revised Tariff Sheets Pursuant To Settlement Agreement

AUGUST 25, 1978.

Take notice that on August 17, 1978, Midwestern Gas Transmission Co. (Midwestern) tendered for filing the following revised tariff sheets to be effective October 1, 1978:

VOLUME No. 1

First Revised Sheet Nos. 73 and 95H
Second Revised Sheet Nos. 79, 83, 93, 95F and 95G
Third Revised Sheet Nos. 81, 82, 84, 86 and 94
Fourth Revised Sheet No. 85

VOLUME No. 2

First Revised Sheet Nos. 38 and 39

Midwestern states that such filing is being made pursuant to the Commission's letter order of July 18, 1978, accepting a settlement agreement (October 12, 1977) in docket No. RP76-114.

Midwestern states that copies of its filing have been mailed to all of its customers, interested State commissions and parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 September 20, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24795 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP73-43; PGA78-4a]

MID LOUISIANA GAS CO.

Revised PGA Increase

AUGUST 24, 1978.

Take notice that on August 14, 1978, Mid Louisiana Gas Co. (Mid Louisiana) filed Substitute Alternate Thirtieth Revised Sheet No. 3a to First Revised Volume No. 1 of its FERC Gas Tariff. Mid Louisiana states that this tariff sheet revises the purchased gas cost adjustment to Mid Louisiana's rate schedules G-1, SG-1, I-1, and E-1 to be effective August 2, 1978, as required by paragraph (E) of the Commission's July 31, 1978, order in docket No. RP73-43 (PGA78-4).

Mid Louisiana states that a copy of its filing has been supplied to interested customers and state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1978. 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. 78-24796 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP74-97 (PGA78-2)]

MONTANA DAKOTA UTILITIES CO.

Order Granting in Part and Denying in Part Application for Rehearing and Modifying Previous Order

AUGUST 28, 1978.

On June 30, 1978, the Commission issued an order accepting for filing and suspending PGA rate increase, and prescribing conditions in this case. On July 28, 1978 Montana Dakota Utilities Co. (MDU) filed a timely application for rehearing. In the June 30 order the Commission suspended MDU's proposed PGA filing for the following reasons: the inclusion of nonjurisdictional purchases associated with MDU's Sheridan system in the tariff filing; the inclusion of costs and volumes related to gas purchases not certificated as of July 1, 1978; the inclusion of a 6¢/Mcf transportation charge for certain volumes purchased by MDU; and the inclusion of a 35¢/Mcf transportation for certain volumes purchased from Kansas-Nebraska Natural Gas Co., Inc. (K-N). MDU challenges the Commission's actions with respect to the suspension of the filing and the ordered exclusion of the 35¢/Mcf K-N "transportation charge".

We conclude that MDU is correct with regard to the K-N purchase. MDU's rate schedule X-3 provides for the K-N purchases and allows K-N to receive a 35 cents "gathering and delivery" charge. It is this charge that was excluded in the June order and we conclude here that it is appropriately included in the PGA as purchased gas cost. The gathering charge represents

a cost of the gas to MDU because it is included in the sales price by K-N. The order issued May 11, 1977 in docket No. CP75-57 authorizing the sale provided that the price charged by K-N to MDU include the gathering charge. We will therefore delete item (iii) from ordering paragraph (B) of the June 30 order and permit inclusion of these costs in its PGA rate filing.

MDU contends that the Commission wrongfully suspended the tariff sheets with regard to the inclusion of Sheridan system intrastate purchases in the PGA. According to the company the Commission mistakenly relied upon an order issued December 30, 1977 suspending its previous PGA filing. Additionally the company maintains that the suspension was improperly based upon the initiation of a hearing under Section 5 of the Natural Gas Act. Also MDU contends that "* * * there is no question that MDU's filed, effective tariff provides for the allocation over the entire MDU system of costs intrastate purchases for the Sheridan System."

Contrary to MDU's assertion, and our statements in the December 30, 1977 order, we do not believe that it is clear that MDU's tariff provides for the allocation over the entire MDU system of the Sheridan System purchases. Accordingly, it would not be appropriate at this time to vacate the suspension ordered in the case by the Commission's June 30, 1978, order.

The Commission finds: MDU's application for rehearing of the Commission's June 30, 1978, order in this docket should be granted in part and denied in part as hereinafter ordered and conditioned.

The Commission orders: (A) that section (iii) of ordering paragraph (B) of the June 30, 1978, order in this proceeding is hereby deleted from that order.

(B) To the extent not granted in ordering paragraph (A) above, MDU's application for rehearing is hereby denied.

(C) The Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24809 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. ER76-848]

MONTANA POWER CO.

Compliance Filing

AUGUST 28, 1978.

Take notice that on August 21, 1978, The Montana Power Co. tendered for filing in compliance with the Federal Power Commission's order of May 6, 1977, a summary of sales made under the company's FPC electric tariff M-1 during July 1978, along with cost justification for the rate charged.

The company indicates that all purchasers under M-1 for the month of July have received a copy of this filing.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1978. 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. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24810 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP76-64; PGA No. 78-1]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing, Effective October 1, 1978

AUGUST 25, 1978.

Take notice that on August 15, 1978, Mountain Fuel Supply Co., pursuant to section 154.62 of the Commission's regulations under the Natural Gas Act, filed sixth revised sheet No. 3-A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the unrecovered purchased gas cost account of the purchased gas adjustment provision authorized by the Commission's order issued February 27, 1976 in docket No. RP76-64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of 5.320 cents per MCF (X-4) and 2.672 cents per MCF (X-5) and are to be effective October 1, 1978. Any person desiring to be heard and to make any protest with reference to said filing should on or before September 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Mountain Fuel Supply Co.'s tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24797 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP74-100 et al.]

NATIONAL FUEL GAS SUPPLY CORP.

Revised Tariff Filing

AUGUST 28, 1978.

Take notice that on August 21, 1978, National Fuel Gas Supply Corp. (National Fuel) filed with the Commission a "corrected copy of 20th revised sheet No. 4" to its FERC Gas Tariff Original Volume No. 1.

The company states that on August 8, 1978 it filed 20th revised sheet No. 4 to its FERC Gas Tariff Original Volume No. 1 with the Commission and that this sheet was incorrect due to the surcharge in column 10 being subtracted rather than added. The company proposes to correct this error by the present filing bearing an issued date of August 18, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 petitins or protests should be filed on or before September 11, 1978. 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24811 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP74-72]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Demand Charge Credit Adjustment

AUGUST 25, 1978.

Take notice that Northwest Pipeline Corp., on August 16, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to compensate Northwest for demand charge credits given to certain of its

customers due to curtailment of firm contract obligations because of gas supply deficiency.

The company states that the notice of change in rates is being filed pursuant to the Commission's order issued March 29, 1974, at docket No. RP74-72 and article 13.4 of Northwest's FERC Gas Tariff, Original Volume No. 1. The change in rates will result in a net increase of .016 cents per therm for rate schedules ODL-1, DS-1, and PL-1. The new demand charge credit adjustment of (.012) cents per therm is based on a negative balance in the deferred account for demand charge credits of $272,145.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision and Article 17, Gas Research Institute Charge Adjustment Provision, contained in its Original Volume No. 1 Tariff. All three rate adjustments are reflected on the tendered substitute 20th revised sheet No. 10, which is proposed to become effective October 1, 1978.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North 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 (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1978. 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. 78-24798 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP73-48]

PEOPLES NATURAL GAS DIVISION OF NORTHERN NATURAL GAS CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

AUGUST 25, 1978.

Take notice that Peoples Natural Gas Division of Northern Natural Gas Co. (Peoples) on August 21, 1978, tendered for filing substitute 21st revised sheet No. 3a of its FPC Gas Tariff, Original Volume No. 4. Peoples states that the proposed change to become effective October 1, 1978 would decrease the rate per Mcf to jurisdictional customers by 1.90¢ per Mcf and reflects a decrease in rates by Colorado Interstate Gas Co., resulting from a general increase filed by CIG in accordance with the provisions of its FPC Gas Tariff. Colorado Interstate is the pipeline supplier to Peoples for sales made under volume No. 4.

Copies of the filing were served upon Peoples' customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 or 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 September 21, 1978. 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. 78-24799 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-337 and ER78-338]

PUBLIC SERVICE CO. OF NEW MEXICO

Order Granting and Denying Rehearing

AUGUST 28, 1978.

A request for clarification or reconsideration and applications for rehearing have been filed with respect to the Commission's [1] June 30, 1978 order [2] in the above-captioned dockets.

Public Service Co. of New Mexico (PNM) seeks rehearing [3] on three grounds: (1) The order unlawfully delayed the effectiveness of the proposed rates; (2) the Commission failed to consider PNM's financial condition in ordering a full 5 months suspension; and (3) the order issued by the Secretary is contrary to the action taken by the Commission at its public meeting. PNM also requests clarification or reconsideration of the effective date of the rates in docket No. ER78-338 for service to Gallup.

The city of Gallup, N. Mex. (Gallup) seeks rehearing [4] of that portion of the June 30 order which relates to the burden of proof which PNM must meet to effect a change in rates to Gallup.

The first issue raised by PNM deals with the effective date of the partial-CWIP based rates in docket No. ER78-337. These rates were tendered for filing on April 28, 1978, with a requested effective date of June 1, 1978. However, on May 17, 1978, the Secretary issued a letter advising PNM that the filing as originally tendered was deficient and that a filing date would not be assigned until the deficiencies were cured. In response, PNM submitted further material on May 30 and May 31, 1978. PNM's May 30 response included a request for waiver of our notice requirements once again asking that the Commission allow the rates to become effective on June 1, 1978. On June 6, 1978, PNM applied for rehearing of the Secretary's May 17, 1978 deficiency letter.

In our June 30 order, we denied PNM's request for waiver of our notice requirements and noted that the requisite information completing the filing had not been received until May 31, 1978.[5] As such, the June 30 order treated May 31, 1978 as the filing date [6] and appropriately began the 5-month suspension on the statutory effective date [7] of July 1, 1978.

On rehearing, PNM argues that this course of events in effect required the company to give more than the 30 days notice specified by section 205(d) or constituted a suspension of more than 5 months, which would be prohibited by section 205(e). Once again, the company challenges the issuance of the deficiency letter, stating that its filing as originally tendered on April 28, 1978, did not patently fail to comply substantially with the regulations; [8] that the additional data could have been obtained through discovery; [9] and that inasmuch as PNM promptly cured the deficiencies (within 30 days of the date that the filing was originally tendered), the refusal to assign April 28, 1978 as the filing date constituted an abuse of discretion.[10]

We find PNM's arguments to be unpersuasive. The company's filing as originally tendered did not substantially comply with our filing requirements. This point was made clear in

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[1] The "Commission" when used in the context of an action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] *Public Service Co. of New Mexico*, docket Nos. ER78-337 and ER78-338, order issued June 30, 1978.

[3] Filed July 31, 1978.

[4] Filed July 27, 1978.

[5] June 30 order, mimeo at p. 7.

[6] As defined in sec. 35.2(c).

[7] As defined in sec. 35.2(e).

[8] *Indiana & Michigan Electric Co.*, docket No. E-9239, order issued July 18, 1975; *Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F.2d 1341, 1348 (1971), *cert den.* 405 U.S. 985 (1971).

[9] Order No. 487, *Filing of Electric Service Tariff Changes*, docket No. R-463, 50 FPC 736, 738 (1973).

[10] *Atlantic Seaboard Corp. v. FPC*, 201 F.2d 568 (4th Cir. 1953).

our June 30 order when, in denying PNM's request for waiver of our notice requirements, we stated:

> Good cause has not been shown to grant such waiver. PNM's filing as originally tendered did not meet the requirements of section 35.13(b)(4)(iii) and did not provide us with the necessary information from which we could reach an informed and equitable decision as to the necessity for a hearing or the appropriate length of suspension. The requisite information was not received until May 31, 1978.[11]

Additionally, we regard the issuance of a deficiency letter by the Secretary to be interlocutory in nature; thus, rehearing does not lie. We shall construe PNM's application for rehearing as a motion for reconsideration, which, based on the foregoing discussion, shall be denied.

Further, PNM's reliance on the determination in order No. 47 that: "If additional data beyond that required by the regulations is required, it could be obtained through the discovery process", is misplaced. As pointed out above, in PNM's case, it was the data required by section 35.13(b)(4)(iii) of the regulations at the time of filing which were lacking, whereas the additional data secured through discovery pursuant to order No. 487 was supplemental to that required by our regulations.

We also find *Atlantic Seaboard Corp. v. FPC, supra,* to be inapposite. Therein, the court found that the FPC had abused its discretion in treating the date of the tender of an amendment to the application, rather than the date of tender of the original application, as the filing date. This determination was grounded on a finding by the court that:

> * * * Such amendment did not change the proposed rates, did not delay the Commission in considering the rates beyond the 30 day period [and] could not possibly prejudice the Commission in the discharge of its duties * * * [12]

Unlike the applicant in *Atlantic Seaboard,* PNM did not provide all of the information necessary to cure its deficient filing until May 31, 1978. The deficiencies in PNM's filing did delay the Commission in considering the filing and thus impeded the process by which we could reach an informed and equitable decision as to the necessity for a hearing or the appropriate length of suspension.

The second issue raised by PNM on rehearing pertains to the length of the suspension period for the partial-CWIP based rates in docket No. ER78-337. In essence, PNM contends that the Commission did not adequately consider the company's present financial condition and submits that the suspension period should be shortened. PNM has provided no new facts, with regard to its financial condition; i.e., no facts that were not considered at the time of our June 30 order.

The third issue raised by PNM is an allegation that the order issued by the Secretary is not the order voted on by the Commission. The company's argument rests on what PNM characterizes as an inconsistency between, on the one hand, staff's oral recommendation of a 5-month suspension during the agenda meeting on June 28, 1978, when the proposed order was discussed; and on the other, the provision in the order as drafted providing for a 2-month suspension. The company, excerpting from what it describes as a verbatim account of the Commission meeting contends that the question called by the Chairman was "agreeing to the proposed order as written". PNM also points out that the original news release issued on June 29, 1978 stated that the suspension period was for 2 months, while a subsequent news release issued on July 6, 1978, correcting the discrepancy, stated that a full 5-month suspension had been ordered. We find PNM's contention to be without merit. As has been stated before: "The Commission acts officially only through its orders *as issued by the Secretary*" (emphasis added).[13] The June 30 order, as issued, provided for a 5-month suspension period.

Finally, PNM requests clarification of the timing for implementation of rate relief for service to Gallup in docket No. ER78-338. Referring to the June 30 order, the company submits that the increased rates for service to Gallup are intended to be implemented at the conclusion of phase I of the proceeding. For purposes of clarification, we direct PNM's attention to ordering paragraph (J) of our June 30 order, which stated in pertinent part:

> * * * the effectiveness of the ER78-338 rates shall be deferred until a final order approving such rates is issued by the Commission at the completion of phase II.[14]

This decision is entirely consistent with our determination that rate increases for Gallup can be prospective only, upon completion of a section 206 proceeding.[15] That portion of our June 30 order concluding that PNM will be directed to proffer a compliance filing at the end of phase I under section 206 for the rates to Gallup in docket No. ER78-338 does not change this conclusion. Since it will not be known until phase I is completed whether PNM will be entitled to include any or all of non-pollution control CWIP in rate base, the proffering of a compliance filing at that time will merely provide us with a rate structure to which adjustments can be made after a consideration of the issues to be litigated in phase II. Thus, the final and approved rates will not be determined until phase II is completed.

The sole issue raised by Gallup on rehearing pertains to the burden of proof which must be met by PNM to effect a change in rates to Gallup in docket No. ER78-338. We shall grant a rehearing of this issue and allow responses to be filed pursuant to section 1.34(d).

The Commission finds: (1) Good cause exists to deny PNM's motion for reconsideration.

(2) PNM's application for rehearing sets forth no new facts or principles of law which were not considered by the Commission when it issued its June 30, 1978 order or upon which such consideration would warrant any change or modification of the June 30, 1978 order.

(3) Good cause exists to grant Gallup's petition for a rehearing.

The Commission orders: (A) PNM's motion for reconsideration is hereby denied.

(B) PNM's application for rehearing is hereby denied.

(C) Gallup's application for a rehearing is hereby granted.

(D) 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. 78-24812 Filed 9-1-78; 8:45 am]

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[11] June 20 order, mimeo at p. 7.

[12] *Atlantic Seaboard, supra,* at p. 571.

[13] In its "Order Denying Request for Conference" issued June 4, 1976, in *High Island Offshore Systems, et al.,* docket No. CP75-104, et al., the Federal Power Commission stated:

"As explained when the open meeting procedure was initiated, and as reiterated herein, the discussions held at the open meeting are a part of the deliberative process and not the factual record of the proceedings, upon which the official action is taken. The Commission acts officially only through its orders as issued by the Secretary * * *"

This policy was reiterated by the FERC in a letter order issued July 31, 1978, in *Natural Gas Pipeline Company of America,* docket No. RP78-71.

In Order No. 7, "Order Permitting Recording and Photographing of Open Commission Meetings," issued May 9, 1978, in docket No. RM78-13, the FERC said:

"The Commission stresses that the expanded right to observe Commission meetings (and the possibility of obtaining transcripts or recordings of discussion at closed meetings) should not be viewed as creating new grounds for challenging the basis and rationale for Commission action. Observations made by individual members of the Commission during the course of deliberations may not necessarily reflect the reasoning underlying the Commission's final action on a given matter. Thus, the legal sufficiency of the Commission action must, as in the past, be judged solely on the basis of the action itself and any official supporting statement released by the Commission—not on the basis of remarks or observations made prior thereto."

[14] June 30 order, mimeo at p. 10.

[15] June 30 order, mimeo at p. 1.

[6740-02]

[Docket No. ER78-565]

SOUTH CAROLINA ELECTRIC & GAS CO.

Filing

AUGUST 28, 1978.

Take notice that on August 21, 1978, South Carolina Electric & Gas Co. (SCE&G) tendered for filing modification No. 1 to the interchange agreement between SCE&G and South Carolina Public Service Authority, dated January 1, 1975. SCE&G states that Modification No. 1 deletes service schedules providing for emergency assistance and energy interchange and substitutes therefor the following service schedules: spinning reserve, short-term power, limited-term power, economy interchange, and other energy SCE&G requests that modification No. 1 be permitted to become effective on September 22, 1978.

According to SCE&G, copies of this filing have been sent to the South Carolina Public Service Commission and the South Carolina Public Service Authority

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1978. 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24813 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-171]

TEXAS GAS TRANSMISSION CORP.

Proposed Change in Federal Energy Regulatory Commission Gas Tariff

AUGUST 25, 1978.

Take notice that on August 8, 1978, Texas Gas Transmission Corp. (Texas Gas) tended for filing Original Sheet Nos. 978 through 999 to its FERC Gas Tariff, original volume No. 2.

Texas Gas states that the subject filing reflects rate schedule X-76, a transportation agreement with Mississippi Valley Gas Co. (Mississippi), which was authorized by Commission order issued July 19, 1978, in docket No. CP78-171.

The proposed tariff sheets are proposed to become effective July 19, 1978.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 5, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24800 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP77-139]

TEXAS GAS TRANSMISSION CORP.

Certification of Proposed Settlement Agreeement

AUGUST 25, 1978.

Take notice that on July 27, 1978, Administrative Law Judge Grossman certified to the Commission a stipulation and agreement proposed in settlement of the above-captioned rate proceeding. The proposed stipulation and agreement, as filed with the presiding judge on July 26, 1978, states that there is no known opposition to its approval. The proposed stipulation and agreement, if approved, would resolve all issues in the subject proceeding except the issues of cost classification, cost allocation and rate design, which are currently being litigated in the United States Court of Appeals for the District of Columbia Circuit. As to these issues, the stipulation and agreement provides that the decision in that proceeding will govern the instant proceeding.

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 15, 1978. 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. 78-24801 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Settlement Conference

AUGUST 25, 1978.

Take notice that on September 26, 1978 at 10 a.m. an informal conference will be convened of all interested persons to discuss the possibility of settling the issues raised by the July 13, 1978, decision of the United States Court of Appeals for the District of Columbia Circuit in *State of North Carolina et al.* v. *Federal Energy Regulatory Commission*, No. 76-2102. The conference will be held at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested parties are invited to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties should be prepared to discuss all issues arising from matters remanded for further consideration and any procedural matters preparatory to a resolution of the issues raised by the Court's remand. Parties are expected to come fully prepared 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. 78-24802 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. RP78-11]

TRUNKLINE GAS CO.

Certification of Proposed Settlement Agreement and Record

AUGUST 25, 1978.

Take notice that on July 17, 1978, Administrative Law Judge Howe certified to the Commission a stipulation and agreement proposed in settlement of the issues in the above-captioned rate proceeding. The certification states that the proposed stipulation and agreement, which was filed by Trunkline Gas Co. on July 14, 1978, is not opposed by any party. The certification also included testimony and exhibits which had been filed in the subject docket and admitted into evi-

dence. If approved, the proposed stipulation and agreement would resolve all of the issues in this proceeding.

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 15, 1978. 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. 78-24803 Filed 9-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-479]

Trunkline Gas Co. and Consolidated Gas Supply Corp.

Pipeline Application

AUGUST 28, 1978.

Take notice that on August 11, 1978, Trunkline Gas Co. (Trunkline), P.O. Box 1642, Houston, Tex. 77001 and Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, W. Va. 26301, filed in docket No. CP78-479, a joint application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity authorizing the exchange and transportation of natural gas on behalf of Consolidated, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to exchange and/or transport for Consolidated on a firm basis up to 7,500 Mcf of gas per day which represents Consolidated's interest in gas to be produced from Vermilion Block 338. Trunkline proposes to receive the gas on the Stingray Pipeline Co. system in Vermilion Block 321 for exchange and/or transportation for the account of Consolidated at one of four points of redelivery: (1) High Island Block A-330; (2) the Mobil Oil Corp. Cow Island Processing Plant in Vermilion Parish, La; (3) near Rageley, La. at the interconnection between the facilities of Trunkline and Transcontinental Gas Pipe Line Corp.; or (4) the terminus of the U-T offshore system in Cameron Parish, La.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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.

LOIS D. CASHELL,
Acting Secretary

[FR Doc. 78-24814 Filed 9-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19129; Phase II]

AMERICAN TELEPHONE & TELEGRAPH CO. AND THE ASSOCIATED BELL SYSTEM COMPANIES

Charges for Interstate Telephone Service, Transmittal Nos. 10989, 11027, 11657, and 12303; Order Terminating Proceeding

By direction of the Chief, Common Carrier Bureau.

In the Commission's docket 19129 order on reconsideration FCC 78-103 adopted February 15, 1978, released February 24, 1978, the Commission voted on its own motion to reconsider the revenue requirement treatment accorded to institutional advertising expenditures and charitable contributions in the Phase II Final Decision and Order in Docket No. 19129 (Decision), 64 FCC 2d 1 (1977). Subsequently, on July 19, 1978, an oral argument en banc was held at the Commission's offices and the provision was also made for filing of written briefs or comments.

Any of the present participants in this proceeding who have not already filed their briefs or comments, will have until September 8, 1978, to make such filings with the Secretary. After September 8, 1978, no further filings will be entertained in this proceeding. Delegated authority to the Chief, Common Carrier Bureau to so order is contained in § 0.291 of the Commission's rules and regulations (47 CFR § 0.291).

Accordingly, *it is ordered*, That the record in the above-mentioned proceeding shall be closed on September 8, 1978.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc. 78-24784 Filed 9-1-78; 8:45 am]

[6712-01]

FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: August 23, 1978.

Released: August 28, 1978.

By the Chief, Broadcast Facilities Division.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on October 11, 1978, the TV and FM translator applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 10, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on October 10, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for

filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

UHF TV TRANSLATOR APPLICATIONS

BPTT-3615 (K70CP), Grand Marais, Minn., KDAL, Inc. Req: Change frequency to channel 63, 764-770 MHz.

BPTT-3616 (K79AQ), Grand Portage, Minn., KDAL, Inc. Req: Change frequency to channel 57, 728-734 MHz.

BPTT-3617 (new), Iron Mountain, Mich., U.P. TV Systems. Inc. Req: Channel 56, 722-728 MHz, 100 watts. Primary: WKBD-TV, Detroit, Mich.

BPTT-3618 (new), Rawlins & Rural Carbon County, Wyo., Jeffrey City Community TV Association. Req: Channel 56, 722-728 MHz, 100 watts. Primary: KRMA-TV, Denver, Colo.

BPTT-3619 (new), Little Falls, Minn., Hubbard Broadcasting, Inc. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KSTP-TV, St. Paul, Minn.

BPTT-3620 (new), Cuba, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Channel 60, 746-752 MHz, 10 watts. Primary: WXXI-TV, Rochester, N.Y.

BPTT-3621 (new), Long Prairie, Minn., Hubbard Broadcasting, Inc. Req: Channel 32, 578-584 MHz, 100 watts. Primary: KSTP-TV, St. Paul, Minn.

BPTT-3622 (new), Alexandria, Minn., Hubbard Broadcasting, Inc. Req: Channel 34, 590-596 MHz, 100 watts. Primary: KSTP-TV, St. Paul, Minn.

BPTT-3623 (new), Birchdale, Loman & Black River Rural Area, Minn., County of Koochiching. Req: Channel 58, 734-740 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minn.

BPTT-3624 (new), Big Falls & Rural Areas, Minn., County of Koochiching. Req: Channel 64, 770-776 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minn.

BPTT-3625 (new), Iron Mountain, Mich., U.P. TV Systems, Inc. Req: Channel 53, 704-710 MHz, 100 watts. Primary: KTBN-TV, Los Angeles, Calif.

BPTT-3626 (new), Iron Mountain, Mich., U.P. TV Systems, Inc. Req: Channel 59, 740-746 MHz, 100 watts. Primary: WGN-TV, Chicago, Ill.

BPTT-3627 (new), Iron Mountain, Mich., U.P. TV Systems, Inc. Req: Channel 64, 770-776 MHz, 100 watts. Primary: WYAH-TV, Portsmouth, Va.

BMPTT-1007 (K68BA), Pacific City and Cloverdale, Oreg., State of Oregon acting by and through the State of higher education. Req: Change primary TV station to KOAC-TV, channel 7, Corvallis, Oreg.

BMPTT-1008 (K49AA), Armitage Field portions of Ridgecrest and China Lake, Calif., Indian Wells Valley TV Booster, Inc. Req: Change primary TV station to KWHY-TV, channel 22, Los Angeles, Calif., increase output power to 20 watts.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-6122 (K09JY), Glendive, Mont., Meyer Broadcasting Co. Req: Change frequency to channel 13, 210-216 MHz.

BPTTV-6123 (K11MN), Jeffrey City, Wyo., Jeffrey City Community TV Association. Req: Change primary TV station to KRMA-TV, channel 6, Denver, Colo.

BPTTV-6124 (new), Christiansted and Various Small and Rural, U.S. Virgin Islands, Virgin Islands Public Television System. Req: Channel 5, 76-82 MHz, 10 watts. Primary: WTJX-TV, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

FM TRANSLATOR APPLICATIONS

BPFT-547 (new), Hibbing, Minn., L. J. Harvey Corp. Req: Channel 280, 103.9 MHz, 10 watts. Primary: WAKX-FM, Duluth, Minn.

BPFT-549 (new), Fresno, Calif., Kent Kennedy. Req: Channel 257, 99.3 MHz, 1 watt. Primary: KFAT-FM, Gilroy, Calif.

BPFT-550 (new), Concordia, Kans., Taylor Communications, Inc. Req: Channel 285, 104.9 MHz, 10 watts. Primary: KCLY-FM, Clay Center, Kans.

BPFT-552 (new), Fort Yukon, Alaska, Evangelistic Missionary Fellowship. Req: Channel 296, 107.1 MHz, 1 watt. Primary: KJNP-FM, North Pole, Alaska.

BPFT-554 (new), Fort Yukon, Alaska, Evangelistic Missionary Fellowship. Req: Channel 285, 104.9 MHz, 1 watt. Primary: KJNP-FM, North Pole, Alaska.

BPFT-555 (new), Prineville, Oreg., Juniper Broadcasting, Inc. Req: Channel 252, 98.3 MHz, 10 watts. Primary: KXIQ-FM, Bend, Oreg.

BPFT-556 (K221AI), Chester, Westwood, and Canyon Dam, Calif., Almanor TV Club, Inc. Req: Change frequency to channel 252, 98.3 MHz.

[FR Doc. 78-24783 Filed 9-1-78; 8:45 am]

[6712-01]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: August 24, 1978.

Released: August 29, 1978.

By the Chief, Broadcast Facilities Division.

Notice is hereby given pursuant to § 1.572(c) of the Commission's rules, that on October 11, 1978, the TV broadcast applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 10, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 10, 1978.

The attention of any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to section 309(d)(1) of the Communication's Act of 1934, as amended, is directed to § 1.508(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BPCT-5205 (new), Louisville, Ky., Word Broadcasting Network, Inc. Channel 21. ERP. Vis. 1400 kW, HAAT: 1002 ft.

BPCT-5223 (new), Lubbock, Tex., Troy Raymond Moran. Channel 34. ERP. Vis. 67.92 kW, HAAT: 915 ft.

BPCT-5224 (new), Reading, Pa., Reading Broadcasting, Inc. Channel 51. ERP. Vis. 1824 kW, HAAT: 749 ft.

BPCT-5226 (new), Huntington, W. Va., Tri-State Family Television, Inc. Channel 61. ERP. Vis. 802 kW, HAAT: 407 ft.

BPCT-5231 (new), West Monroe, La., Roger D. Pinton. Channel 39, ERP. Vis. 14.80 kW, HAAT: 498 ft.

BPCT-5232 (new), Clarksburg, W. Va., Christian Communications Center, Inc. Channel 46. ERP. Vis. 6.9 kW, HAAT: 865 ft.

BPCT-5233 (new), Vineland, N.J., Renaissance Broadcasting Corp. Channel 65. ERP. Vis. 3819 kW, HAAT: 895.6 ft.

BPCT-5234 (new), Florence, S.C., Eastern Carolina Broadcasting. Channel 15. ERP. Vis. 1290 kW, HAAT: 1940 ft.

BPCT-5249 (new), Albuquerque, N. Mex., Southwest Television Ltd. Channel 14. ERP. Vis. 1412.54 kW, HAAT: 4187.8 ft.

BPET-612 (KSYS-TV), Medford, Oreg., Southern Oregon Education Co., Channel 8. Change ERP. to Vis. 60.82 kW, change transmitter location, and HAAT: 2668 ft.

BPCT-5228 (new), Richmond, Ind., Cincinnati Christian Communications, Inc. Channel 43. ERP. Vis. 1349 kW, HAAT: 993.6 ft.

[FR Doc. 78-24782 Filed 9-1-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/Operator and Vessels
13901.....	Gotthardt Navigation Co., Ltd.: *Reefer Merchant.*
13905.....	Leo Tornado Shipping S.A.: *Leo Tornado.*
13926.....	Ocean Brother Shipping, Ltd.: *Ocean Brother.*
13944.....	Rodolfo Maritime Corp.: *Ariel I.*
13945.....	Stuart Shipping Corp.: *Antilope.*
13950.....	Niger River Navigation Co.: S.A.: *Hamburg Express.*
13973.....	Kokusai Shipping Kabushiki Kaisha: *Sanho Maru.*
13984.....	Energy Chemical Marine, Inc.: *FFM Matarengi.*
13999.....	Latin America Petroleum Carriers, Inc.: *Brazilian Pride.*
14001.....	H. Dantas Servicos Maritimos S.A.: *Ogum.*

Certificate No.	Owner/Operator and Vessels
14011	Igesia Shipping Corp.: *Oinoussian Leadership.*
14026	Sea Horse Marine of Louisiana, Inc.: *STC 412.*
14032	Lucky Star Navigation Inc.: *Howard Star.*
14037	Telamon Compania Naviera S.A.: *Telamon.*
14040	Protoporos Maritime Corp.: *Protoporos.*
14045	Intrepid Shipping Inc.: *Al Tahtr.*
14046	Glenhest Maritime Inc.: *Eastern Emerald.*
14047	Mulroy Bay Shipping Co., Ltd.: *Eastern Enterprise.*
14059	A/S Iddi: *Joasla* and *Essi Atlantic.*
14060	Kylemore Bay Shipping Co., Ltd.: *Sitia Sun.*
14070	International Transport Santana, Inc.: *Santania.*
14072	Kim-Line, Ltd.: *Brant Point.*
14076	Petunia Transport Corp. of Monrovia: *Kamateri.*
14080	Kim-Transport, Ltd.: *Quidnet.*
14084	Part Ownership Salinas: *Salinas.*
14085	BV Van Diepen's Scheepsbouw en Beheermaatschappij: *Tempo.*
14089	P & O Bulk Shipping, Ltd.: *Garinda, Meynell, Fernie, Ardmore, Aurora, Garbeta,* and *Gandara.*
14095	Skips A/S Afrodite: *Afrodite.*
14101	Vintero Corp., debtor in possession: *Santa Rosa* and *Bonaire Star.*
14102	Chios Castle Shipping Co., Ltd.: *Castle Glory.*
14105	Sea Prince Compania Naviera S.A.: *Takis H.*
14106	Donath Shipping Co. of Liberia: *World Field.*
14107	Lagan Shipping Co., Inc., Panama: *Maritime Alliance.*
14116	Africont Navigation Co., S.A. Panama: *Lagos Express.*
14114	Ceram Shipping, Inc.: *Koro Sea* and *Ross Sea.*
14115	Nicstar Navigation Co. S.A.: *Grace.*
14117	West Africa Navigation Co., S.A., Panama: *Warri Express.*
14122	The Cambay Steamship Co., Ltd.: *Federal Clyde.*
14129	Matat Shipping Co.: *Parnassos.*
14142	Admiral Maritime Inc.: *Sitia Bay.*
14143	Highsea Navigation Co., Ltd.: *Elbella II.*
14147	Tai on Shipping, Inc.: *On Lee, On Tung,* and *On Yeung.*
14151	U.G.A.R.S.A. (Union Gaditana De Armadores, S.A: *Freire Lopez.*
14152	Congelados Jesus, S.A.: *Izarra.*
14153	Davenport Shipping Corp.: *Maya.*
14154	Yulsan Industries Co., Ltd.: *Yulsan Poseidan.*
14156	Tabard Bay Shipping Co., Ltd.: *Emerald Express.*
14157	Bastion Maritime, Inc.: *Orient Express.*
14161	A/S Siljestad Med Flere: *Snestad.*
14164	A/S Siljestad: *Sommerstad, Solstad,* and *Sangstad.*
14165	Jasmine Shipping Corp.: *Athens Sea.*
14169	Jaczon Zeetransporten III B.V.: *Pacific Queen.*
14174	Northcoast Seafood Processors, Inc.: *Polar Bear.*
14175	Danaos Primera Shipping Co. S.A.: *Emmanuel Comninos.*
14176	P/F Stella Shipping & Commercial Co. Ltd.: *Stella Nova.*
14179	Zeerederij Holland Friesland B.V.: *Inca.*
14182	URD Shipping Co. Pte. Ltd.: *Cherry Jet.*
14183	Spliethoff Monaco Shipping S.A.M.: *Westaftrader, Westafcarrier.*
14186	Universal Peace Shipping Enterprises: *Pavlos V.*
14189	Gavina Compania Naviera S.A.: *Lagada.*
14190	Offshore Inc.: *Gulf Salvager, Ocean Salvager.*
14191	G. R. Martin, E. H. Sandford, and J. H. Stites Jr., a partnership: *MSS-678.*
14193	Venture Cruise Lines, Inc.: *America.*
14196	Treasure Shipping Inc.: *Queen Emerald.*
14199	Urondo S.A.: *Ur-Ertza.*
14200	Partrederiet for MS Scol Resident: *Scol Resident.*
14203	Nissos Amorgos Shipping Corp.: *Amorgos.*
14204	Tare Transport Services Inc.: *Elpida.*
14205	Eagle Bulkers Inc.: *Flying Eagle.*
14206	K/S A/S Dione & Co.: *Dirie.*
14208	Keplakes Shipping (Pte.) Ltd.: *Kamaht.*
14209	Endeavour Compania Naviera S.A.: *Thalassini Tyhi.*
14310	Sun Rise Marine Co. S.A.: *Rio.*
14211	Sea Commerce Corp.: *Ocean Sprinter.*
14213	Olympia Sauna Shipping Co. S.A.: *Ypatia Halcoussi.*
14215	Dawn Maritime Corp. S.A.: *Dexterity.*
14216	Fortune Sea Transport Corp.: *Sealionet.*
14227	Oyang Fisheries Co. Ltd.: *Oyang No. 37, Oyang No. 81.*
14233	Transmarin Hamburg G.m.b.H.: *Sina, Marianne.*
14235	Cia Heredero de Navigacion S.A.: *Nella.*
14231	Verna Shipping Co. N.V: *Verna, Martina.*
14236	Oceanstar Corp.: *Loussios.*
14237	Seacontractor Shipping Co. Ltd.: *Ellina.*
14238	Raglan Shipping Corp.: *Fair Reefer.*
14243	Dahlia Maritime Enterprises Inc.: *Hibiscus.*
14244	Gypsophila Shipping Corp.: *Athens Way.*
14250	Delos Shipping Co., Ltd.: *Delos.*
14251	Partrederiet Viscaya: *Viscaya.*
14253	Liberian Manor Transports, Inc.: *Golden Miranda.*
14258	Rederij Pinkster M.V. Baia de Sao Bras: *Baia de Sao Bras.*
14259	Murakatsu Gyogyo Kabushiki Kaisha: *Choko Maru No. 28.*
14260	Nitta Gyogyo Kabushiki Kaisha: *Daitoku Maru No. 31.*
14261	Hakuomaru Gyogyo Sekan Kumiai: *Hakuo Maru No. 5.*
14262	Conklin Shipping Corp.: *Astra.*
14263	Banyo Jitsugyo Co., Ltd.: *Kuroshio Maru No. 38.*
14264	Kabushiki Kaisha Marukichi: *Shoshin Maru No. 21.*
14265	Taikei Gyogyo Kabushiki Kaisha: *Taikei Maru No. 51.*
14266	Hiro Marine S.A.: *Emerald Queen.*
14267	Katmair Shipping Corp.: *Michalis Lemos.*
14269	Hellenickamp Navigation Ltd.: *Holstenkamp.*
14270	Silver Arrow Shipping Co. S.A.: *Silver Arrow.*
14281	Colonial Shipping Ltd.: *Doric Arrow.*
14295	Jubilee Maritime Inc.: *Junior.*
14296	Transmar Corp.: *Theodore A.*
14297	Strider 6 Ltd.: *Jade Bounty.*
14301	A/S Svendborg Skibsvaerft c/o Mortensen & Lange: *Charm.*
14302	Takara Gyogyo Kabushiki Kaisha: *Hoyo Maru No. 77.*
14305	Henlow Shipping Corp.: *Europe.*
14306	Koala Shipping & Trading Inc.: *Seatrain Explorer.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24878 Filed 9-1-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, LA., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 15, 1978. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10041-6.

Filing Party: Fred A. Wendt, Senior Vice President, Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, La. 70150.

Summary: Agreement No. 10041-6, between Compania Peruana de Vapores and Delta Steamship Lines, Inc., amends the basic cargo revenue pooling, sailing and equal access agreement in the southbound trade from the ports of New York, Philadelphia, and Baltimore to the Peruvian ports of Callao and Ilo by (1) providing that the parties may arrange space charters on each other's vessels, and (2) extending the term of the agreement from September 30, 1978, through December 31, 1980. This amendment also formally substitutes Delata Steamship Lines for Prudential Lines, Inc. as a party to the agreement.

By Order of the Federal Maritime Commission.

Dated: August 30, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24876 Filed 9-1-78; 8:45 am]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, includ-

ing requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 25, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-2677-1.
Filing Party: David Ainsworth, Senior Counsel, Matson Navigation Co., P.O. Box 3933, San Francisco, Calif. 94119.

Summary: Agreement No. T-2677-1, between Matson Navigation Co. (Matson) and Seattle/Crescent Container Service (Crescent), modifies the basic agreement between the parties which provides for Crescent to perform stevedoring and terminal services for Matson subject to Matson's nonpreferential assignment agreement with the Port of Seattle. Agreement No. T-2677-1 provides for Crescent, instead of Matson, to provide container moving and handling equipment and Matson will reimburse Crescent for its cost in hiring such equipment from Port of Seattle pursuant to its tariff.

Agreement No.: T-2999-2.
Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Summary: Agreement No. T-2999-2, between the Port of Seattle (Port) and Kerr Steamship Co., Inc. (Kerr) modifies the parties' basic agreement providing for the month-to-month lease to Kerr of approximatley 10,000 square feet of warehouse space at Transit Shed No. 3, Pier 46, Seattle, Wash., to be used for the stuffing and unstuffing of containers. the purpose of the modification is to increase the rental amount paid by Kerr, from $800 to $1,100 per month and to increase the lease deposit from $800 to $1,100.

Agreement No.: T-3694.
Filing Party: Francis X. Nolan, Kirlin, Campbell & Keating, One Twenty Broadway, New York, N.Y. 10005.

Summary: Agreement No. T-3694, between International Terminal Operating Co. (I.T.O.) and Chilean Line, Inc. (Chilean Line), provides for I.T.O. to perform stevedoring and terminal services for Chilean Line at Port Newark, N.J. The services will be performed at rates agreed upon by both I.T.O. and Chilean Line. The agreement will continue in effect until cancelled by either party upon 30 days' written notice to the other party.

Agreement No.: T-3289-4.
Filing Party: Mr. Carl S. Parker, Jr., Traffic Manager, Port of Galveston, P.O. Box 328, Galveston, Tex. 77553.

Summary: Agreement No. T-3289-4, between the Board of Trustees of Galveston Wharves (Wharves) and Bunge Corp. (Bunge), modifies the basic lease between the parties of a grain elevator and terminal facilities. This modification enlarges the leased premises to include an area adjacent to the existing leased facilities. The additional area consists of approximately 42,092 square feet and is further described in the amendment. As compensation, Bunge will pay Wharves additional quarterly rental payments of $1,262.76.

Agreement No.: 10353.
Filing Party: John R. Mahoney, Esq., Burlingham Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Summary: Agreement No. 10353 between Associated Operating Co., Ltd. and Skaugen & Co. A/S would establish a joint service entitled Transatlantic Maritime Services to be operated by the parties in the trade between U.S. Atlantic and Gulf Coast ports and ports in Europe in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: August 30, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24877 Filed 9-1-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 38471 on August 28, 1978, that meetings of the Federal Prevailing Rate Advisory Committee will be held on September 7, September 21, and September 28, 1978. This is notice that the meeting scheduled for September 7 has been canceled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

AUGUST 31, 1978.

[FR Doc. 78-25011 Filed 9-1-78; 8:45 am]

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Open Meeting

AUGUST 22, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, September 29, 1978, from 9 a.m. to 3 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets SW., Auburn, Wash. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for a 1-year Supplemental A/E Services contract for Oregon State, west of the Cascade Crest. The meeting will be open to the public.

R. D. CASAD,
Regional Administrator.

[FR Doc. 78-24858 Filed 9-1-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

PANEL ON REVIEW OF ANTIMICROBIAL AGENTS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice that the Panel on Review of Antimicrobial Agents meeting announced in a notice published in the FEDERAL REGISTER of August 18, 1978 (43 FR 36692) for September 22 and 23, 1978, has been changed to September 29 and 30, 1978. The meeting will be held in Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, on Friday, September 29, and at the Holiday Inn, Georgia Room, Bethesda, Md. 20014, on Saturday, September 30. The open public hearing will begin at 9 a.m. on Friday, September 29.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

Dated: August 29, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-24780 Filed 9-1-78; 8:45 am]

[4110-03]

[Docket No. 78N-0263]

ANTACID DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Final Classification of Category III Antacid Ingredients and Labeling Claims

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document contains the final decision that over-the-counter (OTC) antacid drug products having certain ingredients or combinations of ingredients and having certain labeling claims would be considered not generally recognized as safe and effective for their intended use or, in the case of labeling, would be misbranded (Category II). OTC antacid drug products with the conditions subject to this notice are therefore regarded as new drugs requiring approved new drug applications before they can be marketed in interstate commerce.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of June 4, 1974 (39 FR 19862) the final order for OTC antacid drug products generally recognized as safe and effective and not misbranded (21 CFR part 331). This order was issued under the OTC drug review procedures (21 CFR 330.10) promulgated in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464) and the conclusions and recommendations of the Advisory Review Panel on OTC Antacid Drug Products.

Section 330.10(a)(5) of the OTC drug review procedures defines Category I, Category II, and Category III conditions as follows:

(i) A recommended monograph or monographs covering the category of OTC drugs and establishing conditions under which the drugs involved are generally recognized as safe and effective and not misbranded (Category I). This monograph may include any conditions relating to active ingredients, labeling indications, warnings and adequate directions for use, prescription of OTC status, and any other conditions necessary and appropriate for the safety and effectiveness of drugs covered by the monograph.

(ii) A statement of all active ingredients, labeling claims or other statements, or other conditions reviewed and excluded from the monograph on the basis of the panel's determination that they would result in the drug's not being generally recognized as safe and effective or would result in misbranding (Category II).

(iii) A statement of all active ingredients, labeling claims or other statements, or other conditions reviewed and excluded from the monograph on the basis of the panel's determination that the available data are insufficient to classify such condition under either paragraph (a)(5) (i) or (ii) of this section and for which further testing is therefore required (Category III). The report may recommend the type of further testing required and the time period within which it might reasonably be concluded.

In the FEDERAL REGISTER of April 12, 1977 (42 FR 19137), the Commissioner amended § 330.10(a) to permit any product with a Category III condition (e.g., ingredient, combination of ingredients, labeling claim) to remain on the market or be introduced into the market during the testing period if the Food and Drug Administration (FDA) receives notification, pursuant to 21 CFR 330.10(a)(13), that the number of studies specified in the applicable testing guidelines will be undertaken to obtain the data necessary to resolve the issue that resulted in Category III classification. Under § 330.10(a)(13)(v), FDA must issue a notice in the FEDERAL REGISTER, as soon as possible after the date for submitting a Category III notification statement, listing each Category III condition for which notification statements have been filed. The notice must also list each Category III condition for which notification statements have not been received and place these conditions in Category II, indicating the date when products containing such conditions may no longer by shipped in interstate commerce. The revised Category III testing regulations thus permit the Commissioner to remove from the marketplace products that have no potential for reaching Category I prior to the expiration of the time allotted for Category III testing.

At the time of publication of the final order for OTC antacid drug products, however, the regulations did not require a sponsor to submit a notice of intent to test a Category III condition. The June 4, 1974, order provided a testing period until June 5, 1976. Accordingly, until the expiration of the time allowed, the Commissioner could not make a final determination of the status of any Category III condition, irrespective of whether it was the subject of testing.

Moreover, although the 2-year Category III testing period established by the final order for OTC antacid drug products expired on June 5, 1976, reclassification of the conditions for which no studies had been performed was further delayed in the expectation that the test results on those Category III conditions that had been studied, and for which petitions to amend the monograph had been received, could be quickly evaluated and the status of all Category III conditions announced at one time.

During the Category III testing period provided for OTC antacid drug products, data were submitted to FDA by Marion Laboratories, Inc., in support of a foam-forming floating antacid combination product containing the ingredients aluminum hydroxide dried gel, magnesium trisilicate, alginic acid, and sodium bicarbonate (OTC File No. 31-00088). In addition, two firms submitted data to support amendment of part 331 (the antacid monograph) to include the labeling indication "upset stomach" (Miles Laboratories, Inc. (OTC file No. 31-000192) and Warner-Lambert Co. (OTC file No. 31-11370)).

Review of the petitions to amend the antacid monograph has been complicated by several factors. The claim "upset stomach due to overindulgence in food and drink" is currently under review by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Although this claim is different from the "upset stomach" claim for which supporting data were submitted in the two petitions to amend the antacid monograph, the Commissioner has determined that it is appropriate to coordinate certain aspects of the review of these petitions with the ongoing review by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Accordingly, the final evaluation of the petitions to amend the antacid monograph to include the claim of "upset stomach" has been delayed.

In the case of the petition to amend the monograph to include an antacid combination containing alginic acid in Category I, the petitioner has clarified the rationale for including alginic acid in its final formulation, i.e., alginic acid reacts with the sodium bicarbonate in the formulation to form a foam that carries the antacid ingredients and floats on the stomach contents. The petitoner calls this a foam-forming floating antacid product. No claim is made that alginic acid has any antacid activity. Heretofore alginic acid had been reviewed and classified as an active antacid ingredient. Hence it has been necessary to reassess the petition in light of the sponsor's position regarding alginic acid.

For these reasons it has taken longer than anticipated to evaluate the test results that have been submitted in support of the three petitions to amend the antacid monograph, and because this evaluation is still ongoing, the Commissioner concludes that the final classification of Category III conditions for which no test results have

been submitted should not be further delayed.

The Commissioner will set forth his findings on the three petitions to amend the antacid monograph in separate FEDERAL REGISTER publications as soon as review of the petitions is completed.

This notice, therefore, constitutes a final determination that the ingredients, combinations of ingredients, and labeling claims discussed below are classified in Category II for OTC antacid drug products and thus may not be marketed in interstate commerce unless they are the subject of a new drug application approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

In the preamble to the June 4, 1974 (39 FR 19873-19874) final order establishing part 331, the Commissioner determined that adequate and reliable scientific evidence was not available to permit final classification of the following OTC antacid active ingredients: Alginic acid, attapulgite (activated), charcoal (activated), gastric mucin, kaolin, methylcellulose, pectin, and carboxymethylcellulose, and these ingredients were placed in Category III to allow for further testing.

Alginic acid, as discussed above, is included in one of the petitions to amend the antacid monograph and its status is, therefore, not affected by this notice. No data were submitted during the testing period in support of any of the other Category III ingredients identified above. As a result, none of those ingredients is generally recognized as safe and effective for antacid use; they are regarded as new drugs as defined in section 201(p) of the act (21 U.S.C. 321(p)) requiring approved new drug applications prior to marketing for antacid use.

Included among the Category III labeling claims identified in the preamble to the June 4, 1974 (39 FR 19874) antacid final order were claims alleging relief of the following symptoms not known to be related to acidity of gastric contents: Indigestion, gas, upper abdominal pressure, full feeling, nausea, excessive eructations (belching), and upset stomach. The Commissioner concluded that these symptoms were vague, most were poorly understood as to pathophysiological mechanisms, and none had been shown by adequate and reliable scientific evidence to be caused or alleviated by changes in gastric acidity.

Other claims or indications linking certain signs and symptoms with gastric acidity were placed in Category III on the ground that these claims were unproven: The relationship of these signs and symptoms to gastric acidity was unknown or dubious, with no adequate and reliable scientific evidence to support the use of antacids to relieve them. The following signs and symptoms were placed in Category III for this reason: Sour breath, upper abdominal pressure, full feeling, nausea, stomach distress, indigestion, upset stomach, and excessive eructations. The Commissioner concurred with the Advisory Review Panel on OTC Antacid Drug Products that these claims or indications encouraged the user to draw conclusions as to the cause or intermediation of such symptoms, conclusions that even members of the medical profession were incapable of drawing at that time.

Other claims relating to physical or chemical properties were placed in Category III on the ground that the currently available evidence was inadequate to support the conclusion that the properties contributed to the relief of upper gastrointestinal symptoms. The properties were: Floating, coating, defoaming, demulcent, and carminative. The Commissioner advised in the preamble to the June 4, 1974 (39 FR 19874) antacid final order that continued use of these claims, or ones closely allied to them, would require additional studies both to confirm the claimed specific action and to demonstrate its clinical significance. The Commissioner will defer a final decision on the term "floating" until the review of the petition to amend the antacid final order to include a foam-forming floating antacid product in Category I has been completed.

No data was submitted during the testing period in support of any Category III antacid claim or property except "upset stomach" and "floating."

Accordingly, the following untested claims that were previously classified as Category III are now placed into Category II when used for OTC antacid drug products: Indigestion, gas, upper abdominal pressure, full feeling, nausea, excessive eructations (belching), sour breath, stomach distress, coating, defoaming, demulcent, and carminative. Antacid drug products that are initially introduced or delivered for introduction into interstate commerce after the effective date of this notice bearing these claims in their labeling will be in violation of sections 502 and 505 of the act (21 U.S.C. 352 and 355) and, therefore, subject to regulatory action.

The Commissioner is aware that confidentiality was requested by Marion Laboratories, Inc., Miles Laboratories, Inc., and Warner-Lambert Co., for information in their petitions submitted to amend the final order on OTC antacid products. The issue of whether such information is entitled to confidential status was fully discussed in paragraph 10 of the preamble to the April 12, 1977, amendments to § 330.10(a). However, to assure that there is no misunderstanding, the Commissioner reemphasizes several points made regarding the disclosability of all safety and effectiveness information in submissions to amend OTC monographs. General recognition of safety and effectiveness for a Category III product subject to a petition to amend a monograph must be based on data and information that are in the public domain and therefore available to the community of experts without restriction. Confidentiality of data relating to safety and effectiveness is incompatible with Category III status, which looks toward establishment of general recognition of such safety and effectiveness. General recognition of safety and effectiveness cannot, as a definitional matter, be shown by reference to confidential material (see *Weinberger* v. *Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609, 632 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 652 (1973)), and, therefore, all safety and effectiveness data and information submitted with a petition to amend a monograph to include a condition previously classified in Category III will become publicly available when the petition is received (see the FEDERAL REGISTER of April 12, 1977). With respect to the three petitions submitted to amend the antacid monograph, they will become publicly available on September 5, 1978. Any other approach would be inconsistent with both the goal and procedures of the OTC drug review. These petitions shall be maintained in a permanent file for public inspection in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The effective date of this notice is March 5, 1979. After that date, no person will be permitted to initially introduce or deliver for introduction into interstate commerce any OTC antacid drug product not included in the monograph established in 21 CFR Part 331, except as noted herein.

Dated: August 29, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-24914 Filed 9-1-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education and its two standing committees. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: Meetings: September 27, 28, and 29, 1978.

ADDRESS: The Downtown Howard Johnson's Hotel, 330 Loyola Avenue, New Orleans, La.

FOR FURTHER INFORMATION:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street NW., Suite 529, telephone 202-376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public: Beginning with the meetings of the two standing committees on Wednesday, September 27, from 4 to 7 p.m.; and the meetings of the full Council on Thursday, September 28, from 9:30 a.m. to 12 noon and 2 p.m. until 4 p.m.; and on Friday, September 29 from 9 a.m. until 12 noon.

The agenda for the Council meeting is summarized as follows:

A. WEDNESDAY, SEPTEMBER 27 (4-7 P.M.)

1. Meeting of the Continuing Education Policy Committee to discuss Federal policies for continuing education and the adult learner; and,

2. Meeting of the Title I Committee to discuss activities related to the reauthorization of the Higher Education Act.

B. THURSDAY, SEPTEMBER 28 (9:30 A.M. TO 12 NOON, AND 2-4 P.M.)

Meeting of the full Council will include discussion of Council plans for the future; and the discussion of prepared statements dealing with financial aid to the part-time student, private sector support for continuing education, educational opportunities for the unserved adult population, and staff training and development.

C. FRIDAY, SEPTEMBER 29 (9 A.M. TO 12 NOON)

Meeting of the full Council to continue discussion of Thursday session, and to hear and discuss Committee reports.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: August 25, 1978.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 78-24862 Filed 9-1-78; 8:45 am]

[4110-08]

National Institutes of Health

ALLERGY AND IMMUNOLOGY STUDY SECTION

Workshop

Notice is hereby given of a workshop on Cell Hybridization and Immunology to be held by the Allergy and Immunology Study Section at Building 1, Wilson Hall, Bethesda, Md., October 31, 1978, from 8:30 a.m. until recess and November 1, 1978, from 8:30 a.m. until adjournment.

Further information may be obtained from Dr. Morton Reitman, Executive Secretary, Allergy and Immunology Study Section, Westwood Building, Room 320, telephone 301-496-7380.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: August 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24828 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Nationl Heart, Lung, and Blood Institute Board of Scientific Counselors, November 8 and 9, 1978, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9 a.m. to 5 p.m. on November 8 and from 9 a.m. to 12 noon on November 9 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code, section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:30 p.m. to adjournment November 9 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone 301-496-2116.

Dated: August 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24830 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, DIVISION OF CANCER BIOLOGY AND DIAGNOSIS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCBD, National Cancer Institute, October 27 and 28, 1978, Building 31, Conference Room 11A-10, "A" Wing, National Institutes of Health. This meeting will be open to the public on October 27, 1978, from 9 a.m. to 5 p.m. to discuss the scientific research program of the laboratory of Immunodiagnosis, DCBD. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 28, 1978, from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Alan S. Rabson, Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building

31A, Room 3A-03, National Institutes of Health, Bethesda, Md. 20014 (301-496-4345), will furnish summary minutes, rosters of committee members, and substantive program information.

Dated: August 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24826 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NIA

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 30-31, 1978, to be held at the Gerontology Research Center, Baltimore, Md. The meeting will be open to the public from 9 a.m. to adjournment on Monday, October 30, and from 9 a.m. until noon on Tuesday, October 31. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 31 from 1 p.m. until adjournment for the review, discussion, and evaluation of individual programs, and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C05, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-5345, will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Md. 21224, will furhish substantive program information.

Dated: August 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24827 Filed 9-1-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NINCDS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, November 2 and 3, 1978, in Conference Room 1B-07, Building 36, Bethesda, Md. 20014. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on November 2 and 9:00 a.m. to 12:30 p.m. on November 3 is discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12:30 p.m. until the conclusion of the meeting on November 3 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Ms. Sylvia Shaffer, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

The executive secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director, of Intramural Research Program, NINCDS, Building 36, Room 5A05, NIH, Bethesda, Md. 20014, telephone 301-496-4297.

(Catalog of Federal Domestic Assistance Program No. 13,356, National Institutes of Health.)

Dated: August 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24829 Filed 9-1-78; 8:45 am]

[4110-08]

EPILEPSY ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, October 27, 1978, in Room 6C01, Federal Building, NIH, Bethesda, Md. 20014.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Dr. J. Kiffin Penry, Chief, Epilepsy Branch, Neurological Disorders Program, NINCDS (Federal Building, Room 114), Bethesda, Md. 20014, telephone 301-496-6691, will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)

Dated: August 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24825 Filed 9-1-78; 8:45 am]

[4110-08]

NUTRITION STUDY SECTION

Workshop

Notice is hereby given of a workshop on Primates in Nutrition to be held by the Nutrition Study Section at the Oregon Regional Primate Center, Beaverton, Oreg., October 23, 1978, from 8:30 a.m. until recess and October 24, 1978, from 8:30 a.m. until adjournment.

Further information may be obtained from Dr. John R. Schubert, Executive Secretary, Nutrition Study Section, Westwood Building, Room 204, telephone 301-496-7178.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: August 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24823 Filed 9-1-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will furnish summaries of the meetings and rosters of committee members, upon request.

Other information pertaining to the meeting can be obtained from the executive secretary indicated.

Name of committee: President's Cancer Panel.
Dates: October 10, 1978; 9:30 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and of the national cancer program.
Executive secretary: Dr. Richard A. Tjalma, Building 31, Room 11A46, National Institutes of Health, 301-496-5854.

Name of committee: Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Dates: October 17-18, 1978; 9 a.m. to adjournment.
Place: Building 31, Conference Room 11A10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Initial meeting of the Board. Discussions will cover general items re future direction of the Division of Cancer Cause and Prevention and orientation for members of the Board.
Executive secretary: Dr. David McB. Howell, Building 31, Room 11A04, National Institutes of Health, 301-496-5946.

Name of committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogenesis.
Dates: October 24, 1978; 9 a.m. to adjournment.
Place: Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive secretary: Dr. J. Dan Recer, Landow Building, Room 8C25, National Institutes of Health, 301-496-4663.

Name of committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: October 25, 1978; 9 a.m. to adjournment.
Place: Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open for the entire meeting.
Agenda: To discuss experimental design for bioassay and other matters relevant to experimental design.
Executive secretary: Dr. J. Dan Recer, Landow Building, Room 8C25, National Institutes of Health, 301-496-4663.

Name of committee: Data evaluation/Risk Assessment of the Clearinghouse on Environmental Carcinogens.
Dates: October 26, 1978; 9 a.m. to adjournment.
Place: Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open for the entire meeting.
Agenda: To review available bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health, 301-496-5108.

Dated: August 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24822 Filed 9-1-78; 8:45 am]

[4110-08]

WORKSHOP ON ALCOHOL AND CANCER

Meeting

Notice is hereby given of the Workshop on Alcohol and Cancer sponsored by the National Cancer Institute, Division of Cancer Control and Rehabilitation and the National Institute of Alcohol Abuse and Alcoholism, Division of Extramural Research, October 23 and 24, 1978, Building 31, Conference Room 10, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on October 23 from 9 a.m. to 5:30 p.m. and on October 24, 1978, from 9 a.m. to 5:30 p.m. for presentation of scientific papers. Attendance by the public will be limited to space available.

Dr. Vincent Groupe, cochairman of the Workshop Committee, Division of Cancer Control and Rehabilitation, Blair Building, Room 701, National Cancer Institute, National Institutes of Health, Bethesda, Md. 20014 (301-427-7993), will provide additional information.

Dated: August 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-24824 Filed 9-1-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF 4-CHLORO-M-PHENYLENEDIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

4-Chloro-m-phenylenediamine (CAS 5131-60-2) has been tested for cancer-causing activity with rats and Mice in the Carcinogenesis Program, Divison of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4-chloro-m-phenylenediamine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 4-Chloro-m-phenylenediamine was administered in the feed, at either of two concentrations, to groups of 49 or 50 male and 50 female animals of each species. The dietary concentrations used in the chronic bioassay for low- and high-dose rats were 0.2 and 0.4 percent, respectively. The time-weighted average dietary concentrations used for low-and high-dose mice were 0.7 and 1.4 percent, respectively. After a 78-week period of compound administration, observation of rats continued for an additional 27 weeks and observation of mice continued for an additional 17 weeks. For each species, 50 animals of each sex were placed on test as untreated controls.

In both species, adequate numbers of animals in all groups survived long enough to be at risk from late-developing tumors.

Under the conditions of this bioassay, dietary administration of 4-chloro-m-phenylenediamine was carcinogenic to the experimental animals, causing an increased incidence of hepatocellular tumors in female B6C3F1 mice and an increased incidence of adrenal pheochyromocytomas in male Fischer 344 rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 28, 1978.

DONALD S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc. 78-24821 Filed 9-1-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF ETHIONAMIDE FOR POSSIBLE CARCINOGENICITY

Availability

Ethionamide (CAS 536-33-4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the chemotherapeutic drug ethionamide for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 34 or 35 mice of each sex were administered ethionamide at one of the following doses, either 1,500 or 3,000 p.p.m. for the rats and either 1,000 or 2,000 p.p.m. for the mice. The animals were treated 5 days per week for 78 weeks, then observed for an additional 25 or 26 weeks. Matched controls consisted of groups of 15 untreated rats and 15 untreated mice of each sex. All surviving animals were killed at 103 or 104 weeks.

Mean body weights of the treated rats and mice were lower than those of the corresponding matched controls

during most or all of the study. Survival in the rats was sufficient to allow development of late-appearing tumors. In the mice, survival of the high-dose males (27%), matched-control males (7%), and low-dose females (37%) to the end of the study was low, and the deaths were associated with suppurative lung lesions. However, tests for dose-related trend in mortality were not significant in either sex, and 47% or more of all groups of mice except control males were alive at 78 weeks.

It is concluded that under the conditions of this bioassay, ethionamide was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 28, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-24820 Filed 9-1-78; 8:45 am]

[4110-83]

Public Health Service

HEALTH RESOURCES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HR (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (42 FR 61329, December 2, 1977) is amended to reflect numerous changes in the program responsibilities and operational requirements of existing components of the Health Resources Administration (HRA) and the establishment of the Bureau of Health Facilities Financing, Compliance, and Conversion. The current statement for HRA is deleted in its entirety and replaced by the following:

Section HR-A mission. The mission of the Health Resources Administration is to identify health care resource problems and maintain or strengthen the distribution, supply utilization, quality, and cost effectiveness of these resources to improve the health care system and individual health status.

Major thrusts include the development of a national health planning capability geared to promoting equal access to quality health care at a reasonable cost, containing health care costs, particularly hospital costs, and promoting innovative strategies and targeted development of manpower, facilities, and other resources required for an effective health care system.

Sec. HR-B organization and functions. The Health Resources Administration is directed by an Administrator who is responsible to the Assistant Secretary for Health. The Administration consists of the following major components, with functions indicated:

OFFICE OF THE ADMINISTRATOR (HRA)

Provides leadership and direction to the programs and activities of the Health Resources Administration.

Immediate Office of the Administrator (HRA1). (1) Provides leadership for the execution of administration responsibilities related to the development of a national policy with respect to the identification, deployment, and utilization of physical, financial, and personnel resources in the achievement of optimal health services for the people of the United States; (2) manages and directs the activities of the Administration; (3) supports and stimulates programs designed to encourage the training and full utilization of minority and disadvantaged persons both within the administration and, for the health professions, on a nationwide basis; (4) directs the coordination of the administration's activities, both internally and with other components of the Department of Health, Education, and Welfare, to assure adequate resources for a comprehensive health-service system; and (5) provides liaison with major health systems and organizations, both governmental and private, national and international, to promote collaboration and interchange of information in support of national health goals.

Office of equal employment opportunity (HRA12). (1) Plans, directs, and coordinates Equal Employment Opportunity (EEO) programs covering headquarters and field employees; (2) provides staff advice to the Administrator and to other key officials throughout the Health Resources Administration with respect to policies, plans, procedures, regulations, and reports pertaining to the general equal employment opportunity policy of the Federal Government and the Department's programs established under Executive Order 11478, Pub. L. 92-261, and Pub. L. 93-259; (3) plans and develops programs and procedures designed to eliminate discriminatory employment practices; (4) receives and provides for the investigation of complaints of alleged discrimination; and (5) maintains liaison with the Office of the Assistant Secretary for Health, DHEW, and the Civil Service Commission, and other organizations outside the HRA concerned with equal employment opportunity.

Office of program policy coordination (HRA14). (1) Advises the Administrator and, upon his direction, other top HRA officials, in the identification and, where appropriate, resolution of program policy issues, initiatives and problems; (2) performs the secretariat function for the Administrator in his role as chairperson of the HRA Policy Board; (3) interacts on program and policy matters with the national council on health planning and development, the graduate medical education national advisory council, and other public advisory groups, and performs executive secretariat and related support functions for such councils and groups; (4) plans, organizes, and directs the Executive Secretariat of the Administration, with primary responsibility for preparation and management of written communications to and from the Administrator; (5) coordinates the preparation of proposed rules and regulations relating to HRA programs, and coordinates HRA review and comment on other HEW regulations that may affect HRA programs; (6) in cooperation with the Office of Communications, HRA, organizes and coordinates speaking engagements involving the Administrator and other HRA officials; and (7) organizes and manages the committee management system of the Administration.

Office of Communications (HRA4). (1) Directs, formulates policy for, conducts, and coordinates communications activities of the Health Resources Administration; (2) provides communications expertise and staff advice to the Administrator in support of program and policy formulation and execution; (3) establishes and maintains productive relationships with the communications media; (4) establishes and implements policies for review, processing, quality control, and dissemination of HRA program communications materials; (5) provides central communications and graphic arts services to all HRA programs; and (6) serves as focal point for coordination of HRA communications activities with those of other health agencies within HEW and with regional, State, local, voluntary, and professional organizations.

Office of Operations and Management (HRA5). (1) Provides Administration-wide leadership in all phases of management and for direct conduct or general supervision of Administration-wide operational functions; (2) directs and coordinates the Administration's activities in the areas of management policy, operational planning, systems management, financial management, procurement and materiel management, grants management, and personnel management; (3) advises the Administrator on management implications of Administration plans and programs; (4) directs and coordinates the development of HRA's annual zero

base budget (ZBB); (5) advises the Administrator on the allocation of HRA resources, develops and maintains systems for resource allocation and monitoring, and oversees the development and implementation of an operational work planning system; (6) administers HRA's participation in the Department's major initiatives tracking system (MITS); (7) provides staff support and facilities for advisory councils, conferences, and meetings; (8) collaborates with the Office of Planning, Evaluation, and Legislation in the development and implementation of the 5-year program and financial plan for the Administration; (9) provides HRA-wide building and administrative services; (10) provides administrative support for Office of the Administrator components; (11) directs the Agency's security and safety management program; (12) coordinates Administration programs with PHS Regional Office activities; and (13) directs data systems management and the Administration's management information support systems.

Division of Management Policy (HRA51). (1) Develops, recommends, and provides advice and assistance on policies, methods, and procedures for the management of HRA programs; (2) provides analysis, recommendations, and guidance related to the establishment or modification of organizational structures and functions; (3) conducts and coordinates HRA-wide management improvement programs, including manpower utilization and productivity measurement; (4) participates in program and legislative planning and implementation from the standpoint of assuring recognition of management problems; (5) initiates or reviews proposed program and administrative delegations of authority; (6) conducts and coordinates the HRA issuance management system; (7) conducts and coordinates the HRA records, reports, and forms management programs; (8) coordinates HRA and, as required, PHS responses to GAO and HEW program audit reports; (9) oversees and coordinates HRA implementation of legislation and directives relating to the privacy of records; (10) prepares and maintains the HRA index of policy documents required to implement freedom of information legislation and directives; (11) conducts management studies and surveys; and (12) negotiates solutions to intra- and interagency problems and issues in such areas as organizations, functions, delegations, and procedures.

Division of Financial Management (HRA52). (1) Provides advice and assistance to the Administrator in financial planning and analysis; (2) collaborates with the Office of Planning, Evaluation, and Legislation in the forward planning process, and assists in the development of the Administration's annual zero base budget (ZBB); (3) participates in the development and implementation of an Administration-wide budget system and prepares budget submissions; (4) directs the Administration's fiscal activities; (5) develops and manages a system for allocating funds within the Health Resources Administration and maintaining accounting records and controls; (6) participates in the development of policies and procedures concerning financial aspects of grants and negotiated research and development contracts; (7) develops fund ceilings for travel, prepares reports on the status of travel funds, provides travel cost advisory services, develops and maintains travel regulations and procedures, and provides agent cashier services for HRA; and (8) maintains liaison with the Office of the Assistant Secretary for Health and the Office of the Secretary.

Division of Grants and Procurement Management (HRA54). (1) Provides leadership in the planning, development, and implementation of policies and procedures for grants and contracts; (2) exercises the sole responsibility within HRA for the management and award of contracts; (3) provides advice and consultation on interpretation and application of PHS and departmental policies and procedures affecting contracts and grants management; (4) develops and issues policy and procedural materials for the Administration's contract and grant programs; (5) establishes standards and guides for an evaluates contracts and grants management operations throughout the Administration; (6) coordinates Administration positions and actions with respect to the audit of grants and contracts; (7) provides professional accounting advice relative to the management of contracts and grants; (8) maintains liaison, directly or through the Regional Health Administrators, with grantee institutions and organizations and with the Office of the Assistant Secretary for Health and other components of the Department; and (9) advises on and coordinates Administration-wide policies and procedures required to implement GSA and departmental regulations governing materiel management, including transportation, motor vehicles, and utilization and disposal of personal property.

Division of Personnel Management (HRA55). (1) Provides personnel management advice and assistance to the Administrator and to managers and supervisors within its servicing area; (2) participates in the development of HRA goals and operating plans related to personnel management; (3) within its servicing area, provides personnel management and personnel administration services, including manpower planning and utilization, employment, recruitment, compensation and classification, executive and career development, upward mobility, labor relations, employee relations, and occupational health; (4) prepares staff studies and recommendations to HRA management on personnel needs and problems; (5) identifies the need for personnel policies and programs to PHS and collaborates with PHS, as appropriate, in the development of such policies and programs; (6) develops and implements operating procedures and interprets policies to the extent necessary to meet the special needs of the Health Resources Administration in the application of PHS, DHEW, CSC, and other Government agency regulations; and (7) represents the Health Resources Administration in personnel management matters with PHS, DHEW, CSC, other Government agencies, professional societies, and colleges and universities.

Division of General Services (HRA57). Plans, coordinates, and provides the following administrative and technical support services for HRA and OASH components located in the center building: (1) Communications services, including: telecommunications management, teleticketing, telephone (centrex system), telegraph, audiovisual, training and conference room accommodations, and visitor information; (2) safety and security services, including: recommending, developing, and implementing policies and administrative procedures for the physical protection of employees and property, investigation of thefts and misconduct, supervision of a civilian guard force, investigation of safety hazards and accidents, and coordination and implementation of an Administration-wide safety program; (3) building and logistics services, including: space management, building maintenance and alterations, custodial, parking management, mail and messenger, motor pool, shuttle, shipping and receiving, procurement of equipment and supplies, property management, and quality control services; (4) printing services, including: central duplicating activities, central review and approval of agency duplicating and copier requirements and services, central storage and distribution of forms and publications, providing printing expertise and staff advice and assistance to HRA programs, procurement for printing materials and allied and related services, establishing and maintaining mailing lists, and composition services; and (5) recommends, develops, and implements policies and administrative procedures required to provide the foregoing functions.

Division of Data Management (HRA58). (1) Promotes planning for

and optimal use of automatic data processing (ADP) systems in support of HRA mission and program goals; (2) provides a central resource of ADP systems analysis, programing, data communications, and data maintenance; (3) supports the HRA staff offices and Bureaus in the processing, storing, retrieving, and reporting of data for surveys, program, operational, and administrative activities; in the application of operations research methodology; and in the development of management information systems; (4) serves as liaison between HRA and the Office of the Assistant Secretary for Health (OASH) on all ADP matters; (5) evaluates and audits ADP activities to insure compliance with management and security policies and procedures issued by OASH, DHEW, the Office of Management and Budget, and the General Services Administration; and (6) provides, for HRA and OASH elements, a remote communications control facility for transmission and receipt of automated data to and from PHS and other computer centers.

Office of Planning, Evaluation, and Legislation (HRA6). Serves as the Administrator's principal advisor on long- and short-range goals for meeting the health resource needs of the nation. Develops related plans and evaluative activities and designs legislative proposals. Specifically: (1) Assumes HRA leadership in planning for the most effective use of health care resources; (2) conducts HRA policy and outcome evaluations and coordinates operational and other evaluations to provide objective measurements of program effectiveness and performance; (3) prepares legislative analyses to assure the fullest possible consideration of programatic requirements in meeting established Departmental and PHS goals; (4) as determined by the Administrator, HRA, and in collaboration with the Office of the Director, Office of Operations and Management, maintains liaison, directly or through the regional health Administrators, with State or local health officials and with the private health sector to achieve common understanding and effective coordination; (5) maintains surveillance of HRA data collection, research and development and other intelligence which contributes to pertinent policy analyses and anticipates issues which may require Federal attention and action; (6) provides, the HRA focal point and leadership for international health policies, programs, and activities; and (7) coordinates HRA efforts with other PHS and Departmental activities, most particularly with the Office of Health Policy, Research, and Statistics, OASH, the Office of the Assistant Secretary for Legislation, and the Office of the Assistant Secretary for Planning and Evaluation.

Division of Evaluation (HRA61). (1) Develops and implements a system for evaluating the long-range outcomes of HRA policies and programs; (2) promotes throughout HRA an appreciation of the need for objective measurements of the results of all programs supported by grants and contracts; (3) works closely with relevant data and information gathering activities to enhance the quantification and validity of evaluation studies; (4) reviews and coordinates plans of HRA Bureaus for evaluations of the operations of programs and activities; (5) conducts training of HRA staff responsible for evaluating the effectivness and results of agency programs; (6) coordinates HRA's public-use reports clearance; and (7) coordinates efforts with other PHS and Departmental evaluation activities.

Division of Planning (HRA62). (1) Directs and coordinates HRA contributions to the forward planning process and its relation to budgetary processes; (2) in close collaboration with the Office of the Director, Office of Operations and Management, guides and reviews Bureau work plans and their relationship to forward planning, and monitors their implementation; (3) coordinates interrelated Bureau activities which influence programmatic planning; (4) conducts and maintains surveillance over program analysis activities; and (5) coordinates efforts with other PHS and Departmental planning activities.

Division of Legislation (HRA63). (1) Maintains continuous review of legislation which affects the activities of HRA; (2) prepares materials for testimony before Congressional committees; (3) assists in the interpretation of legislation; (4) coordinates HRA responses to Departmental and PHS legislative needs; (5) keeps HRA programs informed on legislative matters and provides analyses of pending bills and new laws; (6) promotes a rational approach to health legislation, identifying conflicts, gaps, or other barriers to the achievement of Departmental goals; (7) maintains current data on major changes in State laws which influence health resources, with particular attention to conflicts between Federal and State laws; (8) anticipates the need for data and analyses which may be demanded by Congressional or Departmental legislative interests; and (9) coordinates efforts with other PHS and Departmental activities.

Office of Health Resources Opportunity (HRA7). Provides the HRA focal point and leadership for assuring equity in access to health services and health careers for the disadvantaged. Specifically: (1) Provides technical assistance to groups that represent and seek to improve the health status of the disadvantaged, and facilitates the access of such groups to HRA and other Federal programs and resources; (2) provides leadership and direction for the development and implementation of HRA objectives as they relate to the disadvantaged; (3) develops and recommends health resources and health career opportunities for the disadvantaged; (4) initiates, stimulates, supports, coordinates, and evaluates HRA manpower and planning programs for improving the availability and accessibility of health services and health careers for the disadvantaged; (5) initiates, stimulates, supports, coordinates, and evaluates in conjunction with other HRA units, comprehensive data systems and analyses on requirements, resources, accessibility, and accountability of the health delivery system for the disadvantaged; (6) conducts extramural programs, including the use of grants and contracts, specifically designed to promote equity in access to health services and health careers; (7) assures contract compliance and implementation of the PHS Policy Statement on Civil Rights in HRA: (8) provides leadership for and assures the implementation of Native American program initiatives through coordination with HRA Bureaus and in collaboration with other appropriate DHEW entities; (9) conducts and coordinates HRA programs in health careers for women; (10) provides HRA leadership to develop and coordinate HRA program support to student health organizations; and (11) provides advice and consultation to the Office of the Assistant Secretary for Health and PHS agencies on policy and other matters related to assuring equity in access to health services and health careers for the disadvantaged.

Division of Analysis and Evaluation (HRA71). (1) Promotes, conducts, and collaborates in efforts to determine the impact of HRA programs on the disadvantaged; (2) conducts operational evaluations of OHRO programs to measure program performance, and assures that major OHRO development and demonstration projects have an evaluation component; (3) conducts a program of in-depth analyses and special studies on factors that affect the delivery of resources to the disadvantaged; (4) interacts with HRA and other governmental agencies to promote special studies to fill data gaps and to develop generalized statistical program components focusing on the disadvantaged; and (5) is responsible for OHRO's reports, ADP, and Privacy Act clearance functions.

Division of Program Development (HRA72). Performs the following functions pertaining to achieving equity in access to health careers and access to and the delivery of health services for

the disadvantaged: (1) Serves as the principal focus in HRA for planning, coordinating, supporting, and administering new program efforts supported by grants or contracts; (2) develops general strategies for HRA for improving access to health resources and provides advice for policy making and planning; (3) stimulates, initiates, supports, promotes, and engages in cooperative efforts with other HRA components in new programs related to the disadvantaged; (4) assures contract compliance and implementation of the PHS policy statement on civil rights in HRA; (5) provides technical assistance to and collaborates with other governmental agencies and private agencies in planning for new programs related to health resources for the disadvantaged; (6) reviews and conducts analyses of current and proposed legislative provisions and other program options from the standpoint of the disadvantaged; and (7) recommends new legislation or modifications in existing legislation related to programs for the disadvantaged.

Division of Program Coordination (HRA73). (1) Provides the principal focus in HRA for planning, coordinating, and supporting ongoing program efforts to assure equity in access to health careers and access to and the delivery of health services for the disadvantaged; (2) administers Federal grant and contract programs that promote equity in access to health resources for the disadvantaged; (3) provides technical assistance to developing nongovernmental entities to enhance their ability to address the health resources problems of the disadvantaged; (4) coordinates intra-HRA review of grants and contracts for their impact on problems of access to health careers and health services for the disadvantaged; (5) maintains intergovernmental linkages and collaborates with those programs that have mutual interest in ensuring that all Americans have equal access to available health resources; and (6) serves as a clearinghouse for information on health services and health careers programs for the disadvantaged.

BUREAU OF HEALTH MANPOWER (HRM)

The Bureau of Health Manpower provides national leadership in coordinating, evaluating, and supporting the development and utilization of the nation's health manpower. Specifically: (1) Assesses the nation's health manpower supply and requirements and develops and administers programs to meet those requirements; (2) collects and analyzes data and disseminates information on the characteristics and capacities of the nation's health manpower production systems; (3) proposes new or modifications of existing departmental legislation, policies, and programs related to health manpower development and utilization; (4) develops, tests, and demonstrates new and improved approaches to the development and utilization of health personnel within various patterns of health care delivery and financing systems; (5) provides financial support to institutions and individuals for health education programs; (6) administers Federal programs for targeted manpower development and utilization; (7) provides technical assistance, consultation, and special financial assistance to national, State, and local agencies, organizations, and institutions for the development, production, utilization, and evaluation of health manpower; (8) provides linkage between Bureau headquarters and PHS Regional Office activities related to manpower education and utilization by providing training, technical assistance, and consultation to Regional Office staff; (9) coordinates with the programs of other agencies within PHS, the Department, and in other Federal departments and agencies concerned with health manpower development and health care services; (10) provides liasion and coordinates with non-Federal organizations and agencies concerned with health manpower development and utilization; and (11) in coordination with the Office of the Administrator, HRA, serves as a focus for and coordinates technical assistance activities in the international aspects of health manpower development, including the conduct of special international projects relevant to domestic health manpower problems.

Office of the Director (HRM1). (1) Directs and provides leadership to the national health manpower education and development programs and activities; (2) provides policy guidance and staff direction to the Bureau; (3) maintains liasion with other Federal and Non-Federal organizations and agencies with health manpower development interests and responsibilities; (4) develops and implements the Bureau's civil rights plan in accordance with guidelines established by HRA, OASH, and the Department; and (5) directs and coordinates Bureau programs in support of Equal Employment Opportunity.

Office of Program Support (HRM13). Plans, directs, coordinates, and evaluates Bureau-wide administrative and management support activities; directs and coordinates the Bureau's legislative implementation activities; performs the Bureau's grants management and generalized contracts liasion functions; and provides Bureau liasion with the PHS Regional Offices. Specifically: (1) Provides or serves as liasion for providing the Bureau with program support services and resources, including equipment and supplies, printing, property, space, correspondence control, manual issuances, forms, records, and reports; (2) directs, conducts, and coordinates the Bureau's manpower management activities and advises the Bureau Director on the allocation of the Bureau's personnel resources: (3) provides organization and management analysis for the Bureau, develops policies and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates the Bureau's program and administrative delegations of authority activities; (5) in cooperation with the Office of Operations and Management, HRA, develops and carries out a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the Bureau; (7) provides administrative support services to the Office of the Bureau Director and staff offices; (8) provides technical and administrative support for the National Advisory Council on Health Professions Education; (9) participates in the development of implementation plans and processes for health manpower legislation, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; (10) conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants, and coordinates contracts activities; (11) maintains continual and routine contact with PHS Regional Office staff responsible for supporting health manpower programs; and (12) serves as liasion between Bureau programs and the Office of the Administrator, HRA, with regard to health manpower matters in the PHS Regional Offices.

Office of Program Development (HRM14). Serves as the Bureau focal point for planning, evaluation, and legislation, and for program management information activities, including the development and dissemination of program objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, guides, and coordinates program planning, reporting, and evaluation activities of the Divisions and staff offices; (2) provides staff services to the Bureau Director for program planning and its relation to the budgetary process, Congressional reports, and evaluation; (3) prepares the Bureau's forward plan; (4) develops and implements the Bureau's evaluation programs; (5) provides staff services

and coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development of legislative proposals, the analysis of existing and pending legislation, liasion with other agencies, and distribution of legislative materials; (6) directs and assists Bureau-wide and individual Division efforts in the design and operation of program management information systems; (7) produces program management information and progress reports; and (8) provides direction to the development of professional education learning resources and conducts learning resources development activities.

Division of Associated Health Professions (HRM2). Serves as a principal focus with regard to health manpower in the fields of optometry, pharmacy, veterinary medicine, public health, and allied health professions and occupations. Specifically: (1) Provides professional direction and leadership for planning, coordinating, evaluating, and supporting the development and utilization of health manpower resources in these fields; (2) supports and conducts programs with respect to the quality, development, and credentialing of such personnel; (3) supports and conducts programs of health professions institutional support and student assistance; (4) evaluates educational programs for associated health professionals; (5) supports and conducts studies and demonstrations concerned with multidisciplinary and interdisciplinary health manpower development activities; (6) maintains liaison with Federal, State, local and other agenices, institutions and groups; and (7) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including other Federal agencies and the PHS Regional Offices.

Division of Dentistry (HRM3). Serves as a principal focus for dentistry with regard to dental education, practice, and manpower and service research. Specifically: (1) Provides the professional dental expertise and leadership required by the Bureau in carrying out its responsibilities for planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower resources; (2) supports and conducts programs with respect to the development, use, and credentialing of dental personnel, including dentists, dental hygienists, expanded function auxiliaries, dental assistants, and dental technicians; (3) conducts and supports studies designed to determine and improve the organization, financing, personnel mix, quality, environment, and capability of the Nation's dental delivery system; (4) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the capacity of and the interrelationships between individual members of the health care team, their tasks, educational requirements, and related training modalities; (5) maintains liaison with health professional groups and others, including consumers, having common interests in the Nation's capacity to deliver dental services; and (6) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including agencies of the Federal Government and PHS regional offices, on all aspects of dentistry relevant to the division's functions.

Division of Medicine (HRM4). Serves as the principal focus with regard to education, practice, and research of medical manpower, with special emphasis on allopathic and osteopathic physicians, podiatrists, and closely associated assistants, particularly physician assistants. Specifically: (1) Provides the professional expertise and leadership required by the Bureau for planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower for these professions; (2) supports and conducts programs with respect to the development, use, quality, and credentialing of such personnel; (3) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between the members of the health care team, their tasks, education requirements, and training modalities; (4) supports and encourages the planning, development, and operation of regionally integrated educational systems; (5) supports and conducts programs with respect to activities associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad; (6) maintains liaison with relevant health professional groups and others, including consumers, having common interest in the Nation's capacity to deliver health services; and (7) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including PHS regional offices and other agencies of the Federal Government, on all aspects of medical manpower relevant to the division's functions.

Division of Nursing (HRM5). Serves as principal focus for nursing education, practice, and research. Specifically: (1) Provides the professional nursing expertise and leadership required by the Bureau in planning, coordinating, evaluating, and supporting development and utilization of the Nation's health manpower resources; (2) supports and conducts programs with respect to the development, use, quality, and credentialing of nursing personnel, including registered nurses, practical or vocational nurses, and nursing aides; (3) in cooperation with the Bureau of Health Planning, HRA, assists State and local areas in planning, developing, and improving nursing services and educational programs; (4) conducts and supports programs related to the provision of nursing care to advance the health status of individuals, families, and communities; (5) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between individual members of the health care team, their tasks, education requirements, and related training modalities; (6) maintains liaison with health professional groups and others, including consumers, having common interest in the Nation's capacity to deliver nursing services; (7) fosters, supports, and conducts projects to expand the scientific base of nursing practice and role reformulation and to develop and incorporate new knowledge into practice and education; and (8) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including the PHS regional offices and other agenices of the Federal Government, on all aspects of nursing relevant to the division's functions.

Division of Manpower Training Support (HRM6). Serves as the Federal focal point for the Health Professions and Nursing Student Loan and Scholarship Programs, the Exceptional Financial Need Scholarship Program, the Physician Shortage Area Scholarship Program, the Public Health Service Scholarship Training Program, the National Health Service Corps Scholarship Program, the Health Professions and Nurse Education Loan Repayment and Loan Cancellation Programs, the Lister Hill Scholarship Program, and the Cuban Refugee Health Professions Loan Program. Specifically: (1) Directs and administers these student assistance and training support programs; (2) develops and implements program plans and policies and operating and evaluation plans and procedures; (3) monitors and assesses educational institutions with respect to Federal support for students; (4) provides guidance and technical assistance to Public Health Service staff in Regional Offices; (5) develops and conducts training activities for staff of educational institutions and Regional Offices; (6) operates financial services and maintains fiscal control; and (7) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions.

Division of Manpower Analysis (HRM7). Serves as the focal point for

health manpower analysis and health manpower planning activities. Specifically: (1) In conjunction with other BHM and HRA components, conducts and directs a coordinated program of analyses and studies of the Nation's health care system and the past, current, and future supply of health professionals and allied workers in that system; (2) develops models of existing and potential health care systems in order to analyze, estimate, and evaluate current health manpower and resources supply and requirements, and projects future supply and requirements under varying assumptions; (3) in cooperation with the categorical Divisions and programs of the Bureau, conducts analyses, studies, and research on the geographic distribution and maldistribution of health manpower and identifies and designates health manpower shortage areas; (4) in cooperation with the Bureau of Health Planning, conducts health planning and health manpower planning activities necessary to meet the requirements of the National Health Planning and Resources Development Act; (5) in conjunction with the Bureau of Health Facilities Financing, Compliance, and Conversion, conducts studies and analyses on the relationship between the availability of varying types and mixes of health professionals and the functional efficiency of different types of health facilities; (6) utilizing general-purpose and other data collected by such organizations as the National Center for Health Statistics, the National Center for Health Services Research, and the Health Care Financing Administration, develops and maintains computer data bases for the analysis of health manpower supply, utilization, requirements, geographic distribution, costs, and related issues; (7) assesses the impact and policy implications of socio-economic, technological, scientific, financing, and health delivery system development on health manpower, especially as they relate to health manpower education and training; (8) serves as the Bureau's managing and corrdinating point for Office of Management and Budget clearance for surveys and data collection instruments; (9) provides technical, economic, and statistical assistance to the Bureau's other Divisions as needed, and develops data and analyses to meet other Division needs; and (10) maintains liaison with and represents the bureau in dealing with HRA, PHS, DHEW, and analytical and statistical organizations inside and outside the Federal Government, and serves as a focal point for dissemination of Bureau and other manpower data and analyses.

BUREAU OF HEALTH PLANNING (HRP)

The Bureau of Health Planning (BHP) provides national leadership and administration of a program of Federal, State, and areawide health planning and health delivery systems development. To this end, the Bureau: (1) Facilitates the creation and functioning of a nationwide network of local health system agencies (HSA's) responsible for preparing and implementing plans to increase the accessibility, acceptability, continuity, and quality of health services in the areas, and to restrain increases in the costs of the areas' health services; (2) provides for the designation, and supports the effective functioning, of State health planning and development agencies (SHPDA's) responsible for performing the State government's health planning, regulatory, and facilities development activities, including the provision of assistance and staff support to statewide health coordinating council (SHCC's) which must coordinate HSA's plans and prepare and establish State health plans; (3) administers a grant program of financial assistance for State and local health systems development activities; (4) provides technical and other nonfinancial assistance and support to the planning agencies by conducting studies and analyses of health planning, health resources, and health delivery systems development, engendering improved health planning approaches, methodologies, policies and standards, and establishing multidisciplinary centers for health planning; (5) develops and applies performance standards, guidelines, and criteria for governing the structure, operation, and performance of the health systems agencies and State agencies; (6) coordinates Bureau activities with other components of HRA, the Office of the Assistant Secretary for Health (OASH), the programs of PHS agencies and other operating components within the Department, and other Federal, State, and local agencies and groups concerned with health planning, health resources, and health delivery systems development; and (7) establishes and directs the implementation of policies, criteria, and procedures related to applications for and the allocation and utilization of area health services development funds.

Office of the Director (HRP1). Provides overall executive management of the Bureau's activities. Specifically: (1) Plans, directs, administers, coordinates, and evaluates national health planning and resources development program activities conducted under title XV of the PHS Act and section 1640 of the Act as amended; (2) coordinates health planning policies with related policies of the Bureau of Health Facilities Financing, Compliance, and Conversion and the Bureau of Health Manpower, HRA: (3) serves as adviser to, and coordinates the Bureau's activities with, other Administration organizational elements, other Federal organizations within and outside the Department, State and local bodies, and professional and scientific organizations, on matters pertaining to the planning and development of health delivery systems; (4) coordinates and oversees the development and clearance of Bureau policies and procedures, and coordinates the preparation, dissemination, and control of formal Bureau policy issuances; (5) in consultation with the Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health, provides program assistance to the Regional Office personnel who assist in the implementation of the health planning program; (6) coordinates technical assistance strategy and practice for the Bureau; (7) manages and conducts the Bureau's participation in the preparation in the preparation of regulations; (8) insures that Bureau program policies and operating procedures are consistent with general DHEW, PHS, HRA, and other Federal policies and requirements; (9) provides Bureau liaison with the Office of the General Counsel, interacting with the Office of the Administrator (HRA) as required; (10) establishes and maintains working relationships with various national associations, such as the National Governors' Conference and the National Conference of State Legislatures, in order to solicit views and keep such groups informed of evolving Bureau regulations and policy; (11) directs and coordinates Bureau activities in support of equal employment opportunity; (12) provides, through the Office of Communications, HRA, information about the Bureau's programs to the general public, health professions organizations, and other interested groups; (13) represents the bureau in meetings with concerned public organizations, provider organizations, and consumer groups; and (14) maintains Bureau central files, and provides for timely and effective Bureau response to outside inquires.

Office of Program Support (HRP14). Plans, directs, coordinates, and evaluates bureauwide administrative and management support activities. Specifically: (1) Provides or serves as liaison for providing the Bureau with program support services and resources, including data systems, equipment and supplies, printing, property, space, correspondence control, manual issuances, forms, records, and reports; (2) directs, conducts, and coordinates the Bureau's manpower management activites and advises the Bureau Director on the allocation of the Bureau's personnel resources; (3) provides orga-

nization and management analysis for the Bureau, develops policies and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates the Bureau's program and administrative delegations of authority activities; (5) in cooperation with the Office of Operations and Management, HRA, directs and conducts a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the Bureau; (7) conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants, and coordinates contracts activities; (8) provides staff services to the Bureau Director in day-to-day operational planning and program analysis; and (9) provides support to the PHS Regional Offices as appropriate.

Office of Program Development (HRP15). Develops plans, establishes evaluation requirements, and drafts legislative proposals to support Administration goals. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's forward plan; (2) promotes evaluation and monitoring activities which will provide objective measurements of program performance; (3) analyzes Federal and State legislation to assure the fullest possible consideration of programmatic requirements in meeting established departmental, PHS, and HRA goals; and (4) produces program management information and progress reports.

Division of Planning Assistance and Assessment (HRP8). (1) Directs Bureau activities which support the development and maintenance of integrated health planning (including facilities planning) processes in States and health service areas; (2) facilitates the development of effective and well-managed health systems agencies (HSA's), State health planning and development agencies (SHPDA's), and statewide health coordinating councils (SHCC's) by providing technical assistance related to health planning; (3) develops and oversees a program of periodic assessment of agency performance; (4) serves as the national focal point for the development and dissemination of regulations, guidance, planning approaches, and methodologies for use by State and local agencies and other concerned parties in the development of plans and their use in developing health delivery systems; (5) reviews, on a continuing basis, the appropriateness of designated health service areas; (6) establishes specific plans and procedures to link agency assistance activities of the Bureau with assistance available from other Federal and non-Federal resources; (7) develops, implements, and provides continuing guidance to centers for health planning established to provide assistance to HSA's and State agencies; (8) develops and implements the Bureau's civil rights plan in accordance with guidelines established by HRA, OASH, and the Department; and (9) coordinates Divsion activities closely with other components of the Department, and especially with the Office of Health Policy, Research, and Statistics, OASH, and its National Center for Health Statistics (NCHS) and National Center for Health Services Research (NCHSR), and with the Bureau of Health Manpower and the Bureau of Health Facilities Financing, Compliance, and Conversion, HRA, in the development of methodologies for plan development and data collection.

Division of Regulatory Activities (HRP5). Functions as the focal point for all regulatory activities of health systems agencies (HSA's) and State health planning and development agencies (SHPDA's). Carries out its functions in close cooperation with the Bureau of Health Facilities Financing, Compliance, and Conversion. Specifically: (1) Develops policy, regulations, and guidelines for certificate of need programs, section 1122 review programs, the program for review and approval by HSA's of certain proposed uses of PHS funds, and the program of appropriateness review of existing institutional health services; (2) serves as the Bureau's consultative resource regarding review practices, standards, and criteria; (3) works in conjunction with the Division of Planning Assistance and Assessment in setting technical assistance priorities and determining needed planning research by relaying trends and indicators revealed through analysis of planning agency review activities; (4) interprets regulatory policy for PHS Regional Office staff and grantee agencies, PHS agencies, and other operating components within the Department, other Federal departments and agencies, and the public; (5) cooperates with PHS agencies and other operating components of the Department and with other Federal departments and agencies in the development and operation of enforcement mechanisms for regulation; (6) researches and assesses public and private regulatory programs outside the health field to learn of innovative and effective methodologies which might be applied to health planning and resources development; (7) prepares and revises performance and compliance standards for regulatory activities for use by the Division of Planning Assistance and Assessment; (8) serves as the Bureau's major liaison with the Health Care Financing Administration in regard to the rate-setting demonstration program; (9) participates in the development of policy or program changes which impact on regulatory activities; and (10) suggests State and Federal legislative actions which will further the attainment of regulatory goals.

National Health Planning Information Center (HRP9). Serves as the focal point for obtaining and disseminating information necessary to carry out the requirements of the National Health Planning and Resources Development Act of 1974. Specifically: (1) Designs, develops standards and definitions, operates, and maintains systems for the storage, retrieval, and dissemination of the required information; (2) develops, edits, and prepares technical publications, films, exhibits, and visual aids for the Bureau; (3) provides consultation and assistance to other health planning information facilities on the design, establishment, and operation of such facilities, their linkage to the Center, and the use of the information they develop or maintain; and (4) serves as the Bureau focal point on policy and program coordination with international institutions and organizations on international health matters and information needs for planning.

Bureau of Health Facilities Financing, Compliance, and Conversion (HRF)

The Bureau of Health Facilities Financing, Compliance, and Conversion (BHFFCC) directs, coordinates, monitors, and supports and develops policy for Federal programs pertaining to the modernization, utilization, construction, conversion, and closure of non-Federal health facilities. Specifically: (1) Administers loan, loan guarantee, and interest subsidy programs relating to the construction, modernization, conversion, or closure of health facilities; (2) enforces institutional compliance with required assurances applicable to receipt of assistance for the construction or modernization of health facilities; (3) in close coordination with other parts of HRA, especially the Bureau of Health Planning, develops policy and administers programs for the construction, modernization, conversion, or closure of health facilities; (4) in close coordination with the Bureau of Health Manpower, HRA, administers grant programs for the construction of health professions teaching facilities and nurse training facilities; (5) develops, promotes, and directs efforts to improve the management, operational effectiveness, and

efficiency of health facilities; (6) develops and implements policies and programs designed to achieve more efficient use of energy resources in health facilities and the development and utilization of less costly and/or more reliable energy sources for such facilities; (7) coordinates its programs and maintains liaison with other PHS components, the Department, and other Federal departments and agencies concerned with health facilities and energy matters; and (8) maintains liaison and coordinates with non-Federal public and private entities as necessary for the accomplishment of its mission and objectives.

Office of the Director (HRF1). Directs and provides leadership for national health facilities programs; (2) directs and coordinates the activities of the Bureau; (3) develops and implements the Bureau's civil rights plan in accordance with guidelines established by HRA, OASH, and the Department; and (4) directs and coordinates Bureau programs in support of equal employment opportunity.

Office of Program Support (HRF11). Plans, directs, coordinates, and evaluates bureauwide administrative and management support activities; performs the Bureau's grants management and contracts liaison functions; manages the Bureau's automatic data processing (ADP) and information systems activities; and provides Bureau liaison with the PHS Regional Offices. Specifically: (1) Provides or serves as liaison for providing the Bureau with program support services and resources, including equipment and supplies, printing, property, space, correspondence control, manual issuances, forms, records, and reports; (2) directs, conducts, and coordinates the Bureau's manpower management activities and advises the Bureau Director on the allocation of the Bureau's personnel resources; (3) provides organization and management analysis for the Bureau, develops policies and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies, procedures, and systems; (4) coordinates the Bureau's program and administrative delegations of authority activities; (5) in cooperation with the Office of Operations and Management, HRA, directs and conducts a full range of financial management activities for the Bureau, including development of the annual zero base budget; (6) in cooperation with the Division of Personnel Management, HRA, coordinates the acquisition of personnel services for the Bureau; (7) conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants, and coordinates contracts activities; (8) provides staff services to the Bureau Director in day-to-day operational planning and program analysis; (9) in close cooperation with the Division of Data Management, HRA, directs the formulation of ADP policy for the Bureau; plans, develops, and evalutes the Bureau's ADP systems; and develops, manages, and operates the Bureau's information systems; (10) maintains continual and routine contact with PHS Regional Office staff responsible for the implementation of Bureau programs; and (11) serves as liaison between Bureau programs and the Office of the Administrator, HRA, and the Office of the Assistant Secretary for Health with regard to health facilities matters in the PHS Regional Offices.

Office of Program Development (HRF12). Serves as the Bureau focal point for planning, evaluation, legislation, and legislative implementation activities, including the development and dissemination of program objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HRA. Specifically: (1) Stimulates, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's forward plan; (2) promotes evaluation and monitoring activities which will provide objective measurement of program performance; (3) provides staff services and coordinates activities pertaining to legislative policy development and interpretation, including the development of legislative proposals, the analysis of existing and pending Federal and State legislation, liaison with other agencies, and distribution of legislative materials; (4) participates in the development of implementation plans and processes for health facilities legislation, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; and (5) produces program management information and progress reports.

Division of Facilities Compliance (HRF2). Is responsible for ascertaining whether health facilities are in compliance with the various assurances given by them at the time they applied for Federal assistance, and for insuring that the Federal Government takes appropriate recovery action, when necessary, as prescribed by title XVI of Pub. L. 93-641. Specifically: (1) Establishes, develops, and monitors the implementation of regulations, policies, procedures, and guidelines for use by Regional Offices, State agencies, and health care facilities in ascertaining that assurances are met; (2) maintains a system for receiving and responding to patient complaints and for their analysis, evaluation, and disposition; (3) serves as the national focus for all monitoring activities necessary to insure enforcement of provisions regarding reasonable volume of uncompensated care and community service assurances; (4) directs periodic investigations of health care facilities to ascertain the extent of compliance with the uncompensated care and community service assurances and recommends any action authorized by law to effect compliance with these assurances; (6) serves as the national focus for appropriate action to be taken by the Federal Government regarding those facilities which cease to operate as eligible entities under the law; (7) coordinates its activities with other components of the Bureau, HRA, other PHS agencies, and other concerned departmental components, especially the Health Care Financing Administration, the Office of General Counsel, and the office for Civil Rights; and (8) prepares replies to inquiries on patient complaints and facility assurances compliance.

Division of Facilities Conversion and Utilization (HRF3). Develops policy and administers programs for planning, operation, modernization, construction, conversion, and closure of non-Federal health facilities, health professions facilities, and nurse training facilities. Specifically: (1) Provide consultation and policy guidance to PHS Regional Offices, State health planning and development agencies (SHPDA's), health systems agencies (HSA's), and regional Centers for Health Planning on the planning and appraisal of facilities construction, operation, modernization, conversion to new uses, and closure; (2) seeks to enhance cost containment by working with professional associations, Government agencies, and others in seminars, workshops, and conferences, and conducts studies for medical institutional planning and operation directed toward increased productivity and cost containment; (3) participates in the development of technical publications designed to promote better planning, utilization, and operation of health facilities; (4) participates in the education of new personnel of the PHS Regional Offices, SHPDA's, and HSA's in the field of medical care resource development and utilization; (5) collaborates with the Bureau's Division of Energy Policy and Programs and other concerned parties on energy matters pertaining to health facilities; and (6) coordinates its activities with other components of the Bureau and the Administration, other PHS agencies, DHEW (particularly the Health Care Financing Administration), and other Federal agencies.

Division of Facilities Financing (HRF4). Provides policy guidance and expertise in the operational aspects of the administration of facilities project

application, review, and funding, and provides development, implementation, and surveillance of special project grants, loans, and loan guarantees. Specifically: (1) Provides expertise in the methodologies of financial feasibility determination and all aspects of the administrtion of facilities project application, review, and funding; (2) in close collaboration with the Bureau of Health Planning, HRA, assists PHS Regional Offices in the processes and techniques involved in approval of State medical facilities plans and the projects submitted for grant and/or loan support; (3) administers PHS responsibility for sections 241 and 242 of the National Housing Act; (4) develops regulations, policies, procedures, and technical guides for Regional office staff and State agency use in health facilities financing; (5) participates in analyses, studies, and testing of data, formulas, and projections concerning technical and financial support for health facilities; (6) administers loan, loan guarantee, and interest subsidy programs, including financial monitoring of loans, loan guarantees, and interest subsidies, to provide surveillance of specific projects; (7) provides consultative assistance to Regional Office staff and State and health systems agencies; (8) as authorized under section 1625 of Pub. L. 93-641: (a) Establishes, develops, and oversees the application of regulations, policies, and procedures applying to special project grants; (b) identifies priority projects for funding on the basis of goals and objectives established by the National Council on Health Planning and Development; (c) reviews, analyzes, and makes recommendations on all project grant proposals; and (d) oversees and evaluates the projects funded; and (9) maintains liaison with and coordinates its activities with other components of the Bureau, HRA, other PHS agencies, DHEW, and other concerned Federal agencies, such as the Treasury Department, the Department of Defense, the Veterans Administration, the Federal Financing Bank, the Department of Housing and Urban Development, the Department of Commerce, the Federal National Mortgage Association, and the Government National Mortgage Association, and also with private lending institutions.

Division of Energy Policy and Programs (HRF5). Provides leadership in developing, stimulating, and implementing effective energy management principles and techniques in health care services delivery, and in encouraging the transition to nonexhaustible energy forms by health institutions. Provides a focal point for the acquisition, interpretation, and dissemination of information on energy development which will contribute to improved cost containment in the delivery of health services and to the maintenance of high quality, accessible care. Specifically: (1) Develops, analyzes, and recommends policies relating to the impact of energy resource developments on health institutions and health resource programs; (2) provides planning leadership and policy guidance for the incorporation of effective energy management in health resource programs; (3) participates in the development and implementation of legislation, guidelines, regulations, and standards relating to energy needs and use in health facility operations and health services delivery; (4) promotes and guides the development and incorporation of energy related concerns in the planning and execution of health programs; (5) conducts, supports, and assists analyses and applied research activities relating to improved energy utilization in the delivery of health care services, including the adoption of alternate fuel sources; (6) provides technical assistance to public agencies and private entities on energy management programs and activities as they relate to health services and resources; (7) develops and disseminates information on energy resources and management through all communications media to assure awareness of the impact of emerging energy problems on the health sector and identification of new initiatives for resolving those problems; (8) performs a variety of information dissemination functions related to energy needs and use in the health sector, including conducting or participating in conferences and seminars, preparing papers and articles, and planning, developing, and/or conducting training and education programs in energy management for health personnel; and (9) maintains liaison with Federal, State, and local health and energy agencies and organizations, and develops or participates in joint activities to assure appropriate participation by the health sector in energy related deliberations and initiatives.

Sec. HR-C order of succession. during the absence or disability of the Administrator or in the event of a vacancy in that office, the first official listed below who is available shall act as Administrator, except that during a planned period of absence, the Administrator may specify a different order of succession:

(1) Deputy Administrator.

(2) Associate Administrator for Operations and Management.

(3) Director, Bureau of Health Manpower.

(4) Director, Bureau of Health Planning.

(5) Director, Bureau of Health Facilities Financing, Compliance, and Conversion.

Sec. HR-D delegations of authority. (1) All delegations of authority to the Administrator, HRA, which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation; and (2) all delegations and redelegations of authority to officers or employees of HRA which were in effect immediately prior to the effective date of this reorganization shall continue in effect in them or their successors pending further redelegation.

Dated: August 24, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-24866 Filed 9-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-78-507]

ASSISTANT SECRETARY FOR ADMINISTRATION, ET AL.

Delegation of Authority Regarding the Publication in Newspapers of Advertisements, Notices, or Proposals

Consistent with departmental reorganization of the procurement function under the Assistant Secretary for Administration, effective January 19, 1976 (41 FR 2665), the authority herein updates the transfer of functions by relocating the authority described below from the Director, Office of Administrative Services, to the Director, Office of Procurement and Contracts.

SECTION A. *Authority delegated.* The Assistant Secretary for Administration is hereby empowered to:

1. Authorize the publication in newspapers of advertisements, notices, or proposals.

2. Redelegate to one or more subordinates any of the authority delegated herein.

SEC. B. *Supersedure.* The designation and redelegation of authority in section A supersede the designation and redelegations of authority from: (a) The Secretary to the Director, Office of General Services, effective March 25, 1967 (32 FR 4549), and (b) the Director, Office of General Services, to the Director, Contracts and Agreements Division, effective September 28, 1972 (37 FR 20271).

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d) and (sec. 205(c) of the Federal Property and Administrative Services Act, as amended, 40 U.S.C. 486(c)).)

SEC. C. *Effective Date.* This delegation of authority shall be effective August 23, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-24788 Filed 9-1-78; 8:45 am]

[4210-01]

[Docket No. D-78-508]

DIRECTOR, OFFICE OF PROCUREMENT AND CONTRACTS

Redelegation of Authority

SECTION A. *Authority redelegated.* The Director, Office of Procurement and Contracts, is empowered to:

1. Authorize the publication in newspapers of advertisements, notices, or proposals.

2. Redelegate to Division Directors in the Office of Procurement and Contracts the authority contained in 1. above.

SEC. B. *Supersedure.* The designation and redelegation of authority in section A supersede the designation and redelegations of authority from: (a) The Secretary to the Director, Office of General Services, effective March 25, 1967 (32 FR 4549), and (b) the Director, Office of General Services, to the Director, Contracts and Agreements Division, effective September 28, 1972 (37 FR 20271).

SEC. C. *Authority redelegated.* Each Regional Administrator, Regional Director of Administration, Regional Director of Administrative Services, Regional Purchasing Agent, and Regional Contracting Officer is empowered to authorize the publication in newspapers of advertisements, notices or proposals.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d) and (sec. 204(c) of the Federal Property and Administrative Services Act, as amended, 40 U.S.C. 486(c)).)

SEC. D. *Effective date.* This delegation of authority shall be effective August 23, 1978.

WILLIAM A. MEDINA,
Assistant Secretary for Administration.

[FR Doc. 78-24789 Filed 9-1-78; 8:45 am]

[4210-01]

Office of the Secretary

[Docket No. N-78-892]

TASK FORCE ON TENANT PARTICIPATION IN THE MANAGEMENT OF LOW-INCOME HOUSING

Meeting

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is given announcing the sixth meeting date of the task force.

SUMMARY: The Secretary is announcing the sixth meeting and agenda for the Task Force on Tenant Participation in the Management of Low-Income Housing. Meetings are scheduled for September 20 and 21, 1978 and the agenda for the meetings are stated.

DATE OF SIXTH MEETING: The sixth meeting of the task force is scheduled to be held over a 2-day period beginning September 20, 1978, at 10 a.m., in Room 4202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

ADDRESS: James F. Anderson, Director, Project Management Division, Office of Assisted Housing Management, Room 6248, or Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

James F. Anderson, 202-755-6429; Joseph Smith, 202-755-5360; Donald McLain, 202-755-5333.

SUPPLEMENTARY INFORMATION: Meetings of the Task Force on Tenant Participation in the Management of Low-Income Housing have been scheduled for the dates and time indicated above. The first meeting of the task force was held over a 2-day period which began November 7, 1977, in Washington, D.C. Subsequent meetings have been held in Washington, D.C., and Denver, Colo., for a total of five task force meetings to date.

The agenda for the sixth meeting of the task force shall include the following:

1. Review minutes of previous meetings.
2. Discuss draft report to the Secretary.
3. Closing discussion.

The meetings of the task force will be open to the public.

Issued at Washington, D.C., August 30, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc. 78-24926 Filed 9-1-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DRAFT WEST-CENTRAL COLORADO COAL REGIONAL ENVIRONMENTAL STATEMENT

Extension of Comment Period

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Extension of public comment period.

DATE: Comments to be submitted no later than October 30, 1978.

ADDRESS COMMENTS TO: District Manager, Montrose District Office, Bureau of Land Management, Highway 550 South, P.O. Box 1269, Montrose, Colo. 81401.

SUMMARY: At 43 FR 33347-33348 (July 31, 1978), the Department of the Interior, Bureau of Land Management (BLM) announced the availability of the Draft West-Central Colorado Coal Regional Environmental Statement (ES) and the holding of public hearings for the proposed development of coal resources in West-Central Colorado. Comments concerning the draft ES were requested by September 20, 1978.

Subsequently, the BLM received requests from interested parties for an extension of the comment period to allow additional time to review the draft ES and submit written comments. Therefore, the BLM is extending the comment period to October 30, 1978. Written comments received from interested parties after this date will be considered too late to be responded to in the final ES.

The procedures for oral and written comments and the availability of copies of the draft ES remain as announced in the original notice at 43 FR 33347-33348 (July 31, 1978). Written or oral comments on the draft ES will receive equal consideration in preparation of the final ES now scheduled for publication in early March 1979.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: August 30, 1978.

Guy R. Martin,
Assistant Secretary of the Interior.

[FR Doc. 78-24932 Filed 9-1-78; 8:45 am]

[4310-84]

Bureau of Land Management

OUTER CONTINENTAL SHELF LEASE FORM

Revision of Form

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Revision of OCS Lease Form.

SUMMARY: The Bureau of Land Management has prepared the following proposed revision of the Outer Continental Shelf (OCS) Lease Form. The revision is necessary in order to make the form consistent with S. 9 which contains amendments to the Outer Continental Shelf Lands Act of 1953. S. 9 is expected to be signed by the President shortly. The Bureau of Land Management will review and consider all comments it receives on the revised OCS lease form. A final lease form will be published with the Notice of Sale for the first OCS lease sale held after the President signs S. 9. The first OCS Lease sale is expected to be OCS Lease Sale No. 65, Eastern Gulf of Mexico. The lease sale is proposed for October 31, 1978, and, if it is decided to hold the sale, a final Notice of Sale will be published in late September 1978. The Department of the Interior has submitted the proposed lease form to the Department of Energy for its review.

DATE: Comments on this proposal will be received until September 18, 1978. A longer comment period cannot be afforded without postponing the proposed OCS Lease Sale No. 65.

ADDRESS: Comments should be sent to: Director (210), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Chris Oynes, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, 202-343-2718.

Dated: August 31, 1978.

GERALD E. PETTY,
Acting Associate Director.

Form 3300-1
(September 1978)

UNITED STATES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

OIL AND GAS LEASE OF SUBMERGED LANDS UNDER THE OUTER CONTINENTAL SHELF LAND ACT

Office

Serial Number

Cash Bonus

Rental Rate

Minimum Royalty Rate

Royalty Rate

Work Commitment

Profit Share Rate

This lease is effective as of _____ (hereinafter called the "Effective Date") by and between the United States of America (hereinafter called the "Lessor"), by the _____, Bureau of Land Management, its authorized officer, and _____ (hereinafter called the "Lessee"). In consideration of the cash payment heretofore made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, and covenants contained herein, including those contained in the stipulations attached hereto, the Lessee and Lessor agree as follows:

Sec. 1. *Statutes and Regulations.* This lease is issued pursuant to the Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 462 as amended; 43 U.S.C. 1331 et seq. (hereinafter called the "Act"). The Lease is issued subject to the Act; section 302 of the Department of Energy Organization Act, 91 Stat. 578, 42 U.S.C. 7152(b); all regulations issued pursuant to such statutes and in existence upon the effective date of this lease; all regulations issued pursuant to such statutes in the future which provide for the prevention of waste and the conservation of the natural resources of Outer Continental Shelf, and the protection of correlative rights therein; and all other applicable statutes and regulations.

Sec. 2. *Rights of Lessee.* The Lessor hereby grants and leases to the Lessee the exclusive right and privilege to drill for, develop and produce oil and gas resources, except helium gas, in the submerged lands of the Outer Continental Shelf described as follows:

containing approximately ——— acres or ——— hectares (hereinafter referred to as the "leased area"). These rights include:

(a) The nonexclusive right to conduct within the leased area geological and geophysical explorations in accordance with applicable regulations;

(b) The nonexclusive right to drill water wells within the leased area, unless the water is part of geopressured-geothermal and associated resources, and to use the water produced therefrom for operations pursuant to the Act free of cost, on the condition that the drilling is conducted in accordance with procedures approved by the Regional Conservation Manager of the United States Geological Survey (hereinafter called the "Manager"); and

(c) The right to construct or erect and to maintain within the leased area artificial islands, installations and other devices permanently or temporarily attached to the seabed and other works and structures necessary to the full enjoyment of the lease, subject to compliance with applicable laws and regulations.

Sec. 3. *Term.* This lease shall continue for an initial period of —— years from the Effective Date of the lease and so long thereafter as oil or gas is produced from the leased area in paying quantities, or drilling or well reworking operations, as approved by the Secretary of the Interior, are conducted thereon.

Sec. 4. *Rentals.* The Lessee shall pay the Lessor on or before the first day of each lease year, commencing prior to a discovery of oil or gas on the leased area, a rental of ——— per acre (——— per hectare) or fraction therof.

Sec. 5. *Minimum Royalty.* The Lessee shall pay at the expiration of each lease year commencing after discovery, a minimum royalty of ——— per acre (——— per hectare) or fraction thereof or, if there is production, the difference between the actual royalty required to be paid with respect to such lease year and the prescribed minimum royalty, if the actual royalty paid is less than the minimum royalty.

Sec. 6. *Royalty on Production.* (a) The Lessee shall pay a fixed royalty of —— percent in amount or value or production saved, removed or sold from the leased area. Gas of all kinds (except helium) is subject to royalty. The Secretary of the Interior shall determine whether production royalty shall be paid in amount or value.

(b) The value of production for purposes of computing royalty on production from this lease shall be the estimated reasonable value of the production as determined by the Manager, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the Lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the Lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price paid or offered at the time of production in a fair and open market for the major portion of like-quality products produced and sold from the field or area where the leased area is situated will be considered to be a reasonable value.

(c) When paid in value, royalties on production shall be due and payable monthly on the last day of the month next following the month in which the production is obtained. When paid in amount, such royalties shall be delivered at pipeline connections or in tanks provided by the Lessee. Such deliveries shall be made at reasonable times and intervals and, at the Lessor's option, shall be effected either (i) on or immediately adjacent to the leased area, without cost to the Lessor, or (ii) at a more convenient point closer to shore or on shore, in which event the Lessee shall be entitled to reimbursement for the reasonable cost of transporting the royalty substance to such delivery point. The Lessee shall not be required to provide storage for royalty paid in amount in excess of tankage required when royalty is paid in value. When royalties are paid in amount, the Lessee shall not be held liable for the loss or destruction or royalty oil or other liquid products in storage from causes over which the Lessee has no control.

Sec. 7. *Payments.* The Lessee shall make all payments to the Lessor by check, bank

draft, or money order unless otherwise provided by regulations or by direction of the Secretary of the Interior. Rental, royalties, and other payments shall be made payable to the United States Geological Survey and tendered to the Manager, except that filing charges, bonuses, first year's rental and other payments due upon lease issuance, shall be made payable to the Bureau of Land Mangement and remitted to the appropriate field office of that Bureau.

Sec. 8. *Bonds.* The Lessee shall maintain at all times the bond(s) required by regulation prior to the issuance of the lease and shall furnish such additional security as may be required by the Lessor if, after lease issuance, the Lessor deems such additional security to be necessary.

Sec. 9. *Plans. The Lessee shall conduct all operations on the leased area in accordance with approved exploration plans, and approved development and production plans. The Lessee may depart from an approved plan only as provided by applicable regulations*

Sec. 10. *Performance.* The Lessee shall comply with all regulations and orders relating to exploration, development, and production. After due notice in writing, the Lessee shall drill such wells as the Secretary of the Interior may require and produce at such rates as the Secretary of Energy may require in order that the leased area or any part thereof may be properly and timely developed and produced in accordance with sound operating principles.

Sec. 11. *Directional Drilling.* A directional well drilled under the leased area from a surface location on nearby land not covered by this lease shall be deemed to have the same effect for all purposes of the lease as a well drilled from a surface location on the leased area. In those circumstances, drilling shall be considered to have been commenced on the leased area when drilling is commenced on the nearby land for the purpose of directionally drilling under the leased area, and production of oil or gas from the leased area through any directional well surfaced on nearby land or drilling or reworking of any such directional well shall be considered production or drilling or reworking operations on the leased area for all purposes of the lease. Nothing contained in this paragraph shall be construed as granting to the Lessee any interest, license, easement, or other right in any nearby land.

Sec. 12. *Safety Requirements.* The Lessee shall (a) maintain all places of employment within the leased area in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the Lessee or of any contractor or subcontractor operating within the leased area;

(b) Maintain all operations within the leased area in compliance with regulations intended to protect persons, property and the environment on the Outer Continental Shelf; and

(c) Allow prompt access, at the site of any operation subject to safety regulations, to any authorized Federal inspector and shall provide any documents and records which are pertinent to occupational or public health, safety or environmental protection as may be requested.

Sec. 13. *Suspension and Cancellation.* (a) The Secretary of the Interior may suspend or cancel this lease during the initial lease term or thereafter pursuant to section 5 of the Act.

(b) The Secretary of the Interior may, upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or President of the United States, suspend operations under the lease, as provided in section 12(c) of the Act, and just compensation shall be paid to the Lessee for such suspension.

Sec. 14. *Indemnification.* The Lessee shall indemnify the Lessor for, and hold it harmless from, any claim including claims for loss or damage to property or injury to persons caused by or resulting from any operation on the leased area conducted by or on behalf of the Lessee. However, the Lessee shall not be held responsible to the Lessor under this subsection for any loss, damage or injury caused by or resulting from:

(a) Negligence of the Lessor other than the commission or omission of a discretionary function or duty on the part of a Federal agency whether or not the discretion involved is abused; or

(b) The Lessee's compliance with an order or directive of the Lessor against which an administrative appeal by the Lessee is filed before the cause of action for the claim arises and is pursued diligently thereafter.

Sec. 15. *Disposition of Production.* (a) As provided in section 27(a)(2) of the Act, the Lessor shall have the right to purchase not more than 16⅔ percent by volume of the oil and gas produced pursuant to the lease at the regulated price, or if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the Lessor as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(b) As provided in section 27(d) of the Act, the Lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Lessor, and which is not transferred to a Federal agency pursuant to section 27(a)(3) of the Act, and shall pay to the Lessor a cash amount equal to the regulated price, or if no regulated price applies, the fair market value of the oil or gas so obtained.

(c) As provided in section 8(b)(7) of the Act, the Lessee shall offer 20 percent of the crude oil, condensate, and natural gas liquids produced on the lease, at the market value and point of delivery as provided by regulations applicable to Federal royalty oil, to small and independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(d) In the time of war, or when the President of the United States shall so prescribe, the Lessor shall have the right of first refusal to purchase at the market price all or any portion of the oil or gas produced from the leased area, as provided in section 12(b) of the Act.

Sec. 16. *Unitization, Pooling, and Drilling Agreements.* Within such time as the Secretary of the Interior may prescribe, the Lessee shall subscribe to and operate under a unit, pooling or drilling agreement embracing all or part of the lands subject to this lease as the Secretary may determine to be appropriate or necessary. Where any provision of a unit, pooling or drilling agreement, approved by the Secretary of the Interior, is inconsistent with a provision of this lease, the provision of the agreement shall govern.

Sec. 17. *Equal Opportunity Clause.* During the performance of this lease, the Lessee shall fully comply with paragraphs (1 through (7) of section 202 of Executive Order 11246 as revised (reprinted in 41 CFR 60-1.4(a)), which are for the purpose of preventing discrimination against persons on the basis of the race, color, religion, sex or national origin. Paragraphs (1) through (7) of section 202 of Executive Order 11246 as amended are incorporated in this lease by reference.

Sec. 18. *Certification of Nonsegregated Facilities.* By entering into this lease, the Lessee certifies, as specified in 41 CFR 60 1.8, that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Lessee further agrees that he will obtain identical certifications from proposed contractors and subcontractors prior to award of contracts or subcontracts unless they are exempt under 41 CFR 60-1.5.

Sec. 19. *Reservations to Lessor.* All rights in the leased area not expressly granted to the Lessee by the Act, the regulations, or this lease are hereby reserved to the Lessor Without limiting the generality of the foregoing, reserved rights include:

(a) The right to authorize geological and geophysical exploration in the leased area which does not unreasonably interfere with or endanger actual operations under the lease, and the right to grant such easements or rights-of-way upon, through, or in the leased area as may be necessary or appropriate to the working of other lands or to the treatment and shipment of products thereof by or under authority of the Lessor;

(b) The right to grant leases for any minerals other than oil and gas within the leased area, except that operations under such leases shall not unreasonably interfere with or endanger operations under this lease;

(c) The right, as provided in Section 12(d) of the Act, to restrict operations in the leased area or any part thereof which may be designated by the Secretary of Defense, with the approval of the President, as being within an area needed for national defense, and so long as such designation remains in effect no operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense. If operations or production under this lease within any designated area are suspended pursuant to this paragraph, any payments of rentals and royalty prescribed by this lease likewise shall be suspended during such period of suspension of operations and production, and the term of this lease shall be extended by adding thereto any such suspension period, and the Lessor shall be liable to the Lessee for such compensation as is required to be paid

under the Constitution of the United States.

Sec. 20. *Transfer of lease.* The lessee shall file for approval with the appropriate field office of the Bureau of Land Management any instrument of assignment or other transfer of this lease, or any interest therein, in accordance with applicable regulations.

Sec. 21. *Surrender of Lease.* The Lessee may surrender this entire lease or any officially designated subdivision of the leased area by filing with the appropriate field office of the Bureau of Land Management a written relinquishment, in triplicate, which shall be effective as of the date of filing. No surrender of this lease or of any portion of the leased area shall relieve the Lessee or his surety of the obligation to pay all accrued rentals, royalties and other financial obligations or to abandon all wells on the area to be surrendered in a manner satisfactory to the Manager.

Sec. 22. *Removal of Property on Termination of Lease.* Within a period of one year after termination of this lease in whole or in part, the Lessee shall remove all works and structures from the premises no longer subject to the lease in accordance with applicable regulations and orders of the Manager. However, the Lessee may, with the approval of the Manager, continue to maintain works and structures on the leased area for drilling or producing on other leases.

Sec. 23. *Remedies in Case of Default.* (a) Whenever the Lessee fails to comply with any of the provisions of the Act, the regulations issued pursuant to the Act or the terms of this lease, the lease shall be subject to cancellation in accordance with the provisions of Section 5 (c) and (d) of the Act and the Lessor may exercise any other remedies which the Lessor may have, including the penalty provisions of Section 24 of the Act. Furthermore, pursuant to section 8(o) of the Act, the Secretary may cancel the lease if it is obtained by fraud or misrepresentation.

(b) Nonenforcement by the Lessor of a remedy for any particular violation of the provisions of the Act, the regulations issued pursuant to the Act or the terms of this lease shall not prevent the cancellation of this lease or the exercise of any other remedies under paragraph (a) of this section for any other violation or for the same violation occurring at any other time.

Sec. 24. *Unlawful Interest.* No member of, or Delegate to, Congress, or Resident Commissioner, after election or appointment, or either before or after he has qualified, and during this continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR Part 7, shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom. The provisions of Section 3741 of the Revised Statutes as amended, 41 U.S.C. 22, and the Act of June 25, 1948, 62 Stat. 702 as amended, 18 U.S.C. 431-433, relating to contracts made or entered into, or accepted by or on behalf of the United States, form a part of this lease insofar as they may be applicable.

Lessee: _____

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

Address of Lessee: _____

_____

Notary Public: _____

Prescribed and sworn to before me this ____ day of _____

My Commission expires: _____

United States of America, Lessor

Authorized signature: _____

Name: _____

Title: _____

Date: _____

[FR Doc. 78-24940 Filed 9-1-78; 8:45 am]

[4310-09]

Bureau of Land Management

COAL LEASE OFFERING BY SEALED BID

AUGUST 28, 1978.

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that the lands hereinafter described in Emery County, Utah, will be offered for coal lease by sealed bid of $100 per acre minimum bonus to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2 p.m., m.d.t., September 21, 1978, in Room 1408 of the University Club Building. At that time all sealed bids will be opened and read, and the highest bid announced. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for the opening of such bids. The Department reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversary dates of the lease. The successful bidder is obligated to pay for the newspaper publications of this notice.

Warning to bidders: A bidder will not be considered qualified if he holds or controls more than 46,080 acres of Federal coal leases in Utah or 100,000 acres of Federal coal leases in the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease.

Public comments: The public is invited to submit written comments on the fair market value of the coal to be leased. Approximately 1,750,000 tons in the average 6.1-foot thick Blind Canyon Seam and 1,600,000 tons in the average 5.5-foot thick Hiawatha Seam will be mined from the lands to be leased. Written comments on the fair market value will be received by the Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. A copy of the written comments should also be submitted to the Office of the Conservation Manager, Geological Survey, Box 25046, Denver Federal Center, Denver, Colo. 80225. Written comments must be received by September 14, 1978, in order to be considered. All written comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection.

Lands Offered: The lands are located in the Manti-LaSal National Forest approximately 12 miles northwest of the community of Huntington, Utah. The lands are described as follows:

T. 16 S., R. 7 E., SLM, Utah
Sec. 8, S½SE¼;
Sec. 16, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 17, NE¼.
Containing 440 acres

Detailed statement: A detailed statement of the terms and conditions of the lease offer, how and where to submit sealed bids, and the obligations of the high bidder to pay for publication of this notice may be obtained from the Bureau of Land Management, Utah State Office.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-24859 Filed 9-1-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

OFFICIAL INSIGNIA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Official Insignia Designation.

SUMMARY: This notice issues the official insignia of the U.S. Fish and Wildlife Service. The Service insignia was changed in 1974 when the organization name change was effected by Congress. Publication of the new insignia was overlooked at the time. This action accomplishes the official designation of the insignia now in use by the Service.

DATE: This action is final September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan Levitt, Acting Chief, Office of

Current Information, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-5634.

SUPPLEMENTARY INFORMATION: The primary author of this document is Alan Levitt, Acting Chief, Office of Current Information.

The insignia depicted below is prescribed as the official insignia of the U.S. Fish and Wildlife Service, Department of the Interior.

In making this prescription, notice is given that whoever manufactures, sells, or possesses this insignia, or any colorable imitation thereof, or photographs, prints or in any other manner makes or executes any engraving, photograph or print, or impression in the likeness of this insignia, or any colorable imitation thereof, without authorization from the United States Department of the Interior is subject to the penalty provisions of section 701 of Title 18 of the United States Code.

KEITH M. SCHREINER
Acting Director.

AUGUST 25, 1978.

[FR Doc.78-24860 Filed 9-1-78; 8:45 am]

[4310-31]

Geological Survey

KNOWN LEASING AREA (PHOSPHATE) CHESTERFIELD RANGE, IDAHO

Pursuant to authority contained in the act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, and Secretary's Order 2948, Federal lands within the State of Idaho have been classified as subject to the competitive phosphate leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 211).

The name of the area, the effective date, and the total acreage involved are as follows:

(12) IDAHO

CHESTERFIELD RANGE (IDAHO) KNOWN LEASING AREA (PHOSPHATE); NOVEMBER 25, 1975, 5,582.38 ACRES

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the disagram and the land description may be obtained from the Regional Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025.

Dated: August 23, 1978.

W. A. RADLINSKI,
Acting Director,
U.S. Geological Survey.

[FR Doc. 78-24861 Filed 9-1-78; 8:45 am]

[4310-09]

Bureau of Reclamation

WAPINITA PROJECT, OREGON

Transfer of Jurisdiction of Lands, Clear Lake (Wasco) Reservoir, Correction

In FR, Vol. 43, 128, page 28857 dated July 3, 1978, make the following changes to this notice.

1. Line 4: Change the word "being" to "hereby" to read, "The below described lands are hereby transferred * * *."

2. Line 20: Remove the word "proposed" from the sentence to read "Information regarding the transfer can be * * *."

Dated: August 28, 1978.

D. D. ANDERSON,
Acting Commissioner of Reclamation.

[FR Doc. 78-24778 Filed 9-1-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

The following list of properties has been added to the National Register of Historic Places since notice was last given in the February 7, 1978, Federal Register. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

ALABAMA

Clarke County

Gainestown vicinity, *Wilson-Finlay House*, N of Gainestown on Suggsville Rd. (7-12-78)

Jackson County

Stevenson, *Rosecrans, Gen. William, Headquarters*, Myrtle Pl. (7-12-78)

Madison County

Huntsville, *Old Town Historic District*, roughly bounded by Dement and Lincoln Sts., and Randolph and Walker Aves. (7-18-78)

ALASKA

Aleutian Islands Division

Nikolski vicinity, *Anangula Archeological District* (6-2-78) NHL

Bristol Bay Division

Kanatak vicinity, *Kukak Village Site*, N of Kanatak at Shelikof Straits, Katmai National Monument (7-20-78)

Cordova-McCarthy Division

Kennecott vicinity, *Kennecott Mines*, SE of Kennicott Glacier on N bank of National Creek (7-12-78)

Fairbanks Division

Fairbanks, *Federal Building (U.S. Post Office and Courthouse)*, Cushman St. and 3rd Ave. (8-2-78)

Nome Division

Nome vicinity, *Cape Nome Mining District Discovery Sites* (6-2-78) NHL

Seward Division

Seward, *Ballaine House*, 437 3rd Ave. (7-12-78)

Upper Yukon Division

Central, *Central House*, Mile 128, Steese Hwy. (7-31-78)
Sagwon vicinity, *Gallagher Flint Station Archeological Site* (6-2-78) NHL

ARIZONA

Navajo County

Holbrook, *Navajo County Courthouse*, Courthouse Sq. (7-31-78)

Pinal County

Florence, *Pinal County Courthouse*, Pinal and 12th Sts. (8-2-78)

ARKANSAS

Faulkner County

Conway, *Faulkner County Jail*, Courthouse Sq. (7-20-78)

Hempstead County

Hope, *Carrigan House*, 704 W. Avenue B (7-20-78)

Jefferson County

Pine Bluff, *Merchants and Planters Bank Building*, 100 Main St. (8-1-78)

Lawrence County

Powhatan, *Powhatan Schoolhouse*, AR 25 (7-31-78)

Little River County

Alleene, *Reed, Will, Farm House*, Main St. (7-14-78)

Marion County

Yellville, *Cowdrey House*, 1 Valley St. (7-20-78)

Polk County

Mena, *Scoggin House*, 1215 Port Arthur Ave. (7-20-78)

Pulaski County

Little Rock, *McDonald-Wait-Newton House*, 1406 Cantrell Rd. (7-14-78)
Little Rock, *Pearson-Robinson House*, 1900 Marshall St. (7-24-78)

CALIFORNIA

Alameda County

Berkeley, *First Church of Christ, Scientist*, 2619 Dwight Way (12-22-77) NHL

Inyo County

Olancha vicinity, *Death Valley Scotty Historic District*, NE of Olancha on CA 72 in Death Valley National Monument (7-20-78)

Los Angeles County

La Mirada, *McNally's Windemere Ranch Headquarters*, San Esteban and San Cristobal Dr. (7-20-78)
Los Angeles, *Million Dollar Theater*, 307 S. Broadway (7-20-78)

Mariposa County

Mariposa vicinity, *El Portal Archeological District*, N of Mariposa (8-18-78)

Napa County

St. Helena, *Greystone Cellars*, 2555 Main St. (8-10-78)

Sacramento County

Galt, *Utah Condensed Milk Company Plant*, 621 3rd St. (8-3-78)

San Diego County

Oceanside, *Libby, Charles, House*, 636 Rockledge St. (7-12-78)
San Diego vicinity, *Balboa Park* (12-22-77) NHL

San Francisco County

San Francisco, *Bank of Italy*, 552 Montgomery St. (6-2-78) NHL

San Mateo County

Woodside, *Independence Hall*, 129 Albion Ave. (8-3-78)

Santa Clara County

Los Gatos, *Forbes Mill Annex*, CA 17 (7-31-78)

Sonoma County

Santa Rosa, *Hotel La Rose*, 5th and Wilson Sts. (8-3-78)

Ventura County

Ventura, *San Miguel Chapel Site*, 292 E. Thompson Blvd. (7-20-78)

COLORADO

Boulder County

Boulder, *Squires-Tourtellot*, 1019 Spruce St. (8-10-78)

Denver County

Denver, *Public Service Building*, 910 15th St. (7-20-78)
Denver, *Treat Hall*, E. 18th Ave. and Pontiac St. (8-10-78)

Grand County

Grand Lake vicinity, *Shadow Mountain Lookout*, SE of Grand Lake in Rocky Mountain National Park (8-2-78)

Larimer County

Estes Park vicinity, *Leiffer House*, S of Estes Park off CO 7 (8-2-78)
Fort Collins, *Baker House*, 304-304½ E. Mulberry St. (7-20-78)
Fort Collins, *Old Town Fort Collins*, roughly bounded by College Ave., Mountain, Pine, Willow, and Walnut Sts. (8-2-78)

CONNECTICUT

Hartford County

Manchester, *Cheney Brothers Historic District*, bounded by Hartford Rd., Laurel, Spruce, and Lampfield Sts. (6-2-78) NHL

New London County

Stonington, *Stonington High School*, Church St. (8-17-78)

Tolland County

Rockville, *Florence Mill*, 121 W. Main St. (7-18-78)

DELAWARE

Kent County

Milford, *Bank House*, 119 N. Walnut St. (7-31-78)
Milford, *Wilkerson, J. H., & Son Brickworks*, off SR 409 (7-12-78) HAER

New Castle County

Wilmington vicinity, *Augustine Paper Mill*, N. Brandywine Park Dr. (8-3-78)

DISTRICT OF COLUMBIA

Washington

American Revolution Statuary, public buildings and various parks within DC (7-14-78)
Dupont Circle Historic District, roughly bounded by Florida and Rhode Island Aves., T, 17th, 21st, and 22nd Sts. (7-21-78)

FLORIDA

Leon County

Tallahassee, *Riley, John Gilmore, House*, 419 E. Jefferson St. (8-1-78)
Tallahassee, *St. John's Episcopal Church*, 211 N. Monroe St. (8-10-78)

Okaloosa County

Valparaiso, *Valparaiso Inn*, 331 Bayshore Dr. (8-1-78)

GEORGIA

Baldwin County

Milledgeville, *Central Building, State Lunatic Asylum*, Broad St. (7-20-78)

Chatham County

Savannah, *Central of Georgia Railroad: Savannah Shops and Terminal Facilities*, W. Broad St. and Railroad Ave. (6-2-78) NHL

Clarke County

Athéns, *Downtown Athens Historic District*, roughly bounded by Hancock Ave., Foundry, Mitchell, Broad, and Lumpkin Sts. (8-10-78)

Fayette County

Fayetteville vicinity, *King, Tandy, House*, S of Fayetteville on GA 92 (7-20-78)

Floyd County

Rome vicinity, *Berry Schools*, N of Rome on U.S. 27 (7-21-78)

Hancock County

Sparta vicinity, *Rockby*, NE of Sparta off GA 16 (7-12-78)

Johnson County

Wrightsville, *Grice Inn*, E. Elm St. (7-20-78)

Muscogee County

Columbus, *Columbus Historic Riverfront Industrial District*, Columbus River from 8th St. N. to 38th St. (6-2-78) NHL

Oglethorpe County

Crawford vicinity, *Amis-Elder House*, W of Crawford on Elder Rd. (8-2-78)

Richmond County

Augusta, *Augusta Cotton Exchange Building*, Reynolds St. (7-20-78)

HAWAII

Hawaii County

Honokaa, *Chee Ying Society*, HI 24 (7-20-78)
Keauhou, *Kamehameha III's Birthplace*, off Alii Dr. (7-24-78)

IDAHO

Elmore County

Mountain Home, *Mountain Home Carnegie Library*, 180 S. 33rd St. E. (7-24-78)

Gooding Country

Hagerman, *Roberts, Morris, Store*, off U.S. 30 (7-17-78)

Idaho County

Grangeville, *Grangeville Savings and Trust*, State and Main Sts. (7-24-78)

Nez Perce County

Lewiston, *Nave Apartments*, 600 block of 8th St. (8-3-78)

Power County

American Falls vicinity, *Register Rock*, W of American Falls on U.S. 30 (7-24-78)

Washington County

Weiser, *St. Agnes Catholic Church*, 204 E. Liberty St. (7-24-78)
Weiser, *St. Luke's Episcopal Church*, E. 1st and Liberty Sts. (7-24-78)

ILLINOIS

Cook County

Chicago, *Chicago Board of Trade Building*, 141 W. Jackson Blvd. (6-2-78) NHL
Chicago, *Marshall Field Company Store*, 111 N. State St. (6-2-78) NHL
Chicago, *Montgomery Ward Company Complex*, 619 W. Chicago Ave. (6-2-78) NHL
Chicago, *Sears, Roebuck and Company Complex*, 925 S. Holman Ave. (6-2-78) NHL

Du Page County

Lombard, *First Church of Lombard*, Maple and Main Sts. (8-10-78)

Logan County

Mount Pulaski, *Mount Pulaski Courthouse*, Public Sq. (8-3-78)

McLean County

Bloomington, *Miller, George H., House*, 405 W. Market St. (7-20-78)

Ogle County

Oregon, *Pinehill*, 400 Mix St. (7-24-78)

Will County

Joliet, *Rubens Rialto Square Theater*, 102 N. Chicago St. (7-24-78)
Joliet, *Union Station*, 50 E. Jefferson St. (8-1-78)

IOWA

Dubuque County

Dubuque, *Fenelon Place Elevator*, 512 Fenelon Pl. (8-3-78)

Johnson County

Iowa City, *Vogt House*, 800 N. Van Buren St. (7-24-78)

Lee County

Fort Madison, *Albright House*, 716-718 Ave. F (7-24-78)

KENTUCKY

Bourbon County

Paris vicinity, *Loudoun Hall*, S of Paris off KY 956 (8-2-78)

Calloway County

Murray, *Murray State University Historic Buildings*, 15th, 16th, and Main Sts. (8-3-78)

Fayette County

Lexington, *Hall, Augustus, House*, 165 Barr St. (7-12-78)
Lexington, *Victorian Commercial Block*, bounded by Broadway, Main, Short, and Spring Sts. (7-21-78)
Lexington vicinty, *Delta*, S of lexington at 2450 Armstrong Mill Rd. (8-10-78)
Lexington vicinity, *Helm Place (Cedar Hall)*, SW of Lexington on Bowman Mill Rd. (8-3-78)

Henry County

New Castle vicinity, *Ricketts, Robert, House*, N of New Castle off U.S. 421 (7-12-78)

Jefferson County

Louisville, *Clover Hill*, 2618 Dixie Hwy. (7-17-78)
Louisville, *Cornwall and Brown Houses*, 957 S. 4th St. (7-19-78)
Louisville, *Snead Manufacturing Building*, 817 W. Market St. (8-1-78)

Livingston County

Grand Rivers, *Lawson, Thomas, House*, Wabash Ave. (7-12-78)

Madison County

Bybee, *Cornelison Pottery*, KY 52 (7-24-78)

Mason County

Maysville, *Cox-Hord House*, 128 E. 3rd St. (7-14-78)
Maysville, *Phillips' Folly*, 227 Sutton St. (8-10-78)

Pulaski County

Somerset, *Fox, William, House*, 206 W. Columbia St. (7-31-78)
Somerset, *Perkins, Dr. John Milton, House*, 109 N. Main St. (8-10-78)

Warren County

Bowling Green, *Rauscher House*, 818 Adams St. (7-12-78)

LOUISIANA

Orleans Parish

New Orleans, *Algiers Point*, bounded by Mississippi River, Slidel St., and Atlantic Ave. (8-1-78)
New Orleans, *New Orleans Cotton Exchange Building*, 231 Carondelet St. (12-22-77) NHL
New Orleans, *Sincer, Louis, House*, 1061 Camp St. (7-12-78)

West Feliciana Parish

Laurel Hill vicinity, *Hazelwood Plantation*, SE of Laurel Hill on Hazelwood Rd. (7-31-78)

MAINE

Androscoggin County

Lewiston, *Lord, James C., House*, 497 Main St. (7-21-78)

Cumberland County

Naples, *Manor House*, U.S. 302 (7-12-78)

Franklin County

Farmington, *Greenwood, Chester, House*, *ME 27 (7-12-78)*
Rangely, *Rangeley Public Library*, Lake St. (7-12-78)

Hancock County

Southwest Harbor vicinity, *Fernald Point Prehistoric Site*, N of Southwest Harbor (7-21-78)

Kennebec County

Waterville, *Redington House*, 64 Silver St. (7-21-78)

Penobscot County

Bangor, *Pond, Charles H., House*, 175 State St. (7-12-78)
Orono, *University of Maine at Orono Historic District*, Munson, Sebec, and Schoodic Rds. (7-12-78)

Washington County

Calais, *First Congregational Church*, Calais Ave. (7-12-78)

York County

Parsonsfield vicinity, *Morison, Capt. James, House*, SE of Parsonsfield on South Rd. (7-12-78)

MARYLAND

Baltimore County

Glen Arm vicinity, *Ravenshurst*, 12915 Dulaney Valley Rd. (8-14-78)

Carroll County

Keysville vicinity, *Terra Rubra*, 1 mi. (1.6 km) S of Keysville (7-24-78)
Sykesville vicinity, *Branton Manor*, 2319 Old Liberty Rd. (8-18-78)

Charles County

La Plata vincinity, *Locust Grove*, W of La Plata on MD 225 (7-21-78)

Frederick County

Frederick vicinity, *Arcadia*, 3.5 mi. (5.6 km) S of Frederick on MD 85 (8-3-78)

Howard County

Ellicott City, *Ellicott City Historic District*, MD 144 (7-31-78)

Prince Georges County

Bladensburg, *Hilleary, William, House*, 4703 Annapolis Rd. (7-20-78) HABS
Upper Marlboro, *Kingston*, 5415 Old Crain Hwy. (7-21-78) HABS

Washington County

Hagerston, *Colonial Theatre*, 12-14 S. Potomac St. (8-2-78)
Hagerstown vicinity, *Rockland Farm*, 728 Antietam Dr. (7-21-78)

MASSACHUSETTS

Barnstable County

Chatham, *Half Way House*, Andrew Harding Ln. (7-21-78)
Provincetown, *Hawthorne Class Studio, off Miller Hill Rd.* (7-21-78)

Bristol County

Attleboro, *Capron House*, 42 North Ave. (7-21-78)

Essex County

West Newbury, *Newell Farm*, 243 Main St. (7-21-78)

Middlesex County

Arlington, *Locke, Capt. Benjamin, House,* 21 Appleton St. (7-21-78)
Waltham, *Boston Manufacturing Company,* 144 Moody St. (12-22-77) NHL

Norfolk County

Braintree, *Thayer Public Library,* 2 John F. Kennedy Memorial Dr. (7-21-78)

Plymouth County

Duxbury vicinity, *First Parish Church,* SW of Duxbury at Tremont and Depot Sts. (7-21-78)
Duxbury vicinity, *Standish, Alexander, House,* 341 Standish St. (7-12-78)

Suffolk County

Boston, *Appleton, Nathan, House,* 39-40 Beacon St. (12-22-78) NHL

MICHIGAN

Ingham County

Lansing, *Reo Motor Car Company Plant,* 2100 S. Washington St. (6-2-78) NHL

Ottawa County

Holland vicinity, *Holland Harbor Lighthouse,* South Pier, Holland Harbor (7-20-78)

Wayne County

Dearborn, *Ford River Rouge Complex,* 3001 Miller Rd. (6-2-78) NHL
Detroit, *Corktown Historic District,* roughly bounded by Lodge Freeway, Porter, Trumbull, Bagley, Rosa Parks Blvd. and Michigan Ave. (7-31-78)
Detroit, *General Motors Building* 3044 W. Grand Blvd. (6-2-78) NHL
Detroit, *Lincoln Motor Company Plant,* 6200 W. Warren Ave. (6-2-78) NHL

MINNESOTA

Dakato County

Hastings, *Dakota County Courthouse,* Vermillion St. between 3rd and 4th Sts. (7-21-78)
Hastings, *East Second Street Commercial Historic District,* E. 2nd St. between Ramsey and Vermillion Sts.; Sibley St. S to 3rd St. (7-31-78)
Hastings, *Eckert, Ignatius, House,* 724 Ashland St. (7-21-78)
Hastings, *West Second Street Residential Historic District,* W. 2nd St. between Forest and Spring Sts. (7-31-78)

St. Louis County

Kabetogama vicinity, *Kettle Falls Historic District,* NE of Kabetogama (7-17-78)
Proctor, *Northland (railroad car),* off U.S. 2 (7-31-78)

MISSISSIPPI

Adams County

Natchez vicinity, *Lansdowne,* N of Natchez on Pine Ridge Rd. (7-24-78)

Amite County

Centreville vicinity, *Bethany Institute,* E of Centreville on MS 48 (8-3-78)

Monroe County

Athens, *Monroe County Jail,* off MS 8 (7-14-78)

MISSOURI

Adair County

Kirksville, *Adair County Courthouse,* Washington St. (8-11-78)

Audrain County

Mexico, *Ross House* 501 S. Muldrow St. (7-26-78)

Franklin County

Washington, *Schwarzer, Franz, House,* 2 Walnut St. (7-17-78)

Jackson County

Kansas City, *Cave Spring,* 7100 Blue Ridge Extension (8-10-78)

MONTANA

Lewis and Clark County

Helena vicinity, *Wassweiler Hotel and Bath Houses,* W of Helena on U.S. 12 (8-1-78)

NEVADA

Carson City (independent city)

Carson Brewing Company, 102 S. Division St. (8-18-78)
Meder, Lew M., House, 308 N. Nevada St. (8-2-78) HABS

Lincoln County

Hiko vicinity, *White River Narrows Archeological District,* N of Hiko (8-1-78)

Pershing County

Lovelock vicinity, *Rye Patch Archeological Sites,* N of Lovelock (8-2-78)

NEW HAMPSHIRE

Belknap County

East Alton, *First Freewill Baptist Church,* Drew Hill Rd. (8-1-78)

Hillsborough County

Manchester, *Smyth Tower,* 718 Smyth Rd. (7-24-78)

Rockingham County

Newmarket, *Stone School,* Granite St. (7-12-78)
Sandown, *Sandown Old Meetinghouse,* Fremont R. (8-9-78)

Sullivan County

Cornish Mills vicinity, *Trinity Church,* W of Cornish Mills on NH 12-A (7-31-78)
Newport, *Reed, Isaac, House,* 30-34 Main St. (7-19-78)

NEW JERSEY

Bergen County

Edgewater, *Alcoa Edgewater Works,* 700 River Rd. (8-10-78)

Hudson County

East Newark, *Clark Thread Company Historic District,* 900 Passaic Ave. (6-2-78) NHL
Hoboken, *Seamen's Mission,* 60-64 Hudson St. (7-25-78)
Jersey City, *Great Atlantic and Pacific Tea Company Warehouse,* Provost St. between 1st and Bay Sts. (6-2-78) NHL

Monmouth County

Shrewsbury, *Shrewsbury Historic District,* Broad and Sycamore Sts. (7-17-78)

NEW MEXICO

Chaves County

Roswell, *White, James Phelps, House,* 200 N. Lea Ave. (7-24-78)

San Miguel County

Las Vegas, *Bridge Street Historic District,* 100 block of Bridge St. (7-26-78)

NEW YORK

Bronx County

Bronx, *Lorillard Snuff Mill,* off U.S. 1 (12-22-77) NHL

New York County

New York, *American Stock Exchange,* 86 Trinity Pl. (6-2-78) NHL
New York, *Equitable Building,* 120 Broadway (6-2-78) NHL
New York, *Macy, R. H., and Company Store,* 151 W. 34th St. (6-2-78) NHL
New York, *Metropolitan Life Insurance Company,* 1 Madison Ave. (6-2-78) NHL
New York, *National City Bank,* 55 Wall St. (6-2-78) NHL
New York, *New York Cotton Exchange,* 1 Hanover Sq. (12-22-77) NHL
New York, *New York Life Building,* 51 Madison Ave. (6-2-78) NHL
New York, *New York Stock Exchange,* 11 Wall St. (6-2-78) NHL
New York, *Sinclair, Harry F., House,* 2 E. 79th St. (6-2-78) NHL
New York, *Stewart, A. T., Company Store,* 280 Broadway (6-2-78) NHL
New York, *Third Judicial District Courthouse,* 6th Ave. and 10th St. (12-22-77) NHL
New York, *Tiffany and Company Building,* 401 5th Ave. (6-2-78) NHL

Westchester County

Valhalla vicinity, *Hartford, John A., House,* SW of Valhalla on NY 100 (12-22-77) NHL

NORTH CAROLINA

Camden County

South Mills vicinity, *Abbott, William Riley, House,* SE of South Mills on SR 1224 (8-11-78) HABS

Forsyth County

Winston-Salem, *Graylyn,* Reynolda Rd. (8-3-78)
Winston-Salem, *Poindexter, H. D., Houses,* 124 and 130 West End Blvd. (7-31-78)

Orange County

Hillsborough vicinity, *St. Mary's Chapel,* NE of Hillsborough (7-12-78)

Vance County

Henderson, *Henderson Fire Station and Municipal Building,* Garnett and Young Sts. (8-10-78)
Henderson, *Mistletoe Villa,* Young Ave. (8-10-78)

Wake County

Raleigh, *Raleigh, Sir Walter, Hotel,* 400-412 Fayetteville St. (8-11-78)

Wayne County

Goldsboro, *Old Fellows Lodge*, 111-115 N. John St. (8-3-78)

Wilson County

Wilson, *Branch Banking & Trust Company Building*, 124 W. Nash St. (8-11-78)

OHIO

Clark County

South Charleston, *South Charleston Historic District*, OH 70 (7-17-78)

Clermont County

Bantam Vicinity, *Bethel Methodist Church*, 1 mi. N of Bantam on Elk Lick Rd. (8-11-78)

Franklin County

Groveport, *Groveport Town Hall-Historic Group*, 628, 632 Main and Main and Front Sts. (7-31-78)

Lake County

Painesville, *Mentor Avenue District*, Wood St. and Mentor Ave. from Liberty to Washington St. (8-3-78)

Lawrence County

Ironton, *Fifth and Lawrence Streets Residential District*, 5th and Lawrence Sts. (8-2-78)

Lorain County

Avon, *Williams, Henry Harrison, House*, 37392 Detroit Rd. (7-12-78)
Sheffield Lake, *103rd Ohio Volunteer Infantry Association Barracks*, 5501 E. Lake Rd. (7-14-78)

Miami County

Troy vicinity, *Twin Arch Stone Culvert*, N of Troy at SR 25A (7-17-78)

Montgomery County

Kettering, *Kettering, Charles F., House, 3965 Southern Blvd. (12-22-77) NHL*

Muskingum County

Zanesville, *Achauer-Linser House and Brewery Complex*, 976-988 E. Main St. (8-3-78)
Zanesville, *Zanesville YWCA*, 49 N. 6th St. (7-17-78)

Portage County

Kent, *Kent Jail*, 124 W. Day St. (8-10-78)

Shelby County

New Bern vicinity, *Turtle Creek Culvert and Embankment*, W of New Bern (8-10-78)

Trumbull County

Warren, *Edwards, John Stark, House*, 309 South St., SE. (7-17-78) HABS

OKLAHOMA

Canadian County

El Reno, *Southern Hotel*, 319 S. Grand St. (8-2-78)

Oklahoma County

Oklahoma City, *Weather Service Building*, 1923 Classen Blvd. (7-12-78)

OREGON

Marion County

Silverton vicinity, *Miller Cemetery Church*, 2 mi. (3.2 km) NE of Silverton on Cascade Hwy. (8-10-78)

Multnomah County

Portland, *Beth Israel School*, 1230 SW. Main St. (8-10-78)

PENNSYLVANIA

Fayette County

Brownsville, *Dunlap's Creek Bridge*, spans Dunlap's Creek (7-31-78)

Franklin County

Mercersburg vicinity, *Hays Bridge Historic District*, E of Mercersburg on SR 331 and SR 328 (7-31-78)

Lackawanna County

Scranton, *Dime Bank Building*, Wyoming Ave. and Spruce St. (7-14-78)

Lancaster County

Marietta, *Marietta Historic District*, roughly bounded by Market, Front, Biddle, and Waterford Sts. (7-18-78)
Nottingham vicinity, *Kirks Mills Historic District*, W of Nottingham off PA 272 (7-17-78)

Philadelphia County

Philadelphia, *Insurance Company of North America Building*, 1600 Arch St. (6-2-78) NHL
Philadelphia, *Wanamaker, John, Store*, Juniper and Market Sts. (6-2-78) NHL
Philadelphia, *Warwick, The*, 1701 Locust St. (8-10-78)

SOUTH CAROLINA

Aiken County

Graniteville, *Graniteville Historic District* SC 19 and Gregg St. (6-2-78) NHL

Greenville County

Piedmont, *Piedmont Manufacturing Company*, S end of Main St. (6-2-78) NHL

SOUTH DAKOTA

Codington County

Watertown, *Codington County Courthouse*, 1st Ave. SE. (7-24-78)

Fall River County

Edgemont vicinity, *Flint Hill Aboriginal Quartzite Quarry*, E of Edgemont (7-14-78)

TENNESSEE

Meigs County

Decatur, *Meigs County Courthouse*, Court Sq. (8-3-78)

Shelby County

Memphis, *Columbian Mutual Tower*, 60 N. Main St. (7-24-78)
Memphis, *Southwestern at Memphis Historic Distric*, 2000 N. Parkway (7-20-78)

TEXAS

Bexar County

San Antonio, *Source of the River District*, 4515 Broadway, (7-31-78)

Brewster County

Alpine, *Brewster County Courthouse and Jail*, Courthouse Sq. (7-17-78)

Dallas County

Lancaster, *Randlett House*, 401 S. Centre St. (8-11-78)

Deaf Smith County

Hereford, *Black, E. B., House*, 508 W. 3rd St. (7-17-78)

Fayette County

LaGrange vicinity, *Mount Eliza*, 3 mi. (4.8 km) S of LaGrange on U.S. 77 (7-17-78)
Round Top, *Bethlehem Lutheran Church*, White St. (8-10-78)

Harris County

Houston, *Hogg Building*, 401 Louisiana St. (7-14-78)

Limestone County

Tehuacana, *Texas Hall, Old Trinity University*, College and Westminister Sts. (7-12-78)

Live Oak County

Calliham vicinity, *Pagan Site*, E of Calliham off TX 72 (8-10-78)

McMullen County

Calliham vicinity, *Mustang Branch Site*, NW of Calliham off TX 72 (8-10-78)

Presidio County

Marfa, *El Paisano Hotel*, N. Highland and W. Texas Sts, (8-1-78)

Terrell County

Dryden vicinity, *Bullis' Camp Site*, NE of Dryden (8-2-78)

Throckmorton County

Throckmorton, *Throckmorton County Courthouse and Jail*, Public Sq. and Chestnut St. (8-10-78)

Travis County

Austin, *Congress Avenue Historic District*, Congress Ave. from 1st to 11th Sts. (8-11-78)
Austin, *St. David's Episcopal Church*, 304 E. 7th St. (8-2-78)

UTAH

Carbon County

Price, *Price Tavern*, E. 100 South and Carbon Ave. (8-11-78)

Salt Lake County

Salt Lake City, *Exchange Place Historic District*, Exchange Pl. and S. Main St. (8-10-78)
Salt Lake City, *McIntyre House*, 259 7th Ave. (7-17-78)

Sanpete County

Ephraim, *Peterson, Canute, House*, 10 N. Main St. (7-17-78)

Utah County

Provo, *Hines Mansion,* 125 S. 4th West (7-12-78)

VERMONT

Bennington County

Dorset vicinity, *Kent Neighborhood Historic District,* S of Dorset at Kent Lane, Dorset West and Nichols Hill Rds. (7-14-78)

VIRGIN ISLANDS

St. Croix Island

Christiansted vicinity, *Estate Judith's Fancy,* 4 mi. (3.2 km) NW of Christiansted (7-17-78)

Frederiksted vicinity, *Estate Grove Place,* 4 mi. (6.4 km) E of Frederiksted off Centerline Rd. (7-17-78)

St. Thomas Island

Charlotte Amalie vicinity, *Estate Brewers Bay,* 2 mi. (3.2 km) W of Charlotte Amalie at Brewers Bay (7-31-78)

VIRGINIA

Alexandria (independent city)

Franklin and Armfield Office, 1315 Duke St. (6-2-78) NHL

Botetourt County

Buchanan vicinity, *Looney Mill Creek Site,* W of Buchanan (8-3-78)

Page County

Shenandoah, *Shenandoah Land and Improvement Company Office (Stevens Cottage),* 201 Maryland Ave. (7-14-78)

Williamsburg (independent city)

College Land, off VA 31 (7-12-78)

WASHINGTON

King County

Seattle, *Fort Lawton* (8-15-78)

Seattle, *Seattle Electric Company Georgetown Steam Plant,* off WA 99 at King County Airport (8-1-78)

Kitsap County

Hansville vicinity, *Point No Point Light Station,* E of Hansville (8-10-78)

Pierce County

Tacoma, *Pacific Brewing and Malting Company,* S. 25th St. Between C St. and Jefferson Ave. (7-31-78)

WEST VIRGINIA

Ritchie County

Pennsburo, *Old Stone House,* 310 W. Myles Ave. (7-21-78)

WISCONSIN

Brown County

Green Bay, *Fisk, Joel S., House,* 123 N. Oakland Ave. (8-11-78)

Columbia County

Columbus vicinity, *Leopold, Aldo, Shack,* central Wisconsin (also in Sauk County) (7-14-78)

Dane County

Madison, *Cutter, Judson C., House,* 1030 Jenifer St. (7-12-78)

Madison, *Elliott, Edward C., House,* 137 N. Prospect Ave. (8-11-78)

Lincoln County

Merrill, *Merrill City Hall,* 717 E. 2nd St. (7-12-78)

Milwaukee County

South Milwaukee, *South Milwaukee Passenger Station,* Milwaukee Ave. (8-3-78)

Rock County

Janesville, *Richardson, Hamilton, House,* 429 Prospect Ave. (7-17-78)

Sauk County

Leopold, Aldo, Shack, Reference—see Columbia County.

Walworth County

Delavan, *Stowell, Israel, Temperance House,* 61-65 E. Walworth Ave. (8-11-78)

Lake Geneva, *Lake Geneva Depot,* Broad St. (7-31-78)

Waukesha County

Okauchee, *Okauchee House,* 34880 Lake Dr. (8-11-78)

WYOMING

Lincoln County

Kemmerer, *Penney, J. C., Historic District,* J. C. Penney Ave. and S. Main St. (6-2-78) NHL

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

ALASKA

Aleutian Islands Division

Unalaska vicinity, *Sitka Spruce Plantation,* N of Unalaska on Amaknak (2-14-78) NHL

Cordova-McCarthy Division

Katalla vicinity, *Bering Expedition Landing Site,* S of Katalla on Kayak Island (7-20-77) NHL

Fairbanks Division

Fairbanks, *Thomas, George C., Memorial Library,* 901 1st Ave. (2-23-72) NHL; G

Haines Division

Haines vicinity, *Fort William H. Seward,* S of Haines at Port Chilkoot (4-11-72) NHL; G

Juneau Division

Taku Harbor vicinity, *Fort Durham Site,* N of Taku Harbor (5-5-78) NHL

Kobuk Division

Kiana vicinity, *Onion Portage Archeological District,* E of Kiana on the Kobuk River (6-20-72) NHL

Kodiak Division

Kodiak Island, *Three Saints Bay Site,* N of Cape Kasiak (2-23-72) NHL

Sitka Division

Sitka, *Alaska Native Brotherhood Hall,* Katlean St. (2-23-72) NHL

Skagway-Yakutat Division

Skagway vicinity, *Chilkoot Trail,* Mile 0 to U.S./Canada border (4-14-75) NHL

Yakutat vicinity, *New Russia Site,* SW of Yakutat on Phipps Peninsula (2-23-72) NHL

Upper Yukon Division

Eagle and vicinity, *Eagle Historic District* (10-27-70) NHL; G

Flaxman Island, *Leffingwell Camp Site,* 58 mi. (92.8 km) W of Barter Island on Arctic coast (6-21-71) NHL

Valdez-Chitina-Whittier Division

Gakona vicinity, *Sourdough Lodge,* AK 4 (Richardson Hwy.) (10-1-74) NHL; G

Yukon-Koyukuk Division

Lignite vicinity, *Dry Creek Archeological Site* (9-6-74) NHL; G

ARKANSAS

Lonoke County

Scott vicinity, *Toltec Mounds (Knapp Mounds),* 5 mi. (8 km) SE of Scott off AR 30 (1-12-73) NHL

CALIFORNIA

Los Angeles County

Pasadena, *Gamble House (Greene and Greene Library),* 4 Westmoreland Pl. (9-3-71) NHL; HABS

Mendocino County

Gualala, *Milano Hotel,* 38300 CA 1 S. (6-23-78)

GEORGIA

Glynn County

Jekyll Island, *Jekyll Island Club,* between Riverview Dr. and Old Village Blvd. (1-20-72) NHL

Muscogee County

Columbus, *Springer Opera House,* 105 10th St. (12-29-70) NHL; G

Richmond County

Augusta, *Augusta Canal Industrial District* (5-27-71) NHL

Wilkes County

Washington vicinity, *Gilmer, Thomas M., House,* 5 mi. (8 km) W of Washington on U.S. 78 (11-2-77) (moved, delete from Oglethorpe Co.)

INDIANA

St. Joseph County

South Bend, *Tippecanoe Place (Studebaker House),* 620 W. Washington Ave. (7-2-73) NHL

IOWA

Buena Vista County

Albert City, *Albert City Station,* 212 N. 2nd St. (10-22-76)

KANSAS

Wilson County

Neodesha, *Norman No. 1 Oil Well Site*, E. Mill St. (8-28-74) NHL

MASSACHUSETTS

Middlesex County

Lowell, *Locks and Canals Historic District*, between Middlesex St. and the Merrimack River (8-13-76) NHL

MICHIGAN

Genesee County

Flint, *Durant-Dort Carriage Company Office*, 315 W. Water St. (9-2-75) NHL

Wayne County

Highland Park, *Highland Park Ford Plant*, 15050 Woodward Ave. (2-6-73) NHL

MISSOURI

Buchanan County

St. Joseph, *Buchanan County Courthouse*, Courthouse Sq. (8-21-72

NEW HAMPSHIRE

Cheshire County

Harrisville and vicinity, *Harrisville Historic District*, Harrisville and its environs (9-17-71) NHL; HABS; G

NEW YORK

New York County

New York, *Chamber of Commerce Building*, 65 Liberty St. (2-6-73) NHL
New York, *Grace Church and Dependencies*, Broadway, 10th St. and 4th Ave. (6-28-74) NHL; G
New York, *Soho Historic District*, roughly bounded by W. Broadway, Houston, Crosby, and Canal Sts. (6-29-78) NHL
New York, *Surrogates Court (Hall of Records)*, 31 Chambers St. (1-29-72) NHL

NORTH CAROLINA

Davie County

Mocksville vicinity, *Cooleemee*, terminus of SR 1812 (3-20-73) NHL; HABS

Durham County

Durham, *Bull Durham Tobacco Factory (W. T. Blackwell & Co.)*, 201 W. Pettigrew St. (9-10-74) NHL

Edgecombe County

Tarboro vicinity, *Coolmore Plantation*, W of Tarboro on U.S. 64 (2-18-71) NHL; HABS

OHIO

Franklin County

Columbus, *Ohio Statehouse*, Broad and High Sts. (7-31-72) NHL

Portage County

Kent, *Kent, Charles, House*, 125 N. Pearl St. (2-23-78)

Shelby County

Sidney, *People's Federal Savings and Loan Association*, 101 E. Court St. (6-5-72) NHL

OKLAHOMA

Kay County

Ponca City, *Marland, E. W., Mansion (The Villa)*, Monument Rd. (4-11-73) NHL

OREGON

Clackamas County

Government Camp vicinity, *Timberline Lodge*, 6 mi. (9.6 km) N of Government Camp in Mount Hood National Forest (11-12-73) NHL

PENNSYLVANIA

Berks County

Reading vicinity, *Gruber Wagon Works*, W of Reading off PA 183 in Tulpehocken Creek Park (6-2-72) NHL

Philadelphia County

Philadelphia, *Philadelphia Contributionship*, 212 S. 4th St. (5-27-71) NHL; HABS

SOUTH CAROLINA

Charleston County

Charleston, *Charleston Historic District*, incorporates most of area S of Bee, Morris, and Mary Sts. to waterfront (7-16-78) NHL; HABS; G, (boundary revision)

SOUTH DAKOTA

Lawrence County

Spearfish vicinity, *Spearfish Fisheries Center (Spearfish Hatchery)*, S of Spearfish off U.S. 14 (5-19-78)

TENNESSEE

Sumner County

Gallatin vicinity, *Fairvue (Isaac Franklin Plantation)*, 4 mi. (6.4 km) S of Gallatin on U.S. 31E (6-10-75) NHL; HABS

TEXAS

Lubbock County

Lubbock vicinity, *Lubbock Lake Site*, N of Lubbock off U.S. 84 (6-21-71) NHL; G

VIRGINIA

Patrick County

Critz vicinity, *Reynolds Homestead*, N of Critz on VA 789 (9-22-71) NHL

Richmond (independent city)

Jackson Ward Historic District, roughly bounded by 5th, Marshall, and Gilmer Sts., and Richmond-Petersburg Tpke. (7-30-76) NHL
Tredegar Ironworks, roughly bounded by James River, Kanawha Canal, and VA 1/ U.S. 301 (7-2-71) NHL; HAER

WYOMING

Laramie County

Cheyenne vicinity, *Fort David A. Russell (Francis Warren AFB)*, W of Cheyenne (10-1-69) NHL; HABS

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places.

HAWAII

Honolulu County

Honolulu, *Katsuki House*, 1326 Keeaumoku St.

ILLINOIS

Union County

Anna, *Willard House*, 608 S. Main St.

IOWA

Clinton County

Clinton, *Young, W. J., Company Machine Works*, N of jct. of 10th Ave. S. and 1st. St.

Madison County

St. Charles vicinity, *Imes Covered Bridge*, 3.5 mi. SW of St. Charles

Muscatine County

Muscatine, *Ogilvie-Asthalter Building*, 221-223 Iowa Ave.

MASSACHUSETTS

Hampden County

Chicopee, *Kendall Block*, 6-20 Springfield St.

NEBRASKA

York County

York, *York County Courthouse*, 5th St. and Lincoln Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Ilfeld, Charles, Company Warehouse*, 200 1st St., NW.

OHIO

Ashland County

Ashland, *Ashland County Jail*, W. 2nd and Cottage Sts.
Ashland, *First National Bank and Firestone Building*, 2 and 10 W. Main St.

Butler County

Hamilton vicinity, *Hughes, Phillip, House*, E of Hamilton

Cuyahoga County

Cleveland, *Northern Ohio Lunatic Asylum*, 4455 Turney Rd.

Fairfield County

Pickerington vicinity, *Blacklick Covered Bridge*, NW of Pickerington

Ross County

Chillicothe, *Kendrick-Barrett House*, 475 Western Ave.

SOUTH CAROLINA

Oconee County

Westminister vicinity, *Prather's Bridge*, 10 mi. SW of Westminister

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility,

under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requesting determinations of eligibility are designated by § 63.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ALABAMA

Franklin County

Bonds, A. T., Home, 1 mi. past Bonds Cemetery (63.3)
Cedar Creek Archeological District (63.3)
Johnson, Ben, House, Jay Center Rd. (63.3)
Langley, Catherine Massey, House, Jay Center Rd. (63.3)
McKinney, Nelson, Home, Jay Center Rd. (63.3)
McKinney, Sampson, House, Jay Center Rd. (63.3)
McMurray, Jim, House, Jay Center Rd. (63.3)

CALIFORNIA

Contra Costa County

Richmond, *Point Richmond*

Humboldt County

Humboldt Bay Life-Saving Station, on Humboldt Bay
Moody Bridge, over S fork of Eel River

Los Angeles County

Long Beach, *Point Vicente Light*
Los Angeles vicinity, *Los Angeles Harbor Light Station,* Cabrillo Beach

Orange County

Cooks Corners vicinity, *Archeological District (63.3)*

Santa Barbara County

CA-SBa-539 (63.3)
CA-SBa-670 (63.3)
CA-SBa-931 (63.3)
Santa Barbara vicinity, *Point Conception Light Station*

Santa Clara County

San Jose vicinity, *Archeological Site CA-SCL-70 (63.3)*

Trinity County

Archeological Sites FS 05-14-51-60 and 05-14-51-61 (63.3)

Ventura County

Port Hueneme, *Anacapa Lighthouse,* Anacapa Island

COLORADO

Boulder County

Longmont, *Hover Mansion District,* 1309 Hover Rd.

CONNECTICUT

Fairfield County

Fairfield, *Black Rock Turnpike Bridge,* spans the New York, New Haven and Hartford RR. tracks
Fairfield, *Ferguson Library,* 96 Broad St. and Bedford (63.3)
Fairfield, *Mill Hill Road Bridge,* spans the New York, New Haven and Hartford RR. tracks
Fairfield *Atlantic Street Block,* 322 Main and 1-129 Atlantic Sts., including buildings on that side of the street between those addresses
Stamford, *Citizens Savings Bank,* Bank and Atlantic Sts.
Stamford, *Dress Barn Building,* 128-134 Broad St.
Stamford, *Municipal Office Building,* 429 Atlantic St.
Stamford, *Stamford Advocate Building,* 258 Atlantic St.
Stamford, *Stamford Savings Bank,* 160 Atlantic St.
Stamford, *Stamford Theater,* 307 Atlantic St.
Stamford, *St. John's Portestant Episcopal Church, Parish House, and Rectory,* Main and Grove Sts. (63.3)
Stamford, *St. John's Roman Catholic Church, Rectory, and Parish House,* Atlantic St.
Stamford, *309 Atlantic Street,* 309 Atlantic St.
Stamford, *U.S. Post Office,* 421 Atlantic St.
Stamford, *White Tower Corporation Offices,* 382 Main St.

New Haven County

Meriden, *Goffe, Solomon, House,* 677 N. Colony St. (63.3)

New London County

New London, *Old Town Mill,* jct. of Mill and State Pier Sts. (63.3)

Windham County

Willimantic, *U.S. Post Office,* Main St. (63.3)

FLORIDA

Santa Rosa County

Naval Live Oaks Historic District

GEORGIA

Tift County

Ty Ty vicinity, *Williams, Ezekiel, House,* W of Ty Ty on U.S. 82 (63.3)

HAWAII

Kauai County

Hanalei Bridge, Kuhio Hwy.
Waioli Bridge, Kuhio Hwy.
Waipa Bridge, Kuhio Hwy.

ILLINOIS

Cook County

Chicago, *Chicago Union Loop Elevated Structure,* Bounded by Wells, Lake, Van Buren, and Wabash Sts.

Pike County

Griggsville, *Quincy Street Commercial Buildings*
Griggsville, *Wade, Sam, Property*

INDIANA

Jefferson County

Archeological Site 12JE119/120

KENTUCKY

Fayette County

Lexington vicinity, *Paris Pike Historic District* (also in Bourbon County)

MARYLAND

Queen Anne County

Stevensville vicinity, *Benton House,* W of Stevensville (63.3)

MISSISSIPPI

Grenada County

Grenada, *Grenada Post Office,* 178 S. Main St.

Jefferson County

Gordon Mounds, MJE 1 122-3W

Yalobusha County

Water Valley, *Water Valley Post Office,* 2322 Main St.

MISSOURI

Boone County

Columbia, *Columbia (Wabash) Depot Building and Freight House,* 126 N. 10th St. (63.3)

Monroe County

Florida, *Bannister, Daniel, Log House*
Florida, *Bannister, Daniel, Site*
Florida, *Cave, Richard, Site* (63.3)
Florida, *Donaldson, Andrew C., Farmstead*
Florida, *Pollard House* (63.3)
Florida vicinity, *Dowell, Susanne, House,* 3 mi. W of Florida
Florida vicinity, *Miller, Jason C., House and Farmstead,* E of Florida
Florida vicinity, *Morton, Joseph, Farmstead,* SW of Florida
Florida vicinity, *Smith, Samuel H., House and Farmstead,* 5 mi. W of Florida (63.3)
North Fork vicinity, *Field's Stone Storage House,* 3 mi. S of North Fork (63.3)
Paris, *Sproul, R. B., House* (63.3)
Paris vicinity, *Jordan, Harvey, House and Farmstead,* 6.5 mi. E of Paris
Paris vicinity, *Mappin, Matthew, House and Farmstead,* NE of Paris (63.3)
Paris vicinity, *Smith, James H., Farmstead, NE of Paris (63.3)*

Paris vicinity, *Smith, Joseph B., House Site, SE of Paris* (63.3)
Paris vicinity, *Sproul, Joseph, Mill House*, 5 mi. SW of Paris (63.3)
Stoutsville vicinity, *Whelan, Henry, House and Grounds, 1.5 mi. S of Stoutsville* (63.3)
Victor, *Bryauh/Lutz, William, Log House*
Victor, *Calhoon, A. O., House* (63.3)
Victor, *Hattersley, William, Store* (63.3)
Victor vicinity, *Crow, Basil, Log House and Farmstead*, 0.5 mi. N of Victor (63.3)
Victor vicinity, *Dowdy, Roy, House and Farmstead*, 1 mi. S of Victor (63.3)
Victor vicinity, *Friday Barn*, 1 mi. S of Victor

Ralls County

Center, *Bell, Samuel F., House* (63.3)
Joanna, *Long, Emmett, Log House*
Joanna vicinity, *Peterson, John, Log House, W of Joanna* (63.3)
Perry vicinity, *Fleming, Thomas F., House*, 6 mi. N of Perry

MONTANA

Beaverhead County

Grant, *Old Quaker Quarry* (63.3)

Lewis and Clark County

Helena, *Wassweiler Hotel and Bath Houses*

NEW HAMPSHIRE

Cheshire County

Keene, *House No. 58*, 58 Island St. (63.3)
Keene, *House No. 66*, 66 Island St. (63.3)
Keene, *House No. 70*, 70 Island St. (63.3)
Keene, *House No. 76*, 76 Island St. (63.3)

NEW JERSEY

Burlington County

Burlington, Delaware Riverfront Archeological Site (63.3)

Camden County

Camden, *726 Cooper St.*
Camden, *728 Cooper Street*, 728 Cooper St.

NEW YORK

New York

New York, *Hayes, Helen, Theater*, 210 W. 46th St. (63. (63.3)
New York, *Pier No. 70*

OHIO

Greene County

Xenia, *Oldtown Greek Mound and Circle* (63.3)

Lucas County

Toledo, *First National Bank Building*, 312 Summit St. (63.3)

PENNSYLVANIA

Chester County

East Whiteland Township, *Gunkle Grist Mill* (63.3)

York County

York, *York Historic District*, Bounded by Broad St., Hartley, Newton, and Gas Aves.

PUERTO RICO

Puerto Rojo (Santa Matilde Bridge Over La Tuna River), Spans Guajataca River

RHODE ISLAND

Providence County

Providence, *Downtown Providence Historic District* (63.3)

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Sioux Falls Depot*, Between 5th and 6th Sts. (63.3)

TENNESSEE

Hamilton County

Walnut Street Bridge, Across the Tennessee River from Walnut St. to Frazier Ave.

Sevier County

Gatlinburg vicinity, *Baxter, Willis, Cabin*, E of Gatlinburg in Great Smoky Mountains National Park (63.3)

TEXAS

Hays County

Archeological Site 41HY75
Archeological Site 41HY86

Kaufman County

Cedar Creek Lake vicinity, *41 KF 64*

TRUST TERRITORY OF THE PACIFIC ISLANDS

Ponape District

Eastern Caroline Islands, *Tafunsak Shell Midden*, Kosrae Island (63.3)

Truk District

Moen Island, *Nine Japanese Bunkers* (63.3)
Moen Island, *Shell Midden No. 1* (63.3)
Moen Island, *Shell Midden No. 2* (63.3)
Moen Island, *Shell Midden No. 3* (63.3)
Moen Island, *Shell Midden No. 4* (63.3)
Moen Island, *Shell Midden No. 5* (63.3)

VIRGIN ISLANDS

St. Thomas Island

Charlotte Amalie, *Hamburg-America Shipping Line Administrative Offices*, 48B Tolbod Gade

VIRGINIA

Bath County

Archeological Site 44Ba200 (63.3)

Chesterfield County

Point of Rocks Archeological Sites 44CF101, 44CF104, and 44CF105 (63.3)

WISCONSIN

Milwaukee County

Milwaukee, *Boston Store*, 331 W. Wisconsin Ave.
Milwaukee, *Fire House, Engine Company No. 18*, 2602 N. Richards St.
Milwaukee, *Gimbels*, 101 W. Wisconsin Ave.
Milwaukee, *Lippert, Chief Henry, Fire House*, 642 W. North Ave.
Milwaukee, *Majestic Building*, 231 W. Wisconsin Ave.
Milwaukee, *Matthews Brothers Building*, 301 W. Wisconsin Ave.
Milwaukee, *Plankinton Arcade*, 161 W. Wisconsin Ave.
Milwaukee, *St. Vincent's Asylum*, 809 W. Greenfield Ave.

Rock County

Janesville, *Myers-Newhoff Building*, 121 N. Parker Dr. (63.3)

* * * * *

The following properties have either been demolished or placed on the National Register and are therefore removed from the Determinations of Eligibility listing.

IDAHO

Power County

American Falls vicinity, *Register Rock* (placed on National Register 7-24-78)

[FR Doc. 78-24717 Filed 9-1-78;-8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 25, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 15, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ARKANSAS

Calhoun County

Calion vicinity, *Boone's Mounds*, N of Calion
Calion vicinity, *Keller Site*, NW of Calion

Clark County

Arkadelphia, *Clark County Courthouse*, 4th and Crittenden Sts.
Arkadelphia vicinity, *Hudson-Jones-Harris House*, 10 mi. E of Arkadelphia

Columbia County

Magnolia vicinity, *Old Alexander House*, NE of Magnolia

Garland County

Hot Springs, *Interstate Orphans Home*, 339 Combs St.
Hot Springs, *Williams-Wootton House*, 420 Quapaw Ave.

Jefferson County

Pine Bluff, *Masonic Temple*, 4th Ave. and State St.
Pine Bluff, *Old City Hall*, 120 E. Barraque St.
Pine Bluff, *Union Station*, E. 4th Ave. and State St.

Lawrence County

Portia, *Portia School*, City Park

Marion County

Yellville, *Berry, James H., House*, off U.S. 62

Mississippi County

Osceola, *Mississippi County Courthouse*, Hale Ave. and Poplar

Pope County

Russellville, *Russellville Resources*, bounded by Arkansas Ave., W. 2d St. St., Denver Ave., and W. C. St.
Russellville, *White, W. J., House*, 1412 W. Main St.

Pulaski County

Little Rock, *Vaughan, F. T., House*, 600 W. 3rd St.

Sebastian County

Fort Smith, *Bracht House*, 315 N. 13th St.
Fort Smith, *Breckinridge, C. R., House*, 504 N. 16th St.
Fort Smith, *Ferguson-Calderara House*, 214 N. 14th St.
Fort Smith, *McLeod, Angus, House*, 912 N. 13th St.
Fort Smith, *Murphy, William J., House*, 923 N. 13th St.
Fort Smith, *Old Town Building*, 501-511 Garrison Ave.
Fort Smith, *Rogers, Horace Franklin, House*, 2900 Rogers Ave.

Washington County

Fayetteville, *Washington County Jail*, College and County Aves.

White County

Beebe, *Beebe Railroad Station*, Center St.

CONNECTICUT

Middlesex County

Chester, *Warner, Jonathan, House*, 47 King's Hwy.

Litchfield County

New Hartford vicinity, *Sun Terrace*, SW of New Hartford off CT 219

New Haven County

Waterbury, *Waterbury Municipal Center Complex*, 195, 235, 236 Grand St., 7, 35, 43 Field St.

ILLINOIS

Pike County

Griggsville, *Griggsville Historic District*, irregular pattern along Corey, Stanford, Quincy and Liberty Sts.

INDIANA

Knox County

Freelandville, *Kixmiller's Store*, Carlise and Indianapolis Sts.

KENTUCKY

Laurel County

London vicinity, *Wildcat Battlefield Site*, 13.4 mi. N of London off U.S. 25

MISSOURI

Franklin County

New Haven vicinity, *Pelster, Wilhelm, House-Barn*, S of New Haven

Lewis County

Canton, *Henderson Hall*, College Hill

Taney County

Hollister, *Downing Street Historic District*, Downing St. between 3rd and 4th Sts.

NEBRASKA

Thurston County

Macy vicinity, *Blackbird Hill*, E of Macy

NEW YORK

Dutchess County

Poughkeepsie, *Poughkeepsie Almshouse and City Infirmary*, 20 Maple St.

Nassau County

Great Neck Plaza, *Grace and Thomaston Buildings*, 11 Middle Neck Rd. and 8 Bond St.

NORTH CAROLINA

Cabarrus County

Mount Pleasant, *Mount Pleasant Collegiate Institute Historic District*, E of jct. of NC 49 and NC 73

OKLAHOMA

Tulsa County

Tulsa, *Phillips, Waite, Mansion*, 2727 S. Rockford Rd.

PENNSYLVANIA

Chester County

Devault vicinity, *Spring Mill Complex*, SW of Devault at jct. of Moores Rd. and PA 401

Huntingdon County

Huntingdon, *Huntingdon County Jail*, 3rd and Mifflin Sts.

Lancaster County

Lancaster, *Lancaster County Courthouse*, 43 E. King St.

Mercer County

Mercer, *Mercer County Jail*, S. Diamond St.

Philadelphia County

Philadelphia, *Pennsylvania Institute for the Deaf and Dumb: Furness Addition*, NW corner of Broad and Pine Sts.

TENNESSEE

Dyer County

Dyersburg, *Latta House*, 917 Troy Ave.

Fayette County

Elba vicinity, *Miller House*, Raleigh-La Grange Rd.

Giles County

Pulaski vicinity, *Mount Moriah Cumberland Presbyterian Church*, W of Pulaski on Mount Moriah Rd.

Hamilton County

Chattanooga, *Hamilton County Courthouse*, W. 6th St. and Georgia Ave.
Chattanooga, *Hutcheson House*, 360 S. Crest Rd.

Marion County

Jasper, *McKendree Methodist Episcopal Church*, Betsy Pack Dr.

Smith County

Dixon Springs vicinity, *Bradley, James, House*, SE of Dixon Springs off TN 25

TEXAS

Bell County

Temple, *Ferguson House*, 518 N. 7th St.

Dallas County

Dallas, *Wilson Block*, 2902, 2906, 2910 and 2922 Swiss Ave., 2901, and 2907 Floyd St.

Wichita County

Wichita Falls, *Kell, Frank, House*, 900 Bluff St.

Williamson County

Liberty Hill vicinity, *Bryson Stagecoach Stop*, NW of Liberty Hill on TX 29

VERMONT

Windham County

Brattleboro, *Harris, William, House*, 140 Western Ave.

WISCONSIN

Ashland County

La Pointe vicinity, *Marina Site*, S of La Pointe

Clark County

Neillsville, *Clark County Jail*, 215 E. 5th St.

Jackson County

Black River Falls vicinity, *Gullickson's Glen*, SW of Black River Falls

Winnebago County

Neenah, *Shattuck, Franklyn C., House*, 547 E. Wisconsin Ave.

[FR Doc. 78-24714 Filed 9-1-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-188]

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM JAPAN

Investigation and Hearing

Having received advice from the Department of the Treaury on August 22, 1978, that steel wire strand from Japan is being, or is likely to be, sold at less than fair value, the U.S. International Trade Commission on August

29, 1978, instituted investigation No. AA1921-188 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), 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. For purposes of Treasury's determination, the term "steel wire strand" was defined as steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the Tariff Schedules of the United States Annotated (TSUSA).

Hearing. A Public hearing in connection with the investigation will be held on Tuesday, October 3, 1978, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. All persons shall have the right to appear in person or by counsel, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 28, 1978.

Issued: August 30, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-24902 Filed 9-1-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3514]

AIRCO, INDUSTRIAL CASES, DIVISION OF AIRCO, INC., JOHNSTOWN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3514: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing oxygen and nitrogen gases at the Johnstown, Pa., plant of the Airco Industrial Gases, Division of Airco, Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Airco Industrial Gases, Division of Airco, Inc., its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

U.S. imports of nitrogen were negligible during the period from 1972 to 1977. Likewise, imports of oxygen were negligible during the period from 1972 to 1977.

The Department of Labor conducted a survey of the sole customer of the Airco Industrial Gases plant in Johnstown, Pa. That customer indicated that they have not purchased imported oxygen or nitrogen gases, nor do they have any other domestic sources of industrial gases.

The Department has previously determined that only imports of articles like or directly competitive with those products produced at the petitioning firm may be considered in determining if the increased imports contributed importantly to the sales, production, and employment declines at that firm. Airco Industrial Gases produced only oxygen and nitrogen gases. These products are not like or directly competitive with steel products as alleged on the worker's petition.

The worker's petition alleges that employees of Airco Industrial Gases may have been employed indirectly by Bethlehem Steel Corp. The Department's investigation found that the workers of Airco Industrial Gases are employed by and paid solely by Airco Industrial Gases.

CONCLUSION

After careful review, I determine that all workers of the Johnstown, Pa., plant of the Airco Industrial Gases Division of Airco, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[F.R. Doc. 78-24879 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3378]

BEAUMONT CO., MORGANTOWN, W.VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3378: Investigation regarding certification of elegibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 2, 1978, which was filed by the American Flint Glass Workers Union on behalf of workers and former workers producing glass lamp globes at the Beaumont Co., Morgantown, W.Va.

The notice of investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Beaumont Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of customers of the Beaumont Co. by the Department revealed that the respondents that increased purchases of imported glass lamp globes also increased purchases from Beaumont.

Sales of the Beaumont Glass Co. increased in the period from July 1977 to March 1978 compared with the period from July 1976 to March 1977.

CONCLUSION

After careful review, I determine that all workers of the Beaumont Co.,

Morgantown, W.Va., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24887 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-2668]

DIAMOND SHAMROCK CORP., HARRISON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2668: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 21, 1977, which was filed by the International Union of Electrical, Radio and Machine Workers Union on behalf of workers and former workers producing chemicals/additives used in tanning and paper finishing, vitamins used in the animal health industry and chemicals used for paint additives at the Harrison, N.J., plant of Diamond Shamrock. Corp.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Diamond Shamrock Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Comission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to the production of tanning chemicals and surface active agents at the Process Chemicals Division of the Harrison, N.J., plant of the Diamond Shamrock Corp.:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of synthetic tanning materials decreased from 860 thousand pounds in 1976 to 571 thousand pounds in 1977. The ratio of imports to domestic production of synthetic tanning materials decreased from 1.4 percent in 1976 to 0.9 percent in 1977.

The ratio of U.S. imports of surface active agents (nonbenzenoid and benzenoid) to domestic production decreased from 1.7 percent in 1975 to 1.5 percent in 1976. The imports to domestic production ratio was not available for 1977; however, this ratio has been less than 2 percent in each year during the period of 1973 to 1976.

A Department survey was conducted with customers who purchase surface active agents and tanning chemicals from Diamond Shamrock Corp. Results of the survey showed that none of the customers purchased surface active agents from foreign sources during the period 1975 to 1977. Only one customer purchased imported tanning chemicals, by means of purchases from other domestic suppliers; however, this customer's purchases from domestic sources declined in each year from 1975 to 1977.

With respect to the production of vitamin feed supplement and antibiotics in the Nutrition and Animal Health Division of the Harrison, N.J., plant of Diamond Shamrock Corp., the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of Vitamin D_3 increased 10.1 percent and 57.8 percent in the third and fourth quarters of 1976 compared to the same quarter of 1975. In 1977, production of Vitamin D_3 increased 61.3 percent compared to 1976. Vitamin E production increased 14.9 percent from 1975 to 1976 and increased 45.2 percent from 1976 to 1977. Production of Micro increased 31.0 percent from 1975 to 1976 and increased 13.8 percent from 1976 to 1977. Production of oxyject remained unchanged from 1975 to 1976 and then increased 104.0 percent from 1976 to 1977.

Sulfone was not produced at the Harrison, N.J., plant before January 1977. Calcium panthothenate and its complex were discontinued at the end of 1975.

Sales data were not available for the Nutrition and Animal Health Division. At the Harrison, N.J., plant, production generally equals sales. However, some inventories are maintained to meet customer demand.

CONCLUSION

After careful review I determine that all workers at the Harrison, N.J., plant of Diamond Shamrock Corp., are denied eligibility to apply for trade adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24880 Filed 9-1-78; 8:45]

[4510-28]

[TA-W-3171]

DINO CLOTHING CO., NEW YORK, N.Y. AND OCEANSIDE, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3171: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored clothing at the New York, N.Y. and Oceanside, N.Y., plants of Dino Clothing Co. During the course of the investigation it was established that the firm also produced ladies' blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dino Clothing Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

On January 10, 1976, workers at the New York, N.Y. and Oceanside, N.Y. plants of Dino Clothing Co. were certified as eligible to apply for trade adjustment assistance (TA-W-289). This certification expired on January 10, 1978.

Sales and production at Dino Clothing Co. are equal, and production is integrated between the two plants. Production, in value, of men's coats and ladies' blazers at the New York, N.Y. and the Oceanside, N.Y., plants of Dino Clothing increased 11 percent in the first 6 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review I determine that all workers at the New York, N.Y. and Oceanside, N.Y., plants of Dino Clothing Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24881 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3557]

GARLAND CORP., BROCKTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3557: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 27, 1978, in response to a worker petition received on April 14, 1978, which was filed on behalf of workers and former workers producing ladies' knitted outerwear at the Brockton, Mass., plant of Garland Corp. The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978, (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Garland Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

Workers at the Brockton, Mass, plant of Garland Corp. were covered under a previous certification which expired on August 29, 1977 (TA-W-66).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average annual employment of production workers at the Brockton, Mass. plant of Garland Corp. increased by 4 percent from 1976 to 1977 and increased by 2 percent in the first quarter of 1978 compared to the same quarter in 1977. Average hours worked increased 1 percent in the last two quarters of 1977 compared to the same period in 1976, and increased 4 percent in the first quarter of 1978 compared to the same quarter in 1977.

There is no immediate threat of separations at the Brockton, Mass., plant.

CONCLUSION

After careful review, I determine that all workers of the Brockton, Mass., plant of Garland Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24882 Filed 9-1-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the worker's firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than————

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Gould, Inc. Electrical Components Millville Plant (Distributive Workers of America).	Millville, N.J	Aug. 22, 1978	Aug. 18, 1978	TA-W-4,110	Electrical connectors.
Louisville & Nashville RR. Co., Terminal Bham Division (United Transportation Union).	Boyles, Ala	do	do	TA-W-4,111	Shipment of steel, raw and finished products.
Marion Dyers—Division of Marion Manufacturing Co. (workers).	Gaffney, S.C	Aug. 21, 1978	Aug. 15, 1978	TA-W-4,112	Dyeing and respilling of yarn.
Nannette Manufacturing (United Garment Workers of America).	Gloucester, N.J	Aug. 22, 1978	Aug. 10, 1978	TA-W-4,113	Infants and children's apparel.
Nipak, Inc., Trinity River Complex (Oil, Chemical & Atomic Workers International Union).	Kerens, Tex	do	Aug. 18, 1978	TA-W-4,114	Fertilizer, nitrate, ammonia phosphate, nitric acid, urea, and anhydrous ammonia gas.

[FR Doc. 78-24873 Filed 9-1-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing: *Provided,* Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than————

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than————

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Avondale Mills, Eva Jane Plant (company).	Sylacauga, Ala	Aug. 18, 1978	Aug. 14, 1978	TA-W-4,084	Polyester/cotton blend fabrics.
Corporacion Azucarera de Puerto Rico, Finca Matos Palmas (company).	Plazuela-Cambalache, P.R	Aug. 21, 1978	Aug. 17, 1978	TA-W-4,085	Sugar cane.
Corporacion Azucarera de Puerto Rico, Finca Catalana Huguerito (company).	do	do	do	TA-W-4,086	Do.
Corporacion Azucarera de Puerto Rico, Finca La Luisa (company).	do	do	do	TA-W-4,087	Do.
Corporacion Azucarera de Puerto Rico, Finca Ciclon (company).	Toa-San Vicente, P.R	do	do	TA-W-4,088	Do.
Corporacion Azucarera de Puerto Rico, Finca Ceiba (company).	do	do	do	TA-W-4,089	Do.
Corporacion Azucarera de Puerto Rico, Finca Cibuco (company).	do	do	do	TA-W-4,090	Do.
Corporacion Azucarera de Puerto Rico, Finca San Cristobal (company).	Fajardo, P.R	do	do	TA-W-4,091	Do.
Corporacion Azucarera de Puerto Rico, Finca Paraiso (company).	do	do	do	TA-W-4,092	Do.
Corporacion Azucarera de Puerto Rico, Finca Monserrate (company).	do	do	do	TA-W-4,093	Do.
Corporacion Azucarera de Puerto Rico, Finca Vapor (company).	Fajordo, P.R	do	do	TA-W-4,094	Do.
Corporacion Azucarera de Puerto Rico, Administrativos (company).	Loiza, P.R	do	do	TA-W-4,095	Do.
Corporacion Azucarera de Puerto Rico, Finca Rio Grande (company).	do	do	do	TA-W-4,096	Do.
Corporacion Azucarera de Puerto Rico, Fincas Palmarejo y Merines (company).	do	do	do	TA-W-4,097	Do.
Corporacion Azucarera de Puerto Rico, Fincas Buena Vista y San Luis (company).	do	do	do	TA-W-4,098	Do.
Corporacion Azucarera de Puerto Rico, Fincas Virginia y Santa Catalina (company).	do	do	do	TA-W-4,099	Do.
Corporacion Azucarera de Puerto Rico, Fincas Mini-Mine y Dolores (company).	do	do	do	TA-W-4,100	Do.
Corporacion Azucarera de Puerto Rico, Taller Reunion (company).	Aguirre, P.R	do	do	TA-W-4,101	Service is provided for machinery repair that is used in the sugar cane farm.
Corporacion Azucarera de Puerto Rico, Taller Deseada (company).	do	do	do	TA-W-4,102	Do.
Corporacion Azucarera de Puerto Rico, Taller Isidora (company).	do	do	do	TA-W-4,103	Do.
Corporacion Azucarera de Puerto Rico, Taller Destino (company).	do	do	do	TA-W-4,104	Do.
General Motors Corp., Assembly Division (workers).	Linden, N.J	Aug. 18, 1978	Aug. 15, 1978	TA-W-4,105	Assembly of full-size automobiles.
Nirenberg & Salzman Co., Inc. (workers).	New York, N.Y	do	Aug. 11, 1978	TA-W-4,106	Men's sportshirts.
Opelika Manufacturing Corp., M. Shower Division, Plant Nos. 1 and 2 (company).	Opelika, Ala	Aug. 21, 1978	Aug. 16, 1978	TA-W-4,107	Plant No. 1, butcher aprons. Plant No. 2, pants, shirts, coats, and dresses, childrens' jeans and shirts.
SKF Industries, Inc. (workers)	Altoona, Pa	Aug. 15, 1978	Aug. 11, 1978	TA-W-4,108	Precision ball bearings.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Westinghouse Electric Corp., Lighting Division (IUE).	Cleveland, Ohio	Aug. 18, 1978	Aug. 1, 1978	TA-W-4,169	Outdoor lighting fixtures.

[FR Doc. 78-24874 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3184]

M. EHRENBERG SONS, INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3184: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed on behalf of workers and former workers producing men's tailored jackets at M. Ehrenberg Sons, Inc., Passaic, N.J., including its wholly owned subsidiary Victor Roberts, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M. Ehrenberg Sons, Inc., its customers, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased both absolutely and relatively from 1975 to 1976 and from 1976 to 1977.

All of the men's tailored jackets produced by M. Ehrenberg Sons, Inc., are assembled into men's suits for manufacturers of men's clothing. Customers of these manufacturers that were surveyed indicated that they decreased purchases of men's suits from manufacturers who were surveyed and increased purchases of imported men's suits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with men's suits produced by M. Ehrenberg Sons, Inc., Passaic, N.J., contributed importantly to the decrease in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers at M. Ehrenberg Sons, Inc., Passaic, N.J., including its wholly owned sales subsidiary Victor Roberts, Inc., engaged in employment related to the production of men's and boys' tailored jackets to be assembled into men's and boys' tailored suits, who became totally or partially separated from employment on or after February 19, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24883 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3195]

MANDLEBAUM CLOTHING CO., INC., NEW YORK CITY, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3195: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of Workers and former workers producing men's suitcoats and sportcoats at Mandlebaum Clothing Co., Inc., New York City, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mandlebaum Clothing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then decreased to 6,269 thousand units in 1977. Imports in absolute terms in 1977 were above those

in the years 1973-75. The imports to domestic production ratio decreased from 28.2 percent in 1975 to 25.3 percent in 1976.

Mandlebaum Clothing Co. is a contractor that stitches men's suitcoats and sportcoats for one manufacturer. That manufacturer reduced its contract work with Mandlebaum as a result of decreased orders from its customers. A survey of that manufacturer's customers revealed that some had increased purchases of imports while reducing purchases from the firm during the period 1975 to 1977.

A certification applicable to the petitioning group of workers was issued on January 7, 1976 (TA-W-282) and expired on January 7, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's suitcoats and sportcoats produced by Mandlebaum Clothing Co., Inc., New York City, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Mandlebaum Clothing Co., Inc., New York City, N.Y., who became totally or partially separated from employment on or after January 7, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24884 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-2765]

M-TRON INDUSTRIES, INC., YANKTON, S. DAK., MADISON, S. DAK., HURON, S. DAK.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA—W—2765: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 12, 1977, in response to a worker petition received on December 5, 1977, which was filed on behalf of workers and former workers producing quartz crystals at the Madison, S. Dak., plant of M-tron Industries, Inc. The investigation was expanded to include the M-tron plant in Huron, S. Dak.; Plant No. 1, No. 3, and the Monitor Division Plant, Yankton, S. Dak.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65306). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M-tron Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

M-tron Industries is a manufacturer of quartz crystals which were primarily used in CB and scanner radios. M-tron had three plants located in Yankton, S. Dak., and one plant each in Parkston, Huron, and Madison, S. Dak. All of the plants were part of an integrated production process. Workers at the Parkston, S. Dak., plant which ceased operations in September 1976 are ineligible to apply for trade adjustment assistance as no certification may apply to any workers whose last total or partial separation from M-tron occurred before December 1, 1976, 1 year prior to the date of the petition.

During the 1973 to 1976 time period the average annual level of imports of quartz crystals was $8.6 million. Imports increased in 1977 to $10.6 million. Imports as a percentage of domestic production increased from 5.0 percent during the 1973-1976 time period to 5.1 percent in 1977.

A major customer increased purchases of imported crystals in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977 while decreasing purchases from M-tron during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with quartz crystals produced by Plant No. 1, Plant No. 3, and the Monitor Division Plant, Yankton, S. Dak.; the Huron, S. Dak., plant; and the Madison, S. Dak., plant contributed importantly to the decline in sales and production and to the total or partial separation of the workers at those plants. In accordance with the provisions of the act, I make the following certification:

All workers at the Madison, S. Dak., plant; Plant No. 1, Plant No. 3, and Monitor Division Plant, Yankton, S. Dak.; and the Huron, S. Dak., plant of M-tron Industries, Inc., who became totally or partially separated from employment on or after December 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24885 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3145]

NOBLE KNIT MANUFACTURING CO., LONG ISLAND CITY, N.Y.

Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3145: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 16, 1978, in response to a worker petition received on February 6, 1978, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's knit sweaters at Noble Knit Manufacturing Co., Long Island City, N.Y. Noble Knit is a subsidiary of Fairfield Noble Corp. During the course of the investigation, it was determined that Noble Knit also produced ladies knit tops.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8862). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Noble Knit Manufacturing Co., Fairfield Noble Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's sweaters increased from 8,965 thousand dozen in 1975 to 9,613 thousand dozen in 1976 and then decreased to 9,520 thousand dozen in 1977. Imports increased from 816 thousand dozen in the first quarter of 1977 to 878 thousand dozen in the first quarter of 1978. The ratio of imported sweaters to domestic production in-

creased from 115.1 percent in 1975 to 141.9 percent in 1976 and then declined slightly to 140.8 percent in 1977.

Noble Knit sells all of its production to the parent firm, Fairfield Noble Corp. A survey was conducted by the Department of Labor and the Department of Commerce among the retail customers of Fairfield Noble Corp. The survey revealed that several customers decreased their purchases of ladies' knit sweaters and tops from Fairfield Noble, while increasing their purchases of imports from 1975 through the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's knit sweaters and tops produced by Noble Knit Manufacturing Co., Long Island City, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant.

In accordance with the provisions of the act, I make the following certification:

All workers at Noble Knit Manufacturing Co., Long Island City, N.Y. (a subsidiary of Fairfield Noble Corp.), who became totally or partially separated from employment on or after January 31, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24886 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3240]

ROANE ELECTRIC FURNACE CO., ROCKWOOD, TENN.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3240: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 23, 1978 in response to a worker petition received on February 7, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing standard ferromanganese, ferrosilicon, silicomanganese, and medium carbon ferromanganese at Roane Electric Furnace Co., Inc., Rockwood, Tenn.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held. the information upon which the determination was made was obtained principally from officials of Roane Electric Furnace Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing standard ferromanganese and ferrosilicon, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of standard ferromanganese at the plant increased in quantity and value in the first quarter of 1978 compared to the first quarter of 1977.

Sales of ferrosilicon increased in quantity and value in 1976 from 1975, increased 39 percent in quantity and also increased in value in 1977 from 1976 and increased in quantity and value in the first quarter of 1978 compared to the first quarter of 1977.

Sales of standard ferromanganese increased in quantity and value in 1976 from 1975, increased 44 percent in quantity and also increased in value in 1977 from 1976 and increased in quantity and value in the first 2 months of 1978 compared to the same period of 1977.

Production of ferrosilicon at the plant increased in quantity and value in 1976 from 1975, increased 13 percent in quantity and also increased in value in 1977 from 1976 and increased in quantity and value in 1976 from 1975, increased 10 percent in quantity and also increased in value in 1977 from 1976 and increased in quantity and value in the first 2 months of 1978 compared to the first 2 months of 1977.

With respect to workers producing medium carbon ferromanganese, without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Imports of medium carbon ferromanganese decreased 25 percent in 1977 from 1976 and decreased 28 percent in the first quarter of 1978 compared to the first quarter of 1977. The ratio of imports to domestic production decreased from 80 in 1976 to 67.5 in 1977.

With respect to workers producing silicomanganese, all of the group eligibility requirements of section 222 of the act have been met.

Imports of SiMn increased in 1976 from 1975 and increased 10 percent in 1977 from 1976. The ratio of imports to domestic production increased from 45.5 percent in 1976 to 54.3 percent in 1977.

Customers of Roane decreased purchases of silicomanganese from Roane and increased import purchases in 1977 and the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with silicomanganese produced at Roane Electric Furnace Co., Inc., Rockwood, Tenn., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Roane Electric Furnace Co., Inc., Rockwood, Tenn., engaged in employment related to the production of silicomanganese who became totally or partially separated from employment on or after January 10, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further conclude that workers of Roane Electric Furnace Co., Inc., engaged in employment related solely to the production of standard ferromanganese, ferrosilicon and/or medium carbon ferromanganese are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24888 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3808]

TRIANGLE SPORTSWEAR, BELLEVILLE, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3808: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 5, 1978, in response to a worker

petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's coats at Triangle Coat, Belleville, N.J. During the course of the investigation it was discovered that the correct name of the firm was Triangle Sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Triangle Sportswear, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,752 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Triangle Sportswear worked in 1975 and 1976. A manufacturer accounting for 100 percent of sales indicated reduced purchases from Triangle Sportswear in 1976 compared to 1975 and finally discontinued purchases from Triangle in 1977. Purchases of imported children's coats increased in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the children's coats produced at Triangle Sportswear, Belleville, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Triangle Sportswear, Belleville, N.J., who became totally or partially separated from employment on or after April 25, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24889 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3459]

UNIVERSAL COAT CO., INC., BAY SHORE, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3459: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 16, 1978, which was filed on behalf of workers and former workers producing ladies' coats, jackets, and raincoats at Universal Coat Co., Inc., Bay Shore, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Universal Coat Co., Inc., its customers, the Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats, jackets, and raincoats produced by Universal Coat Co., Inc., Bay Shore, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Universal Coat Co., Inc., Bay Shore, N.Y., who became totally or partially separated from employment on or after March 3, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24890 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3022]

WINCHESTER HAT CORP., WINCHESTER, TENN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3022: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 2, 1978, in response to a worker petition received on January 17, 1978, which was filed on behalf of workers and former workers producing fur felt hat bodies at Winchester Hat Corp., Winchester, Tenn.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Winchester Hat Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of men's and boys' headwear, with fur not on the skin, costing more than $30 per dozen increased from 18.1 thousand dozen in 1976 to 19.1 thousand dozen in 1977. Quantity remained stable at 5.8 thousand dozen in the first quarter of 1978 compared to the same period of 1977.

Several customers of Winchester Hat Corp. who were surveyed increased purchases from foreign sources and reduced purchases from Winchester Hat in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fur felt hat bodies produced by Winchester Hat Corp., Winchester, Tenn., contributed importantly to the decline in sales and production and to the separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers at Winchester Hat Corp., Winchester, Tenn., who became totally or partially separated from employment on or after January 12, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24891 Filed 9-1-78; 8:45 am]

[4510-28]

[TA-W-3389]

WOODBURY MANUFACTURING CO., WILKES-BARRE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3389 investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 6, 1978, which was filed on behalf of workers and former workers producing men's and ladies' jackets and blazers.

A previous case on Woodbury Manufacturing Co., TA-W-1909 was initiated on March 24, 1977, and denied on Ausust 19, 1977.

The notice of investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Woodbury Manufacturing Co., its customers, the American Textiles Manufacturers Institute, the National Cotton Council, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysis, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or producton.

Woodbury Manufacturing Co., Wilkes-Barre, Pa., produces men's and ladies' jackets and blazers.

The ratios of imports to domestic production of men's and boys' tailored dress coats increased to 32.4 percent in 1976, compared with 28.2 percent in 1975. In absolute terms, imports decreased 10 percent in 1977, compared with 1976.

The ratios of imports to domestic production of women's, misses', and children's coats and jackets decreased to 54.9 percent in 1977 from 57.5 percent in 1976. In absolute terms imports increased 20.9 percent in 1977, compared with 1976.

Responses to a customer survey comparing 1976 purchases to 1977 purchases revealed that those customers did not reduce purchases from the subject firm, while increasing purchases of imports.

CONCLUSION:

After careful review I determine that all workers of Woodbury Manufacturing Co., Wilkes-Barre, Pa., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24892 Filed 9-1-78; 8:45 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

FEDERAL REORGANIZATION FOR MARINE AFFAIRS

Meeting

AUGUST 31, 1978.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a workshop on Federal reorganization for marine affairs at the Sheraton-Fredericksburg Motor Inn in Fredericksburg, Va., followed by a regular NACOA meeting at the same location. The workshop will begin on Sunday evening September 17, 1978, and conclude Tuesday afternoon September 19, 1978. The September NACOA meeting will take place from 8 a.m. until 4 p.m. on Wednesday, September 20, 1978.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospherelc science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative workshop schedule follows:

SUNDAY, SEPTEMBER 17

4 p.m. onward—Arrival and registration at Sheraton-Fredericksburg Motor Inn, Fredericksburg, Va.
7:30 p.m.-9:30 p.m.—Introduction and orientation.

MONDAY, SEPTEMBER 18

8 a.m.-10 a.m.—Opening plenary session.
10 a.m.-10:15 a.m.—Coffee.
10:15 a.m.-12:30 p.m.—Working group meetings.
12:30 p.m.-1:45 p.m.—Lunch.
1:45 p.m.-4:45 p.m.—Working group meetings.
6:30 p.m.-7:30 p.m.—Cocktails and conversation.

TUESDAY, SEPTEMBER 19

8 a.m.-10:30 a.m.—Working group meetings.
10:30 a.m.-10:45 a.m.—Coffee.
10:45 a.m.-12 noon—Plenary session: Reports of working groups.
12 noon-1:45 p.m.—Lunch.
1:45 p.m.-3:45 p.m.—Plenary session: Discussion of key issues.
4 p.m.—Checkout and departure.

The schedule for the September meeting will be as follows:

WEDNESDAY, SEPTEMBER 20, 1978

8 a.m.—Review of issues in coastal zone management, Dr. Evelyn Murphy, NACOA.
9 a.m.—Recommendations regarding Federal organization for marine and atmospheric affairs, Mr. Marne Dubs, NACOA.
2 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, Page Building No. 1), Washington, D.C. 20235. The telephone number is 254-8418.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc. 78-24999 Filed 9-1-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on September 21, 22, and 23, 1978, in Room 6510, 2020 K Street NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extension Act of 1975, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:30 a.m. to discuss alternative labor force measures and appraise the concepts and definitions underlying the counting of special groups in the labor force. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 29th day of August 1978.

SAR A. LEVITAN,
Chairman.

[FR Doc. 78-24776 Filed 9-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-413-A and 50-414-A]

DUKE POWER CO., NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1; CATAWBA NUCLEAR STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Duke Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR part 50, appendix L. This information adds North Carolina Municipal Power Agency No. 1 as coowner of the Catawba Nuclear Station, Units 1 and 2.

The information was filed by Duke Power Co. and North Carolina Municipal Power Agency No. 1 in connection with their application for construction permits and operating licenses for the Catawba Nuclear Station, Units 1 and 2. The site for this plant is located in York County, S.C.

The original antitrust portion of the application was submitted on October 27, 1972, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time For Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on December 28, 1972 (37 FR 28642). The Notice of Hearing was published in the FEDERAL REGISTER on December 1, 1972 (37 FR 25560).

Copies of the above-stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Municipal Power Agency No. 1, presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before October 16, 1978.

Dated at Bethesda, Md., this 28th day of July 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-22958 Filed 8-21-78; 8:45 am]

[7590-01]

[Docket No. 50-286]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for Operation of the Indian Point Nuclear Generating Unit No. 3, located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises certain Technical Specifications for operation during Cycle 2. These revisions include a reduction in the allowable peaking factor, the addition of an upper limit for the allowable axial flux difference, and the change of control rod insertion limits to those used for the determination of peaking factors for Cycle 2. In addition, the amendment adds a valve to those required to be de-energized to prevent spurious operation and clarifies the inspection requirements for the steam generators.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 7, 1978, as supplemented April 13, May 19 and 24, July 12 and 27, 1978, (2) Amendment No. 15 to License No. DPR-64, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 11th day of August, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-24771 Filed 9-1-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.; SEABROOK STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Public Service Co. of New Hampshire, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for antitrust review as required by 10 CFR part 50, appendix L. This information adds Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. as possible co-owners of the Seabrook Station, Units 1 and 2.

The information was filed by Public Service Co. of New Hampshire, the United Illuminating Co., Central Maine Power Co., Central Vermont Public Service Corp., the Connecticut Light & Power Co., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Vermont Electric Power Co., Inc., Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, Bangor Hydro-Electric Co., and town of Hudson, Mass., Light and Power Department in connection with their application for construction permits and operating licenses for the Seabrook Station, Units 1 and 2. The site for this plant is located in Rockingham County, N.H.

The original antitrust portion of the application was submitted on July 9, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21522). The Notice of Hearing was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21519).

Copies of the above-stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Exeter Public Library, Front Street, Exeter, N.H.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before November 6, 1978.

Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-24769 Filed 9-1-78; 8:45 am]

[7590-01]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 43 and 42 to Facility Operating License Nos. DRP-32 and DRP-37, issued to Virginia Electric & Power Co. (the licensee), which adds license conditions related to operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Va. The amendments are effective as of the date of issuance.

These amendments specify license conditions related to service water temperature, containment temperature, containment air partial pressure, refueling water storage tank volume, and outside recirculation spray pump flow rate. Operating limits on these plant parameters were previously governed by NRC Order for Modification of License dated June 29, 1978, which is superseded by these amendments. The changes to the operating limits previously imposed for these parameters are an increase in the maximum service water temperature from 87°F to 90°F with operating parameters adjusted to compensate for the increase in maximum service water temperature. These changes are evaluated in our Safety Evaluation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 25, 1978, as supplemented August 3 and 11, 1978, (2) Amendment Nos. 43 and 42 to License Nos. DRP-32 and DRP-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Swen Library, College of William and Mary, Williamsburg, Va. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 14th day of August 1978

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[FR Doc. 78-24770 Filed 9-1-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[056996]

AMERICAN MANUFACTURER'S PETITION

Receipt of American Manufacturer's Petition to Reclassify Lasted Leather Footwear Uppers

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from American manufacturers of nonrubber footwear requesting the reclassification of imported lasted leather footwear uppers, which have an insole or midsole and are formed to fit the foot.

DATES: Interested persons may comment on this petition. Comments (preferable in triplicate) must be received on or before November 6, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room

2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8181.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by American manufacturers of nonrubber footwear. The petitioners contend that leather uppers which have been lasted (have an insole and midsole and have been formed to fit the foot), which are currently classifiable under the provisions for leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, tariff schedules of the United States (TSUS), are more properly classifiable under the provisions for leather footwear, in items 700.05 through 700.45, TSUS.

In support of their contention that the lasted leather uppers in question are properly classified under items 700.05 through 700.45, TSUS, the petitioners allege the following:

(1) Under general headnote 10(h), TSUS, the tariff description of an article covers the article whether or not assembled and whether or not finished;

(2) The lasted leather uppers are no longer manufactured parts, but have become manufactures of leather;

(3) The lasted uppers with insoles or midsoles, not being entirely of leather, are not intended to be included in a tariff classification provision (i.e., item 791.20 or 791.25, TSUS) that is not a chief value provision;

(4) The legislative history and predecessor provisions indicate a congressional intent to include only individual leather components in the tariff classification provisions for leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear;

(5) The failure to classify the lasted uppers as completed footwear undermines congressional intent to protect the footwear industry; and

(6) when two tariff provisions apply, an article is properly classifiable under the most specific provision, or if both are equally specific, the provision for which a higher rate of duty is assessed.

COMMENTS

Pursuant to § 175.21(a) of the Customs regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b), Customs regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 23335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

AUTHORITY

This notice is published in accordance with § 175.21(a) of the Customs regulations (19 CFR 175.21(a)).

August 30, 1978.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-24844 Filed 9-1-78; 8:45 am]

[4810-22]

Customs Service

OLEORESINS FROM SPAIN

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary determination.

SUMMARY: This notice is to advise the public that as a result of an investigation a preliminary determination has been made that benefits granted by the Government of Spain to manufacturers or exporters of oleoresins constitute bounties or grants. A final determination will be made not later than February 17, 1979.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 24, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 12418). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of oleoresins constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs regulations (19 CFR 159.47(c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, on the exportation of oleoresins by the Spanish Government which constitute "bounties or grants." The benefits are received in the form of an overrebate upon export of the Spanish indirect tax, the "Desgravacion fiscal." The overrebate consists of two elements: (1) A number of "parafiscal taxes" which are included in the computation of the rebate and which are charges assessed for services rendered and are not directly related to the product and (2) a credit for a tax assessed on transactions between manufacturers and wholesalers which in fact is not assessed on export sales.

As discussed in its notice published in the FEDERAL REGISTER of June 15, 1978, in the cases of *Zinc, Non-Rubber Footwear,* and *Bottled Olives From Spain* (43 FR 25812), the Treasury does not regard the nonexcessive rebate of the cascade tax in Spain as constituting the bestowal of a "bounty or grant." This policy was adopted after it was determined that the treatment under the countervailing duty law of rebates of a cascade type tax should be similar to the treatment accorded rebates of value-added taxes, as both are generally identical in their purpose and economic effects. However, for the reasons published in the notice, in the FEDERAL REGISTER on August 29, 1978, (43 FR 38658), this policy is under review. The final determination in this case will take into account the results of the general review now being undertaken.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of oleoresins from Spain. A final determination will be made not later than February 17, 1979.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than October 5, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978,

the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

AUGUST 29, 1978.

[FR Doc. 78-24863 Filed 9-1-78; 8:45 am]

[4830-01]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a techincal correction to the notice of the Commission's Advisory Group Open Meeting published at 43 FR 38658.

FOR FURTHER INFORMATION CONTACT:

Ms. Lauralee A. Matthews, Assistant to the Commissioner, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-4390, not a toll free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 29, 1978, the FEDERAL REGISTER published a notice of the Commissioner's Advisory Group Open Meeting (43 FR 38658).

NEED FOR CORRECTION

The agenda topic for Thursday, September 14, under "Forms (b)" listed an incorrect form number.

CORRECTION OF NOTICE OF COMMISSIONER'S ADVISORY GROUP

Accordingly, FR Doc. 78-24431 (43 FR 38685) is amended as follows:

In the agenda for Thursday, September 14, "(b) Proposed Form 5500" is changed to "(b) Proposed Form 990."

Dated: August 30, 1978.

LAURALEE A. MATTHEWS,
Assistant to the Commissioner.

[FR Doc. 78-24901 Filed 9-1-78; 8:45 am]

[4810-40]

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 21-78]

TREASURY NOTES OF SERIES J-1982

Interest Rate

AUGUST 30, 1978.

The Secretary of the Treasury announced on August 29, 1978, that the interest rate on the notes designated series J-1982, described in Department Circular—Public Debt Series—No. 21-78, dated August 23, 1978, will be 8¾ percent. Interest on the notes will be payable at the rate of 8¾ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-24846 Filed 9-1-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 102]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 5, 1977.

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:

MC-FC-77810. By application filed August 15, 1978, FRISELLA GLOBAL MOVING & STORAGE CO., 2517 Adie Road, Maryland Heights (St. Louis County), MO 63043, seeks temporary authority to transfer the operating rights of Preslar Moving & Storage, Inc., 3344 Greenwood Boulevard, Maplewood (St. Louis County), MO 63143, under section 210a(b). The transfer to Frisella Global Moving & Storage Co., of the operating rights of Preslar Moving & Storage, Inc., is presently pending.

MC-FC-77813. By application filed August 11, 1978, BILL H. SEVERNS AND DENISE B. SEVERNS, husband and wife, as individuals and joint tenants with right of survivorship, d.b.a. RAVALLI MOTOR FREIGHT, 250 Corvallis Road, Corvallis, MT 59828, seeks temporary authority to transfer the operating rights of Charles D. Shupe & Sibyl Shupe, husband and wife, as individuals and joint tenants with right of survivorship, d.b.a. Ravalli Motor Freight, Route 2, Box 2381, Hamilton, MT 59840, under section 210a(b). The transfer to Bill H. Severns and Denise B. Severns, husband and wife, as individuals and joint tenants with right of survivorship, of the operating rights of Charles D. Shupe and Sibyl Shupe, husband and wife, as individuals and joint tenants with right of survivorship, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-24870 Filed 9-1-78; 8:45 am]

[7035-01]

[Notice No. 103]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing must be filed with the Commission on or before October 5, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77661, filed August 1, 1978. Transferee: LYNWOOD E. DOLAN, d.b.a. WALTER H. DOLAN MOVING CO., 68 Mount Hope Avenue, Bangor, ME 04401. Transferor: Walter H. Dolan (Lynwood Dolan and Marior Folster—Executors), 68 Mount Hope Avenue, Bangor ME 04401. Representative: Beverly W. Spencer, 49 North Main Street, Old Town, ME, 04468. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate

MC 116738 issued September 12, 1957, as follows: *Household goods,* as defined by the Commission, between points in ME, on the one hand, and, on the other, points in MA and NH, between Bangor, Lincoln, and Pittsfield, ME, on the one hand, and, on the other, Winterport, ME, and points in Hancock, Kennebec, Penobscot, Piscataquis, and Somerset Counties, ME. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77801, filed August 4, 1978. Transferee: CLIFTON HILL INVESTMENTS LTD., 4541 Chrysler Avenue, Niagara Falls, ON, Canada L2E 3V5. Transferor: G & G Tourist Enterprises LTD., 5591 Victoria Avenue, Niagara Falls, ON, Canada L2G 3L4. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 140533, issued July 1, 1977, as follows: *Passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the United States-Canada boundary line on the Niagara River and extending to points in the United States (except AK and HI). Transferee holds no authority from this Commission and application has not been filed for temporary authority under section 210a(b).

MC-FC-77804, filed August 8, 1978. Transferee: SUNBELT SYSTEMS TRANSPORT, INC., 1256 La Quintra Drive, Orlando, FL 32809. Transferor: Electronic Riggers of Florida, Inc., 1256 La Quintra Drive, Orlando, Fl 32809. Representative: M. Craig Massey, Attorney at Law, 202 East Walnut Street, P.O. Drawer J, Lakeland FL 33802. Authority sought for purchase by transferee of the operating rights of transferor, as ser forth in permits MC 139163 and sub numbers 3, 4, 6, 7, and 9. *Copying and reproductive machines and parts materials and supplies* used in the manufacture, installation or sale of such commodities from, to, or between points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, NC, OH, SC, TN, TX, and WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77806, filed August 14, 1978. Transferee: EDWARD AND LINDA KARSH, AND HARRY AND SYLVIA KARSH, a partnership d.b.a. KEN-TOURS TRAVEL, 61 Montgomery Drive, Santa Rosa, CA 95405. Transferor: Lynn V. Swisher, d.b.a. Ken-Tours Associated, 61 Montgomery Drive, Santa Rosa, CA 95405. Representative: Edward Karsh (same address as above). Authority sought for purchase by transferee of the broker's license of transferor as set forth in license MC-130246, issued December 10, 1975, as follows: *Individual passengers and groups of passengers and their baggage,* beginning and ending at points in Humbolt, Lake, Marin, Medocino, Napa, and Sonoma Counties, CA, and extending to points in the United States (including AK, but excluding HI). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77808, filed August 9, 1978. Transferee: TENCO SERVICES, INC., Bethlehem Pike, Spring House, PA 19477. Transferor: ENSEC Service Corp., 1927 York Road, Timonium, MD 21093. Representative: Benjamin T. Britt, II, Bethlehem Pike, Spring House, PA 19477. Authority sought for purhcase by transferee of the operating rights of transferor, as set forth in permit MC 141053 (Sub-2), issued April 27, 1976, as follows: *Passengers and their baggage,* in the same vehicle with passengers, between Wallops Island, Va on the one hand, and, on the other, Baltimore MD, New York, NY, and points in VA, NJ, DE, PA, and DC, under a continuing contract or contracts with the National Aeronautics and Space Administration. Transferee presently holds emergency temporary authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77713, filed June 15, 1978. Transferee: GLACIER TRANSPORT, INC., I-29 and 32d Avenue South, Box 428, Grand Forks, ND 58201. Transferor: Art Greenberg, d.b.a. Glacier Transport, I-29 and 32d Avenue South, Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, Esq., P.O. Box 1680, 414 Gate City Building, Fargo Forks, ND 58201. Notice of this application published in the FEDERAL REGISTER on July 17, 1978, failed to include certificates Nos. MC 139420 (Sub-16, Sub-19, and Sub-23), issued March 13, 1978, June 21, 1978, and June 21, 1978, respectively, as follows: *Frozen foods* (except in bulk), from Laramie, WY, to points in IL, IN, IA, MI, MN, ND, OH, and WI, *matches and wooden articles* from the facilities of Diamond International Corp., located at or near Cloquet, MN, to Reno, NV, Phoenix, AZ, Denver, CO, Salt Lake City, UT, Milwaukee, OR, and points in CA, and *frozen confections and frozen dietetic desserts* from Grand Forks, ND, to points in UT, and *yogurt* from Salt Lake City, UT to points in MT and ND. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77750, filed July 7, 1978. Transferee: MACEWAN MOTOR LINES, INC., Redwood Farm, 535 Locust Grove Road, West Chester, PA 19380. Transferor: W. S. Dunning and Son, Inc., P.O. Box 793, Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, Attorney, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permits MC 136035 (Sub-4) and (Sub-7), issued March 21, 1975, September 24, 1976, respectively, as follows: *Food and food products, nonwood containers, and packaging materials, labels, pallets and salt, materials and supplies* used in the manufacture, production, distribution, and sale of foodstuffs, *bread crumbs, cubes and croutons,* with restrictions, within the States of AL, AR, CT, DE, FL, GA, IN, IL, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. Restricted to a transportation service to be performed under a continuing contract or contracts, with Grocery Stores Products Co., and the Clorox Co. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77758, filed July 12, 1978. Transferee: ROKO EXPRESS, INC., 1513 North Hague, Columbus, OH 43204. Transferor: ROKO Express, Inc., 2545 Parsons Avenue, P.O. Box 169, Columbus, OH 43216. Representative: Gregory A. Stayart, Attorney, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificate MC 138960 issued March 21, 1974, as follows: *Such merchandise* as is dealt in by wholesale food business houses and, in connection therewith, *equipment, materials, and supplies* used in conduct of such business, when moving from, to or between wholesale food business house outlets, or other facilities of such establishments, between Evansville, IN and points OH; and between Dale, IN, on the one hand, and, on the other, points in the Lower Peninsula of MI and points in OH (except Cincinnati). Applicant presently holds no authority from this Commission. Application has not been filed for authority under section 210a(b).

MC-FC-77776, filed July 21, 1978. Transferee: WILLIAM M. HAZZARD, JR., d.b.a. ACE DELIVERY SERVICE, 215 Lorewood Avenue, Wilmington, DE 19804. Transferor: Francis Lenza, d.b.a. Bern-Mart's Express, 1206 Glenside Avenue, Wilmington,

DE 19803. Representative: Michael N. Castle, Esq., P.O. Box 1952, 710 Bank of Delaware Building, 300 Delaware Avenue, Wilmington, DE 19899. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit MC 113856, issued October 7, 1978, as follows: *Electrical appliances, sound equipment, household equipment and appliances, and musical instruments,* uncrated, and parts of the described commodities, in retail delivery service, from Wilmington, DE to points in Cecil County, MD; Chester and Delaware Counties, PA, and Cumberland, Salem, and Gloucester Counties, NJ, located within 25 miles of Wilmington; and return of *damaged, defective, rejected or returned* shipments of the commodities described above and of shipments taken in trade on the commodities described above, uncrated. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77787, filed August 1, 1978. Transferee: BASIL S. KINSON, INC., d.b.a. KINSON BUS LINES, 6 Railroad Avenue, Georgetown, MA 01830. Transferor: Ramsey's Inc., Haverhill, MA 56301. Representative: Arthur M. White, 281 Pleasant Street, P.O. Box 2547, Framingham Centre, MA 01701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificates MC 95883, and MC 95883 (Sub-2), issued March 28, 1941, and October 14, 1949, respectively, as follows: *Passengers and their baggage,* in charter operations, from Haverhill and Lawrence, MA and points in cities and towns in MA and NH, any part of which is within 10 miles of City Hall, Haverhill, to points in MA, NH, and RI, and those in ME on and south of ME Hwy 25, and return, and passengers and their baggage, and newspapers in the same vehicle with passengers, over regular route, between Hempstead, NH and Haverhill, MA, over specified routes, serving all intermediate points. Transferee holds no authority from this Commission and application has not been filed for temporary authority under section 210a(b).

MC-FC-77795, filed July 29, 1978. Transferee: ALBERT L. RING, RONALD J. RING, BERNARD J. RING, and ANDREW C. RING, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Transferor: H. P. Jorgenson, Audubon, IA 50025. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought for purchase of the operating rights set forth in certificate MC 16522 issued August 17, 1949 as follows: Regular routes, between Audubon, IA and Omaha, NE: *Livestock,* from Audubon over U.S. Hwy 71 to junction IA Hwy 64, then over IA Hwy 64 to Council Bluffs, IA, and then across the Missouri River to Omaha. From Audubon over U.S. Hwy 71 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Omaha. *General commodities,* with exceptions from Omaha over the above specified routes to Audubon. Service is authorized to and from intermediate and off-route points within 25 miles of Audubon. Transferee holds authority in MC 62601 and subs thereunder, and MC 135133. Application has been filed under section 210a(b) for temporary authority.

MC-FC-77796, filed August 8, 1978. Transferee: SERVICE EQUIPMENT & TRUCKING, INC., Box 162, East Route 316, Mattoon, IL 61932. Transferor: Harry D. Diepholz, d.b.a. Diepholz Trucking, P.O. Box 240, East Route 316, Mattoon, IL 61932. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in corrected permit MC 136500 (Sub-1), issued June 6, 1974, as follows: *Roll-over protective structures,* from Mattoon, IL, to points in the United States (except AK and HI): and commodities used in the manufacture of roll-over protective structure (except commodities in bulk), from points in the United States (except AK and HI), to Mattoon, IL; from Mattoon, IL, to Portland, OR. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Tube-Lok Products of Mattoon, IL. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77799, filed August 4, 1978. Transferee: DAN R. LARSON, d.b.a. LARSON TRANSPORT, P.O. Box 162, Seeley Lake, MT 59868. Transferor: John Yochim and Daniel Yochim, d.b.a. Yochim & Yochim Transport, P.O. Box 3149, Missoula, MT 59806. Representative: Daniel Yochim, P.O. Box 3149, Missoula, MT 59806. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate of registration MC 118783, issued September 18, 1974, as follows: *General commodities,* with the usual exceptions, over regular routes, between Missoula and Seeley Lake, MT serving the intermediate points of Potomac, Greenough, and Woodworth, MT, including the Anaconda Lumber Camp at Woodworth. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-24871 Filed 9-1-78; 8:45 am]

[7035-01]

[Decisions Volume No. 25]

DECISION-NOTICE

Decided: August 22, 1978.

The following applications are governed by Special Rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessisty, and that each contract carrier applicant qualified as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones (Review Board Member Joyce not participating).

H. G. HOMME, Jr.,
Acting Secretary.

MC 989 (Sub-32F), filed July 31, 1978. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Scottsbluff, NE, and Casper, WY, over U.S. Hwy 26, serving the intermediate point of Torrington, WY, and the off-route point of Wheatland, WY. (Hearing site: Casper, WY or Denver, CO.)

MC 2229 (Sub-203F), filed July 31, 1978. Applicant: RED BALL MOTOR FREIGHT, INC., P.O. Box 47047, Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Fort Smith, AR, and Texarkana, TX, over U.S. Hwy 71, serving no intermediate points; and (2) between Fort Smith, AR and Paris, TX, over U.S. Hwy 271, serving no intermediate points and serving Antlers, OK for the purpose of joinder only. (Hearing site: Fort Smith or Little Rock, AR.)

MC 2860 (Sub-171F), filed June 30, 1978. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures, and container accessories;* and (2) *materials and equipment* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and those which by reason of size or weight require the use of special equipment), between Muskogee, OK, on the one hand, and, on the other, points in AZ, AR, CO, KS, LA, NM, OK, NE, and TX. (Hearing site: Chicago, IL.)

MC 3500 (Sub-3F), filed June 15, 1978. Applicant: PACIFIC STORAGE CO., a corporation, 517 North Hunter Street, Stockton, CA 95201. Representative: Edward J. Hegarty, 100 Bush Street, 21st floor, San Francisco, CA 94104. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods,* in containers, between points in Sierra, Glenn, Butte, Mendocino, Yuba, Inyo, Kern, and Santa Barbara Counties, CA. Restricted to the transportation of shipments having a prior or subsequent movement in interstate commerce, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization, or unpacking, uncrating and decontainerization of such shipments. (Hearing site: San Francisco, CA.)

MC 13134 (Sub-56F), filed June 16, 1978. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, gypsumboard, and molding,* from the facilities of Weyerhaeuser Co., at or near Chesapeake, VA, to points in KY, OH, WV, those points in IN on and north of Interstate Hwy 70, and those points in PA on and west of PA Hwy 209. (Hearing site: Norfolk, VA, or Charleston, WV.)

MC 28060 (Sub-44F), filed July 6, 1978. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, Fifth Floor—Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen potato products,* from Sioux City, IA, Fairmont, MN, and Fremont, NE, to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. (Hearing site: Sioux Falls, SD.)

MC 29910 (Sub-191F), filed July 11, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cello Chemical Co., at or near Havre de Grace, MD, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 33919 (Sub-16F), filed July 28, 1978. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, WA 98907. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic containers and closures* therefor, from the facilities of Owens-Illinois, in Salano, Riverside, and Los Angeles Counties, CA, to points in ID, MT, NV, OR, UT, and WA. (Hearing site: Seattle, WA.)

MC 35890 (Sub-47F), filed July 6, 1978. Applicant: BLODGETT FURNITURE SERVICE, INC, 3801 36th Street SE, Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* from the facilities of Jasper Novelty Furniture, at Jasper, IN, to points in CT, DE, IL, IA, MD, MA, MN, NJ, NY, PA, RI, VA, WI, and D.C. (Hearing site: Chicago, IL, or Washington, DC.)

MC 35890 (Sub-48F), filed July 13, 1978. Applicant: BLODGETT FURNI-

TURE SERVICE, INC, 5650 Foremost Drive SE, Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* from the facilities of Yorktowne Kitchens, Division of Wickes corp., at or near Mifflinburg, PA, to points in IL, IN, MI, MO, and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 39420 (Sub-8F), filed June 19, 1978. Applicant: LE ROY and GARY PRINGS, d.b.a. PRINS TRUCKING, Rushmore, MN 56168. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer,* from Fort Madison and Whiting, IA, to Luverne, MN. (Hearing site: Omaha, NE. or St. Paul, MN.)

MC 48958 (Sub-152F), filed August 4, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., A Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs and canned goods,* from the facilities of Skyland food Corp., at or near Delta, CO, to points in AZ, CA, IL, IA, KS, NE, OK, NM, MO, and TX. (Hearing site: Denver, CO.)

MC 48958 (Sub-153F), filed August 4, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Rubber articles* and *plastic articles,* from points in Dallas County, TX, to points in AZ, AR, CA, CO, IL, IN, IA, KS, MO, NE, NV, NM, OH, OK, UT, and WY; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 52460 (Sub-217F), filed July 6, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at or near Lakeland, FL, to points in LA, MO, MS, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Jacksonville, FL, or Oklahoma City, OK.)

MC 52460 (Sub-218F), filed July 7, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in AL, AZ, AR, CO, FL, GA, KS, KY, LA, MO, NE, NM, NC, OK, SC, TN, and TX. (Hearing site: Tulsa, OK.)

MC 52729 (Sub-26F), filed July 27, 1978. Applicant: FIOROT TRUCKING, INC., West Main Street, Box 43, Pen Argyl, PA 18072. Representative: Dominic J. Ferraro, 124 South Main Street, Nazareth, PA 18064. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural fertilizers,* (1) from Baltimore, MD, and Wilmington, DE, to points in NJ, NY, and PA, and (2) from Allentown, PA, to points in MD, NJ, and NY. (Hearing site: Easton or Allentown, PA.)

MC 52858 (Sub-121F), filed August 4, 1978. Applicant: CONVOY COMPANY, A Corporation, 3900 NW. Yeon Avenue, P.O. Box 10185, Portland, OR 97210. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Automobiles and trucks,* in secondary movements, in truckaway service, between points in CO, on the one hand, and, on the other, points in KS and NE. (Hearing site: Denver, CO or San Francisco, CA.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 55889 (Sub-48F), filed July 21, 1978. Applicant: AAA COOPER TRANSPORTATION, a Corporation, Post Office Box 2207, Dothan, AL 36301. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Birmingham and Auburn, AL: From Birmingham over U.S. Hwy 280 to Opelika, AL, then over U.S. Hwy 29 to Auburn, and return over the same routes, serving no intermediate points. (Hearing site: Birmingham, AL, or Washington, DC.)

NOTE.—The purpose of this application is to convert applicant's existing Sub 39 irregular-route authority between Birmingham and Auburn, AL to regular routes.

MC 59150 (Sub-131F), filed July 17, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and fiber products,* from the facilities of Holly Hill Lumber Co., at or near Holly Hill and Walterboro, SC, to points in AL, GA, FL, LA, MS, NC, SC, TN, and VA. (Hearing site: Jacksonville, FL, or Savannah, GA.)

MC 59150 (Sub-132F), filed July 18, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Lumber, particleboard, and pulpboard,* from the facilities of MacMillan Bloedel, Inc., at or near Pine Hill and Opelika, AL, to points in AL, FL, GA, MS, NC, SC, and TN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL.)

MC 64820 (Sub-12F), filed July 6, 1978. Applicant: PARADIS TRANSFER & STORAGE CO., INC., 922 Whitman, Medford, OR 97501. Representative: Robert R. Hollis, 400 Pacific Building, Portland, OR 97204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Corrugated fibre cartons,* between Salem, OR, on the one hand, and, on the other, points in Modoc and Siskiyou Counties, CA. (Hearing site: Portland or Salem, OR.)

MC 85255 Sub 61F, filed July 19, 1978. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: Clyde H. MacIver, 1900 Peoples National Bank Building, 1415 Fifth Avenue, Seattle, WA 98171. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Olympia and Chehalis, WA, over Interstate Hwy 5, serving no intermediate points, as an alternate route in connection with applicant's otherwise authorized regular-

route operations, restricted against the transportation of traffic originating at or destined to Chehalis, WA. (Hearing site: Seattle, WA or Portland, OR.)

MC 103490 (Sub-72F), filed July 14, 1978. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products,* in bulk, in tank vehicles, from points in Jefferson County, TX, to Bayonne, NJ; and (2) *diisobutylene,* in bulk, in tank vehicles from Houston, TX, to points in PA, NY, NJ, and CT. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 103490 (Sub-73F), filed July 14, 1978. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* in bulk, in tank vehicles, from (1) Bayonne, NJ, to points in VT, NH, ME, RI, and PA, (2) from Westville, NJ, to points in PA, and (3) from Albany, NY, to points in PA, MD, DE, VA, WV, OH, and DC. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 105813 (Sub-241F), filed July 17, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 SW. 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *such commodities* as are dealt in by grocery houses, hardware stores, and drug stores, in containers, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between Atlanta, GA, on the one hand, and, on the other, points in TX and FL. (Hearing site: Chicago, IL.)

MC 107227 (Sub-134F), filed July 5, 1978. Applicant: INSURED TRANSPORTERS, INC., P.O. Box 1807, Fremont, CA 94538. Representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, CA 94104. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers) in secondary movements, in truckaway, service, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, restricted against the transportation of traffic between points in a single state. (Hearing site: San Francisco, CA.)

MC 107227 (Sub-135F), filed July 5, 1978. Applicant: INSURED TRANSPORTERS, INC., P.O. Box 1807, Fremont, CA 94538. Representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, CA 94104. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in secondary movements, in truckaway service, between points in CA. (Hearing site: San Francisso, CA.)

MC 109692 (Sub-62F), filed July 6, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the facilities of Nucor Steel Division of Nucor Corp., at or near Norfolk, NE, to points in IL, IN, MI, OH, and WI. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 110525 (Sub-1251F), filed July 20, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulphuric acid,* in bulk, in tank vehicles, from Clarkesville, TN, to points in AL, AR, GA, IL, IN, KY, MS, MO, NC, OH, and SC. (Hearing site: Atlanta, GA.)

MC 111812 (Sub-579F), filed June 30, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P. O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from the facilities of Nestle Co., Inc., at or near Burlington, WI, to Charlotte, NC, Memphis, TN, Jacksonville, FL, and Dallas and Houston, TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: New York, NY.)

MC 112539 (Sub-20F), filed July 26, 1978. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Hazleton, PA 18201. Representative: Joseph F. Hoary, 121 South Main Street Taylor, PA 18517. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Beryl ore,* from Delta, UT, to Reading, PA. (Hearing site: Washington, DC.)

MC 112989 (Sub-74F), filed July 24, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, saw-dust fireplace logs, charcoal lighter fluid, and hickory chips,* and (2) *Equipment and materials,* used in the manufacture and distribution of the commodities in (1) above, between the facilities of The Kingsford Co., at or near Springfield, OR, on the one hand, and, on the other, points in CA, ID, NV, OR, and WA. (Hearing site: Portland, OR.)

MC 113362 (Sub-330F), filed July 5, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and woodpulp* (except commodidite in bulk), from the facilities of International Paper Co., at or near Springhill and Bastrup, LA., Pine Bluff and Camden, AR, Vicksburg and Natchez, MS, and Texarkana, TX, to points in MN, IA, MO, KY, VA, WI, IL, IN, MI, OH, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, and DC; (2) *equipment, materials, and supplies* used in the manufacture, distribution of paper products (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Mobile, AL, Washington, DC, or Chicago, IL.)

MC 114569 (Sub-237F), filed July 30, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in containers, from Delta, CO, to points in AZ, CA, IA, IL, KS, MO, NE, NM, OK, and TX. (Hearing site: Denver, CO, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115331 (Sub-462F), filed July 5, 1978. Applicant: TRUCK TRANSPORT INC., 29 Claytin Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier,* by motor vehicle, over irregular routes transporting: *Dicalcium phosphate,* in bulk, from Marseilles, IL, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 115651 (Sub-44F), filed July 5, 1978. Applicant: KANEY TRANS-

PORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer solutions,* in bulk, in tank vehicles, from the facilities of Kaiser-Ag Chemical, at or near Cordova, IL, to points in IA and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Dual operations may be at issue in this proceeding.

MC 115841 (Sub-637F), filed July 7, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, health care products, magnesium hydroxide, and alumina calcined* (except commodities in bulk), (1) from Philadelphia, PA, Lakewood, NJ, and Lewes, DE, to points in AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, CO, and WY, and (2) from Reno, NV, San Leandro, CA, and Roundrock, TX, to Philadelphia, PA, and Lakewood, NJ. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 115904 (Sub-109F), filed June 27, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* between the facilities of Nucor Steel, at or near Norfolk, NE, on the one hand, and, on the other, those points in the United States in and west of LA, AR, MO, IA, and MN (except AK and HI). (Hearing site: Washington, DC.)

MC 116915 (Sub-65F), filed July 3, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., a Kentucky corporation, 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Structural and fabricated steel,* which by reason of size or weight the use of special equipment, and (2) *structural and fabricated steel,* and *materials and supplies* used in the manufacture and distribution of structural and fabricated steel, which by reason of size or weight do not require the use of special equipment, when moving in mixed loads with the commodities in (1) above, from points in Allegheny, Armstrong, Beaver, Butler, Lawrence, Washington, and Westmoreland Counties, PA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Pittsburgh, PA, or Columbus, OH.

MC 118745 (Sub-22F), filed July 20, 1978. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lime and limestone products,* from the facilities of the Warner Co., at or near Devault, PA, to points in NC and SC, under a continuing contract with the Warner Co., of Philadelphia, PA. (Hearing site: Philadelphia, PA.)

MC 119493 (Sub-223F), Filed July 17, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, wood products,* and *building materials,* between Independence, KS, and points in AR, MO, NE, OK, and TX. (Hearing site: Joplin, MO, or Topeka, KS.)

MC 119654 (Sub-47F), filed June 26, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers and closures* for glass containers, from Mundelein, IL, to St. Louis, MO, and points in IN, KY, OH, WI, and MI (except the Upper Peninsula). (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 119654 (Sub-48F), filed June 30, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Fiberboard containers, pulpboard containers, container closures* (except commodities in bulk), (a) from the facilities of Sonoco Products Co. at or near Alpha and Dayton, OH, to points in KY, MI, MO, IL, IN, and WI, (b) from the facilities of Sonoco Products Co. at or near Henderson, KY, to points in IL, IN, MI, MO, OH, and WI, (c) from the facilities of Sonoco Products Co. at or near Chicago, IL, to points in IN, KY, MI, MO, OH, and WI, and (d) from the facilities of Sonoco Products Co., at or near St. Louis, MO, to points in IL, IN, KY, MI, OH, and WI; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) (except commodities in bulk), in the reverse direction. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119741 (Sub-105F), filed July 5, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., an Illinois corporation, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cheese and cheese products* (except commodities in bulk, in tank vehicles), from the facilities of Newman Grove Creamery Co., at or near Newman Grove, NE, to points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 119789 (Sub-500F), filed July 24, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prepared animal feed,* from Los Angeles, Cerritos, and Irvine, CA, to points in NM. (Hearing site: Los Angeles, CA.)

MC 120910 (Sub-14F), filed July 6, 1978. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Phenolic resin compounds* (except in bulk), in vehicles equipped with mechanical refrigeration, from Memphis, TN, to the facilities of Reichhold Chemicals, Inc., at or near Tuscaloosa, AL. (Hearing site: Birmingham, AL.)

MC 123272 (Sub-19F), filed July 6, 1978. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 33 North LaSalle Street., Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Paper bags,* from Seymour, IN, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of paper bags, in the reverse direction. (Hearing site: Chicago, IL.)

MC 123407 (Sub-478F), filed June 20, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials, and iron and steel articles*, (except commodities in bulk), between points in CO, on the one hand, and, on the other, points in AR, ID, IL, IN, KS, MO, MT, ND, NE, NM, NV, OH, OK, SD, TN, TX, UT, and WY. (Hearing site: Denver, CO.)

MC 123744 (Sub-41F), filed June 26, 1978. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories* from Saint Charles, PA, to ports of entry on the International Boundary line between the United States and Canada in NY, MI, VT, NH, and ME. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Washington, DC.)

NOTE.—Applicant states that shipments in foreign commerce are destined to points in the Provinces of ON, PQ, NB, and NS, Canada,

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statment should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 124170 (Sub-95F), filed June 19, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packing houses* as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from points in Hillsdale County, MI, to points in FL, GA, MS, AL, TN, NC, and SC. (Hearing site: Detroit, MI or Washington, DC.)

MC 124284 (Sub-3F), filed June 29, 1978. Applicant: WALKER TRANSFER, INC., P.O. Box 1154, Durham Road, Roxboro, NC 27573. Representative: Mark Galloway, 25 Abbitt Street, P.O. Box 601, Roxboro, NC 27573. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Aluminum siding, storm doors, storm windows;* and (b) *hinges, locks, and hardware for storm doors and storm windows*, from the facilities of Loxcreen Co., Inc., at or near Roxboro, NC, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and DC; and (2) *materials and supplies used in the manufacture of the commodities in (1) above* in the reverse direction, under a continuing contract with Loxcreen Co., Inc., of Roxboro, NC. (Hearing site: Raleigh, NC or Richmond, VA.)

MC 124679 (Sub-94F), filed July 31, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, and synthetic cheeses*, from the facilities of L. D. Schreiber Cheese Co., at Logan, UT, to points in MT. (Hearing site: Salt Lake City, UT.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 124679 (Sub-95F), filed July 28, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), (1) from Ashton, RI, points in CT, DE, and those in NY on and east of NY Hwy 34 (except New York, NY, and points in the commercial zone, and those in Suffolk County), to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA; and (2) from New York, NY, points in MD, NJ, Suffolk County, NY, those in PA on and east of U.S. Hwy 15, and those in MA on and east of MA Hwy 12, to points in the United States (except AK, HI, KS, LA, NE, ND, OK, SD, and TX). (Hearing site: Philadelphia, PA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 126472 (Sub-21F), filed July 5, 1978. Applicant: WILLCOXSON TRANSPORT, INC., Rural Route No. 1, Kahoka, MO 63445. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, and limestone*, from the facilities of Kaser Construction Co., in Clark and Scotland Counties, MO, to points in IL and IA. (Hearing site: Chicago, IL or Kansas City, MO.)

MC 127816 (Sub-5F), filed June 29, 1978. Applicant: BLUE STEM TRUCK LINE, INC., 816 West 4th Street, Hutchinson, KS 67501. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110-L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable aluminum can recycling machines*, between Hutchison, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 128205 (Sub-53F), filed July 19, 1978. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, from Ottawa, Utica, Wedron, Rockton, Serena, and Oregon, IL, to Wooster, Zanesville, Sandyville, and Cortland, OH, and Bradford and Indiana, PA. (Hearing site: Chicago, IL.)

MC 128404 (Sub-12F), filed June 30, 1978. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, TN 37917. Representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Azcon Corp., in Knox County, TN, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MO, MS, NC, OH, OK, PA, SC, TX, VA, WI, and WV; and (2) *materials and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Knoxville or Nashville, TN.)

MC 129319 (Sub-2F), filed July 27, 1978. Applicant: NICHOLAS MOVING & STORAGE, INC., P.O. Box 669, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Telephones*, (2) *equipment, and materials* used in the installation and operation of telephones, between Pocatello and Idaho Falls, ID, on the one hand, and, on the other points in Bear Lake, Caribou, Franklin, Oneida, Bannock,

Power, Bingham, Bonneville, Butte, Jefferson, Madison, Fremont, and Teton Counties, ID. (Hearing site: Boise, ID.)

MC 133485 (Sub-22F), filed July 19, 1978. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster Street, Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth Street NW., Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Food stamps,* in armored vehicles escorted by armed guards, between points in the United States (except AK and HI). (Hearing site: Providence, RI.)

MC 133689 (Sub-211F), filed July 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter,* from Minneapolis, MN, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MA, MD, MO, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-212F), filed July 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such merchanise* as is dealt in by discount and department stores (except foodstuffs and commodities in bulk), and (2) *foodstuffs* (except in bulk), in mixed shipments with the commodities described in (1) above, from points in AL, AR, CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV, to points in McHenry, Lake, Cook, DuPage, Kane, and Will Counties, IL. (Hearing site: St. Paul, MN.)

MC 134922 (Sub-266F), filed June 27, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting. *Fatty acid esters of vegetable, fish, and animal oil, dry laundry bleach, breadmaking compounds, buffing compounds, and chemical compounds,* from Williamsport, PA, to points in CA and TX. (Hearing site: Washington, DC, or New York, NY.)

MC 134922 (Sub-267F), filed July 5, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cleaning compounds and chemicals* (except commodities in bulk), from Harrison NJ, and Chicago, IL, to points in TX and CA. (Hearing site: Washington, DC, or New York, NY.)

MC 136981 (Sub-11F), filed July 5, 1978. Applicant: BLAIR CARTAGE, INC., P.O. Box 52, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Litharge, nepheline synenite, soda ash, glass bulbs, glass rods, glass tubing, glassware, metal racks, cullet, electric lamps, batteries, battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, lamp ballast, sand, potash, metals, displays, borax, borax products, paints, dolomite, lamp bases, compressed gases* in cylinders, and *nitrate,* and (2) *materials and supplies* used in the and distribution of commodities in (1) above between points in AL, CT, DE, IN, IL, IA, KS, LA, ME, MD, MA, MI, MS, NE, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WV, and DC, under a continuing contract with General Electric Co., of Cleveland, OH. (Hearing site: Cleveland, OH.)

NOTE.—Dual operations may be involved in this proceeding.

MC 138157 (Sub-78F), filed July 5, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Heating and air-conditioning equipment,* from the facilities of Johnson Corp. at or near Columbus and Bellevue, OH, to points in the United States (except AK and HI), restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. (Hearing site: Chicago, IL.)

NOTE.—Applicant states that the purpose of this application is to convert its contract carrier authority in MC 134150(Sub-7) to common carrier authority.

MC 139434 (Sub-7F), filed June 22, 1978. Applicant: MID-AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68401. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packing houses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Union Packing Co., at or near Omaha, NE, to points in CT, DE, MA, MD, ME, MI, NH, NJ, NY, NC, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Omaha, NE.)

MC 139495 (Sub-368F), filed July 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by a manufacturer and distributor of paper and platic products, from Shelbyville, IL, to points in CO, KS, OK, NE, IA, and MO. (Hearing site: Washington, DC.)

MC 139420 (Sub-40F), filed July 7, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Packaged meats and meat products,* in vehicles equipped with mechanical refrigeration, from Chicago and Lansing, IL, to points in ND. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 140370 (Sub-6F), filed June 29, 1978. Applicant: V.G.H. TRUCKING, INC., P.O. Box 183, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from Grand Forks, ND, to points in IA, IL, IN, MI, MN, MO, OH, PA, and WI, under a continuing contract with International Co-op, Inc., of Grand Forks, ND. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 142364 (Sub-2F), filed June 26, 1978. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper, paper articles,* and *materials and supplies* used in the manufacture of paper articles, between the facilities of Inland Container Corp., at or near Fort Smith, AR, on the one hand, and, on the other, points in KS, LA, MS,

MO, OK, TN, and TX. (Hearing site: Washington, DC, or Indianapolis, IN.)

MC 142539 (Sub-4F), filed July 26, 1978. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by catalog showroom stores, (1) from points in CT, IL, KY, MA, NJ, NY, OH, PA, and TN, to Norcross, GA, Schaumburg, IL, Hicksville and Melville, NY, and points in CA, and (2) from points in GA, to Melville and Hicksville, NY, under a continuing contract in (1) and (2) above, with Unity Buying Service, Inc., of Hicksville, NY. (Hearing site: New York, NY.)

MC 142559 (Sub-33F), filed July 10, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures,* and *container accessories,* and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in the United States in and east of MN, IA, MO, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Crown Cork & Seal, and restricted against the transportation of commodities in bulk. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142698 (Sub-4F), filed August 1, 1978. Applicant: B. A. STRICKLAND, 620 Old Highway 99 North, Burlington, WA 98233. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by retail department stores, from the facilities of Nordstrom, Inc., at or near Seattle, WA, to the facilities of Nordstrom, Inc., in Orange County, CA, under a continuing contract with Nordstrom, Inc., of Seattle, WA. (Hearing site: Seattle, WA.)

MC 142954 (Sub-4F), filed June 29, 1978. Applicant: GLENN BROS. MEAT CO., a corporation, P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electric wire and wiring devices,* (1) from Hillsgrove, RI, and Maspeth and Brooklyn, NY, to points in the United States (except AZ, CA, OR, WA, HI, and AK), under a continuing contract with Leviton Manufacturing Co., Inc., of Little Neck, NY; and (2) from South Attleboro, MA, and Pawtucket, RI, to points in the United States (except AZ, CA, OR, WA, HI, and AK), under a continuing contract with American Insulated Wire Co., of Pawtucket, RI. (Hearing site: Washington, DC.)

MC 142964 (Sub-4F), filed June 30, 1978. Applicant: RONAR TRUCKING, INC., P.O. Box 310, Commerce City, CO 80037. Representative: William J. Lippman, Suite 330 Steele Park, 50 South Steele Street, Denver, CO 80209. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Frozen beef,* in boxes, from the facilities of A. J. Cunningham Packing Corp., at or near New York, NY, Philadelphia, PA, Wilmington, DE, and New Orleans, LA, to points in PA, WV, KY, OH, MI, IN, IL, WI, MO, IA, MN, KS, CO, NE, TX, and AR, restricted to the transportation of traffic originating at the named origin facilities, under a continuing contract with A. J. Cunningham Packing Corp., of Quincy, MA. (Hearing site: Denver, CO.)

MC 143059 (Sub-18F), filed July 27, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 11129, Louisville, KY 40211. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Plastic and plastic articles,* and (2) *materials and supplies* used in the manufacture and installation of the commodities in (1) and (2) above (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Robintech Inc. (Hearing site: Dallas, TX or Washington, DC.)

MC 143059 (Sub-19F), filed July 27, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 11129, Louisville, KY 40211. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Pipe,* from Oil City, PA, to points in KY, MS, OK, TN, and TX. (Hearing site: Kansas City, MO or Washington, D.C.)

MC 143775 (Sub-10F), filed July 19, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1)(a) *Toilet preparations, beauty and health products and equipment, personal electrical appliances* and (b) *accessories and parts* for the commodities in (1)(a) above, in vehicles equipped with mechanical refrigeration, and (2) *materials, equipment, and machinery parts* used in the manufacture and distribution of the commodities in (1) above, (a) from Cheshire, Milford, and Stamford, CT, Saddle Brook, NJ, Walpole, NH, and points in Kings, Queens, Nassau, and Suffolk Counties, NY, to points in the United States (except ME, VT, NY, NH, MA, RI, AK, and HI), (b) from Lakewood, NJ, to Stamford, CT, (c) from Camarillo, CA, and points in Los Angeles and Orange Counties, CA, to Dallas, TX, chicago, IL, Detroit, MI, Atlanta, GA, and Stamford, CT, and points in AZ, UT, OR, WA, NV, ID, MT, and WY, (d) from Gadsden, AL, and Nashville, TN, to Atlanta, GA, Stamford, CT, Chicago, IL, Dallas, TX, and LaMirada, CA, and (e) from Atlanta, GA, to Dallas, TX, and Chicago, IL, restricted in (1) and (2) above to the transportation of traffic originating at and destined to the facilities of or used by Clairol, Inc. (Hearing Site: New York, N.Y.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144298 (Sub-3F), filed August 3, 1978. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in vehicles equipped with mechanical refrigeration, from the facilities of Fred Sanders, Inc., at or near Detroit, MI, to points in AZ, CA, FL, ID, NV, OR, UT, and WA, under a continuing contract with Fred Sanders, Inc., of Detroit, MI. (Hearing site: Detroit, MI.)

MC 144605 (Sub-2F), filed July 5, 1978. Applicant: HOPPY LINES, INC., 420 Devonshire Drive, Brea, CA 92521. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fluorescent light bulbs,* from the facilities of Westinghouse Electric Corp., at or near Fairmont, WV, to the facilities of Westinghouse Electric Corp. at or near Emeryville and Vernon, CA, and Tukwila, WA. (Hearing site: Pittsburgh, PA, or Los Angeles, CA.)

NOTE.—The certificate authorized to be issued will expire 2 years from the date of its issuance unless, prior to the expiration date, but no earlier than 6 months prior to such date applicant files a petition for extension of its certificate and demonstrates

that it has been in full compliance with the requirements of the Interstate Commerce Act and this Commission's regulations.

MC 144639 (Sub-2F), filed July 27, 1978. Applicant: WAR EAGLE EXPRESS, INC., 2014 Steel Drive, Tucker, GA 30084. Representative: Ralph Armistead (same address as applicant). To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Glass bottles,* from Atlanta, GA, to the facilities of Royal Crown Cola at Orlando, Jacksonville, and Miami, FL; and (2) *soft drinks,* in cans, from Orlando, FL, to Waycross, Dublin, Savannah, Macon, Valdosta, Tifton, Albany, and Columbus, GA, under a continuing contract in (1) and (2) above with Royal Crown Bottlers of Florida, Inc., of Orlando, FL. (Hearing site: Atlanta, GA.)

MC 144927 (Sub-2F), filed June 28, 1978. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Dry milk products,* from Louisville, KY, to points in the United States (except AK, HI, and KY); and (2) (a) *soya flour, corn flour, and* (b) *powdered milk* when moving in the same vehicle and at the same time with soya flour and corn flour, from points in the United States (except AK, HI, and KY), to Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145059 (Sub-2F), filed July 26, 1978. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk), from the facilities of the Green Giant Co., at or near Vineland, NJ, to points in NY and PA. (Hearing site: Philadelphia, PA.)

MC 145075F, filed July 20, 1978. Applicant: ALLIED BAKERY DELIVERY, INC., 437 Railroad Avenue, Westbury, NY 11590. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Bakery products,* from the facilities of Allied Bakery Delivery, Inc., at or near Westbury, NY, to points in MA, PA, MI, IL, MO, KY, TN, AR, MS, LA, TX, NC, SC, GA, AL, FL, MD, VA, OH, and DC, under continuing contracts with Allied Bakery Delivery, Inc., of Westbury, NY, and Drake Bakeries Foods Division of Borden, Inc., of Wayne, NJ; and (2) *shortening,* from Columbus, OH, and Louisville, KY, to the facilities of Drake Bakeries Foods Division of Borden, Inc., at or near Wayne, NJ, under a continuing contract with Drake Bakeries Foods Division of Borden, Inc., of Wayne, NJ. (Hearing site: New York, NY.)

MC 145109F, filed July 25, 1978. Applicant: BOWLING GREEN BEVERAGE CO., INC., P.O. Box 3390, Bowling Green, KY 42101. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brush blocks, wood flour,* in bags, *folding director chairs, tables, stools, and loungers,* from Bowling Green, KY, to Milwaukee, WI, Detroit, MI, San Antonio, TX, Evansville and Fort Wayne, IN, Chicago, IL, Chattanooga and Memphis, TN, Atlanta, GA, St. Paul, MN, and Cincinnati and Columbus, OH, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Nashville, TN.)

NOTE.—In view of the Geraci and Toto policies (See e.g., 43 F.R. 33945) (August 2, 1978), applicant must satisfy the Commission that its operations will not result in objectionable private and for-hire operations.

MC 145138F, filed June 29, 1978. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 208, Roberts, ID 83444. Representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Beer,* from St. Louis, MO, and Milwaukee, WI, to points in WY. (Hearing site: Rock Springs, WY, or Idaho Falls, ID.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145119F, filed July 26, 1978. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Tires;* and *equipment and materials* used in the manufacture, distribution, and repair of tires and inner tubes, between the facilities of the Firestone Tire & Rubber Co., at Des Moines, IA, on the one hand, and, on the other, Rock Island, IL, and points in NE, under a continuing contract with the Firestone Tire & Rubber Co., of Akron, OH. (Hearing site: Des Moines, IA, or Chicago, IL.)

PASSENGER AUTHORITY

MC 61120 (Sub-21F), filed June 16, 1978. Applicant: TEXAS, NEW MEXICO & OKLAHOMA COACHES, INC., 1313 13th Street, Lubbock, TX 79401. Representatives: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier,* by motor vehicle, transporting: (1) *Passengers and their baggage,* and (2) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) restricted (a) to the transportation of shipments in the same vehicle with passengers, and (b) against the transportation of packages or articles weighing more than 100 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day, between Sweetwater, and Abilene, TX, over Interstate Hwy 20, serving no intermediate points. (Hearing site: Lubbock or Dallas, TX.)

MC 82965 (Sub-4F), filed July 20, 1978. Applicant: AMADOR STAGE LINES, INC., 213-13th Street, P.O. Box 15707, Sacramento, CA 95813. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in the same vehicle with passengers, in round trip character operations, beginning and ending at points in El Dorado, Placer, Yuba, Sutter, and Nevada Counties, CA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: San Francisco, CA.)

BROKER AUTHORITY

MC 130504F, filed July 3, 1978. Applicant: BARNEY RAPP AGENCY, INC., d.b.a. BARNEY RAPP TRAVEL, Lower Arcade, Carew Tower, 441 Vine Street, Cincinnati, OH 45202. Representative: Stanley Goodman, 1016 Fourth and Walnut Building, 36 East Fourth Street, Cincinnati, OH 45202. To engage in operations in interstate or foreign commerce, as a *broker,* at Cincinnati, OH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in round trip special and charter operations, beginning and ending at Cincinnati, OH, and extending to points in the United States, including AK and HI. (Hearing site: Cincinnati, OH.)

FREIGHT FORWARDER AUTHORITY

FF 512F, filed June 30, 1978. Applicant: AMERICAN HOLIDAY TRANSCONTINENTAL, INC., 2323 Chipman Street NE., Knoxville, TN 37917. Representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, DC 20036. To operate as a *freight forwarder,* through the use of the facilities of common carriers by

railroad or motor vehicle, in the transportation of: (1) *Used household goods and unaccompanied baggage,* and (2) *used automobiles,* restricted in (2) to export and import traffic, between points in the United States (including HI, but excluding AK). (Hearing site: Knoxville, TN.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 78-24872 Filed 9-1-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND PLACE: 9:30 a.m. (eastern time), Wednesday, September 6, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Amendment of fee schedule for Freedom of Information Act requests.
2. Modification of fiscal year 1978 funds allocated to three State agencies.
3. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations; Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued August 30, 1978.

[S-1764-78 Filed 8-31-78; 8:14 am]

[6740-02]

2

AUGUST 30, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 6, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—160TH MEETING, SEPTEMBER 6, 1978, REGULAR MEETING (10 A.M.)

CAG-1. Docket No. RP77-120, Stingray Pipeline Co.
CAG-2. Docket No. RP74-100 (PGA Nos. 78-7 and 78-7a), National Fuel Gas Supply Corp.
CAG-3. Docket No. RP72-134 (PGA No. 78-8), Eastern Shore Natural Gas Co.
CAG-4. Docket No. RP78-31, Southern Natural Gas Co.
CAG—5. Texas Oil & Gas Corp.
CAG-6. Docket No. CP78-381, Northwest Pipeline Corp.
CAG-7. Docket No. CP78-106, Standard Pacific Gas Line, Inc.
CAG-8. Docket No. CP78-177, Cities Service Gas Co.

I. PIPELINE RATE MATTERS

RP-1. Docket Nos. RP72-127 and R&D 75-11), Northern Natural Gas Co.
RP-2. Docket Nos. RP76-136, RP77-26, Transcontinental Gas Pipe Line Corp.

II. PRODUCER MATTERS

CI-1. Docket No. G-17062, Estate of L. D. French.
CI-2. Oxy Petroleum, Inc., Terra Resources, Inc., and Canadian Occidental of California, Inc.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP77-216, Distrigas of Massachusetts Corp.
CP-2. Docket Nos. CP71-68, et al., Columbia LNG Corp. Docket Nos. CP71-290, et al., Consolidated System LNG Co.
CP-3. Docket No. CP78-404, Delhi Gas Pipeline Corp. and Oklahoma Natural Gas Co.
CP-4. Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.

MISCELLANEOUS AGENDA—160th MEETING, SEPTEMBER 6, 1978, REGULAR MEETING

M-1. Docket No. RM78-12, Incentive Rate of Return for the Alaska Natural Gas Transportation System.
M-2. Docket No. R-406, Purchased Gas Cost Adjustment Provision in Natural Gas Pipeline Companies' FPC Gas Tariffs.
M-3. Docket No. RM- , Treatment of Refunds Under Purchased Gas Adjustment Clauses.
M-4. Refund Monitoring.
M-5. Docket No. RM-78- , Amendments Relating to the Filing of Gas Sale Contracts Containing Impermissible Price Changing Clauses.
M-6. Docket No. RM78-10, Procedures for Review by the Federal Energy Regulatory Commission of Remedial Orders Issued by the Secretary of Energy.

POWER, AGENDA—160TH MEETING, SEPTEMBER 6, 1978, Regular Meeting

CAP-1. Docket Nos. ER78-460 and ER78-483, the Potomac Edison Co.
CAP-2. Docket No. ER78-540, Nevada Power Co.
CAP-3. Docket No. ER78-427, Kansas Power & Light Co.
CAP-4. Docket Nos. EL78-15 and ER78-339, Public Service Co. of New Hampshire.
CAP-5. Project No. 5, Montana Power Co.
CAP-6. Project No. 2422, Brown-New Hampshire, Inc.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. EL78-1, Public Service Co. of Indiana, Inc.
ER-2. Docket No. ER78-816, Gulf States Utilities Co.
ER-3. Docket No. ER77-311, Utah Power & Light Co.

II. LICENSED PROJECT MATTERS

P-1. Docket No. E-9555, the Metropolitan Water District of Southern California.
P-2. Project No. 2655, Reeves Brothers, Inc.
P-3. Project No. 349, Alabama Power Co.
P-4. Project No. 2305, Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas.
P-5. Project No. 2749, Southside Electric Cooperative.

KENNETH F. PLUMB,
Secretary.

[S-1765-78 Filed 8-31-78; 11:14 am]

[7590-01]

3

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: Thursday, August 31, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

CHANGES IN THE MEETING: 1. The meeting titled "Discussion of Piping Examination in Foreign Facilities" (approximately one-half hour, closed—exemption 1) scheduled for approximately 10:30 a.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

AUGUST 30, 1978.

[S-1766-78 Filed 8-31-78; 11:14 am]

[7590-01]

4

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: August 31, and September 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (changes).

CHANGES IN THE MEETING:

1. The meeting titled "Discussion of NMSS Organization" (approximately 1½ hours, public meeting) will begin at 2 p.m. on Thursday, August 31, instead of 1:30 p.m. as previously scheduled.

2. The meeting titled "Briefing on Status of Improving Nuclear Power Plant Licensing and Implementing Certain Study Group Recommendations" (approximately 1 hour, public meeting) scheduled for 10:30 a.m. on Tuesday, September 5, will begin at 11 a.m. that same day.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

AUGUST 29, 1978.

[S-1767-78 Filed 8-31-78; 11:14 am]

[7590-01]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, September 6, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 6; 9:30 A.M.

1. Discussion of provision for protection of individuals who provide information to NRC (approximately 1 hour, public meeting).

2. Presentation of Certificates of Appointment to Harold R. Denton and William J. Dircks (approximately 10 minutes, public meeting).

3. Discussion of role of use of deadly force in safeguarding strategic SNM (approximately 1 hour, public meeting).

WEDNESDAY, SEPTEMBER 6; 2 P.M.

1. Disussion of licensing procedures for geologic repositories for high level waste (approximately 1 hour, public meeting).

2. Affirmation items (approximately 10 minutes, public meeting): a. FOIA appeal of A. Kranish (tentative).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

AUGUST 30, 1978.

[S-1768-78 Filed 8-31-78; 11:14 am]

Federal Register

TUESDAY, SEPTEMBER 5, 1978
PART II

CIVIL AERONAUTICS BOARD

■

DOMESTIC PASSENGER FARE INVESTIGATION

Normal Fare Price Competition

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-80; Amdt. No. 59; Docket Nos. 31290, 30891]

PART 399—STATEMENTS OF GENERAL POLICY

Domestic Passenger-Fare Level Policies, Domestic Passenger-Fare Structure Policies and Discount Fare Policy

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 25, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is modifying its current passenger fare policies developed in the "Domestic Passenger-Fare Investigation" (DPFI) to allow carriers the flexibility to engage in normal-fare price competition relatively free from the intervention of Government regulatory barriers. These new policies are designed to stimulate market-by-market price competition among the airlines, encourage more efficient operations, produce lower normal fares, and lead to greater consumer satisfaction. Under the new rules, carriers will no longer be required to file identical fares for all markets of equal distance; instead, they will be able to experiment with fares tailored to their individual costs and markets over a broad range without the likelihood of suspension. The ceiling of the range will be the coach fare formula now used by the Board in evaluating general fare increases. The carriers will, however, be allowed the flexibility to price their services above the ceiling by 10 percent in certain presumptively workably competitive markets. Also, to encourage peak/off-peak pricing, the Board will allow the carriers the discretion to increase their fares in other markets by 5 percent of a number of peak days throughout the year. The floor of the range will be 50 percent of the ceiling fare level; for purposes of off-peak pricing, carriers will also have the discretion to reduce their fares to 70 percent below ceiling fares on 40 percent of their available seat miles per week. Within this entire zone, carriers will be able to file fares with the Board without submitting an economic justification; and the Board will not suspend these fares on the grounds that the level was unreasonable unless an opponent can show that the fare imminently threatened a substantial and irreparable harm to competition. Finally, the carriers will no longer be required to maintain minimum first-class fares. The Board is also changing its tariff regulations and procedural rules governing the economic justification for tariff filings and the procedures for filing complaints against them.

These rules resulted from the Board's reexamination of the DPFI pricing and fare structure policies in light of the potential certification of new carriers seeking to provide low-fare service in individual markets and the developing tendency by incumbent carriers to engage in normal fare price competition.

DATES: Adopted: August 25, 1978. Effective: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael B. Fingerhut, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5023.

SUPPLEMENTAL INFORMATION:

A. Introduction

The Civil Aeronautics Board has decided to relax its pervasive regulatory control over the pricing of the air transportation industry by vacating several of the ratemaking policies developed in the Domestic Passenger-Fare Investigation (DPFI). In their place, we are adopting new policies designed to create a climate conducive to normal-fare price competition by allowing the carriers the flexibility to price their services on a market-by-market basis relatively free from Government intervention. The maturity of this industry as well as our experience under the DPFI convince us that primary reliance on the competitive marketplace rather than on rigid Government price control is the most effective way to fulfill our statutory responsibilities under the act, particularly our duty to develop an air transportation system properly adapted to the present and future needs of the domestic commerce (102(a)(1)); to foster an economically sound air transportation industry (section 102(a)(2)); to promote adequate economical and efficient service at reasonable charges (section 102(a)(3)); to foster competition to the extent necessary to assure the sound development of the air transportation system (102(a)(4)); and to provide for the needs of the travelling public at the lowest cost consistent with the furnishing of that service (1002(e)(2)).

The policies we now adopt were proposed in our notice of proposed rulemaking, EDR-353/PDR-52/PSDR-51, dated April 13, 1978, (notice), 43 FR 16503, April 19, 1978, PSDR-49, 42 FR 42229, August 22, 1977.[1] in which we announced as our goal the overall reduction in the normal coach and first-class fare levels.[2] Toward this end, we tentatively decided to revoke several of the tight restraints on normal-fare competition established in the DPFI. We proposed to vacate the phase 9[3] requirement that carriers establish uniform coach fares by mileage on a formula basis; to eliminate the phase 9 finding prescribing first-class fares at a fixed percentage over formula coach fares; and to remove the requirements established in phase 5[4] that discount fares be justified on the basis of the profit impact test[5] and contain an expiration date not to exceed 18 months ahead.[6] We also proposed allowing the carriers a broad range for coach fare experimentation without the likelihood of suspension. The ceiling of the range would be the coach fare formula now used by the Board in evaluating general fare increases.[7] All fare filings above the ceiling would have to be justified and would be subject to suspension and investigation.[8] The floor of

[1] This notice was issued following our analysis of public comments submitted in response to advance notice of proposed rulemaking, PSDR-49 (August 17, 1978) in which the Board requested views on ways to encourage normal-fare price competition within this industry but did not propose any specific changes to the DPFI.

[2] In fact, our goal of reducing the DPFI established first-class fare levels is already being realized. Following the issuance of the notice, the trunkline carriers proposed to reduce normal first-class fares for travel within the 48-contiguous States from the prescribed DPFI levels of 153 percent to 163 percent of normal coach fares to a uniform 130 percent. We approved the proposal in order 78-5-41, adopted May 8, 1978.

[3] Phase 9 (fare structure), order 74-3-82 (March 18, 1974), and order 74-12-109 (December 27, 1974). Also printed in CAB DPFI volume at p. 759.

[4] Phase 5 (discount fares), order 72-12-18 (December 5, 1972), and order 73-5-2 (May 1, 1973). Also printed in CAB DPFI volume at p. 226.

[5] This test requires that discount fares generate sufficient traffic to more than offset the diversion of full fare traffic and the added noncapacity costs associated with the generated traffic less any savings in costs attributable to the nature of the service provided to the discount traffic.

[6] Further changes in our discount fare policies are being considered in docket 30891.

[7] We also tentatively decided to adjust ceiling fares on the basis of changes in costs alone, adjusted by our DPFI fare level standards.

[8] The Board also requested comments on the desirability of allowing carriers the flexibility to raise fares above the ceiling by a fixed percentage without first obtaining Board approval. Two possibilities were suggested. Under the first, the carriers would have the discretion to raise their fares by 5

Footnotes continued on next page

the range would be 50 percent of the ceiling formula fare. Within this zone, carriers could freely lower and raise fares in individual markets; they would not have to submit the economic data now required by our economic regulations to justify fares; [9] and the Board would not suspend these fares on grounds that the level was unreasonable [10] unless there was a strong showing of substantial and irreparable harm to competition.[11] Carriers could also propose fares below the floor based on their own costs or special marketing needs; but the carriers would have to justify them, so that the Board could review them to insure that too rapid a transition to competitive pricing would not result in the inability of carriers in the market to provide adequate service to the public.[12] Finally, the Board tentatively decided to modify the joint fare prescriptions set forth in phase 4 [13] of the DPFI so that the maximum joint fares would be based upon the ceiling fares but in no event could exceed the actual sum of the local fares.

Direct and reply comments on the proposed rules have been filed by several certificated air carriers, an intrastate carrier, several Federal and state agencies, civic parties, airport authorities, trade associations, and a consumer organization. Also, the Board has heard oral argument on the various issues involved.[14]

Generally, most, if not all, of the commenters agreed with our tentative decisions to vacate the phase 9 finding prescribing minimum first-class fares;[15] and with our proposals to eliminate the use of the profit impact test in evaluating discount fares and the requirement that each expire at the end of 18 months or less. The positions of the commenters on the Board's proposal to convert the phase 9 formula fare into a ceiling and establish a "no suspend" zone below the ceiling, however, differed widely.[16] Some fully supported the policies as proposed in the notice;[17] others suggested various modifications such as a zone of fare flexibility above the ceiling;[18] or a narrower "suspend free" zone below the ceiling;[19] still others opposed the proposals on legal and policy grounds.[20]

We have examined these positions and arguments carefully. On the basis of this review, and our own analysis discussed in the explanatory statement accompanying the notice,[21] we have decided to adopt and make final the tentative findings and conclusions and proposed rules set forth in the notice with the following modifications.

First, as a logical consequence of our liberalized entry program, we will allow carriers in presumptively workably competitive markets [22] the flexibility to raise their fares up to 10 percent above the ceiling without submitting an economic justification. As with our downward zone, fares within this upward range would not be suspended on grounds of reasonableness except in the presence of extraordinary circumstances. We will, however, closely monitor this upward zone to prevent abuse.

Secondly, to encourage peak/offpeak pricing experiments, we will allow carriers operating in markets where two or three carriers are authorized to provide nonstop service the flexibility to raise their fares up to 5 percent above the ceiling on 110 days per year;[23] in monopoly markets, they will be able to raise their fares up to 5 percent above the ceiling on 58 days per year.[24] Also, carriers may be permitted to change peak fares above these levels as long as they are justified.[25] For offpeak periods, carriers will be allowed the flexibility to reduce their fares an additional 20 percentage points below the 50-percent floor, i.e., to a level 70 percent below the ceiling without submitting an economic justification.[26]

Finally, as noted, we are adopting policies leading to the elimination of the "point beyond" and "hidden city" fare construction rules now required to be used to construct joint fares.[27] Under these policies, carriers will be allowed the flexibility to increase joint

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Footnotes continued from last page

percent above the ceiling in individual markets without submitting an economic justification. Fares within this range would not be suspended absent extraordinary circumstances. Alternatively, the carriers would be allowed to raise their fares by 15 percent above the ceiling on 52 peak days of the year per market as chosen by the carrier.

[9] 14 CFR 221.165. Because a complaining party would not know all the reasons for a fare proposal until the proponent filed the answer to the complaint, we also proposed to modify our procedural regulations to allow the complaining party the opportunity to file a reply to the proponent carrier's answer.

[10] Fares that may be unjustly discriminatory or unduly preferential or prejudicial would still be subject to suspension on these grounds.

[11] To evaluate whether a suspension might be justified, the Board proposed using a four-part test similar to the one used by the courts in determining whether to grant a stay or preliminary injunction. Specifically, the complainant would have to make a strong showing that: (1) There is a high probability that the fare would be found to be unlawful after investigation; (2) there is substantial reason to believe it is predatory, so that allowing it to go into effect could create a substantial likelihood of immediate and irreparable harm to competition (as distinguished from the harm to an individual competing carrier); (3) such harm to competition would be more substantial than the injury to the travelling public if the proposed fare were unavailable; and (4) the suspension would not otherwise be contrary to the public interest.

[12] Carriers would be free to respond competitively to fare proposals of their competitors both within and outside the zone.

[13] Phase 4 (joint fares), order 74-3-80 (March 13, 1974), and order 74-12-108 (December 27, 1974). Also printed in CAB DPFI volume at p. 75. The current joint fare prescriptions are set forth in order 74-12-108, as modified by order 75-8-126.

[14] A complete list of those who submitted direct comments, reply comments or participated in oral argument is attached as appendix A. Also, a detailed summary of both the direct and reply comments is attached as appendix B.

[15] In oral argument, the MOC argued that the Board's ceiling adjustment formula should be revised to insure that lower first-class fares do not lead to higher ceiling coach fares (Tr. 183-184). As explained in the notice, however, the coach fare ceiling will not be significantly altered by our decision to allow the carriers flexibility in pricing first-class service.

[16] There was some confusion over the Board's proposed revisions to its joint fare policies, especially the method of division of joint fares based on the sum of the local fares. As further explained below, we never intended to prescribe a method of division for these joint fares, leaving it to negotiation between the carriers involved. To avoid any confusion, however, we will prescribe that in the absence of an agreement, each carrier should get its local fare as its share of joint fares based on the sum of the locals. Also, we are adopting policies leading toward the elimination of the "point beyond" and "hidden city" rules now required to be used to construct joint fares.

[17] See, e.g., the comments of the Las Vegas parties, the Seattle parties, ACAP, DOJ, and AIFS.

[18] Most of the carriers, as well as the DOT and FTC urged some form of upward fare flexibility; the FTC also suggested that no ceiling be established in workably competitive markets.

[19] See, e.g., the comments and oral argument of Delta, and the comments of Ozark, World, and ACTOA. Southwest urged that a lower floor be established for offpeak periods.

[20] See comments of Eastern and National.

[21] Except to the extent modified here, we incorporate this analysis by reference.

[22] We will define workably competitive markets as those in which four or more interstate and intrastate carriers are authorized to provide nonstop service on either an unrestricted or restricted basis.

[23] Thus, carriers in these markets will be able to charge peak fares on 2 days per week and have the incentive to provide additional capacity on the peak days surrounding various national holidays.

[24] Carriers in these markets will be able to charge peak fares on 1 day per week plus the peak days surrounding various national holidays.

[25] We will require that this justification include a showing that offpeak fares are available in the market.

[26] Of course, it is impossible to define a uniform offpeak period for the air transportation system. As a proxy for it, we will allow the carriers the discretion to offer fares down to this level on 40 percent of their total weekly available seat miles (ASM).

[27] A detailed explanation of these rules appears in app. C.

fares constrained by either the point beyond or hidden city rule by 5 percent per year for 2 years.[28] After this period, these rules will be eliminated.

These changes in our previously proposed rules, for the most part, involve limited expansion of the zone; but we believe that they are in harmony with our goal to reduce the normal fare level and our duty under section 1002(e) of the Act to insure adequate service at the lowest cost consistent with that service. The carriers should be able to improve their efficiency and to pass cost savings on to the consumer. A more detailed explanation of the reasoning underlying these modifications and the legality of the procedures we have used to adopt these new policies is set forth below.

B. THE BOARD'S AUTHORITY TO ADOPT THESE RATEMAKING POLICIES BY INFORMAL RULEMAKING

Several commenters have challenged the legality of the Board's use of nonhearing rulemaking procedures to develop these new policies.[29] They argue that due process, the Federal Aviation Act (Act) and the Administrative Procedure Act (APA), relevant case law, and the highly complex and controversial issues involved require that we hold full evidentiary hearings before adopting the proposed rule.[30]

We disagree. The informal rulemaking procedure we have employed is, in our judgment, the better method for resolving the policy issues involved here. At the very least, it is less time consuming and less costly than a full blown evidentiary investigation. And, as the Supreme Court has recently observed, administrative agencies have wide discretion to fashion suitable procedures for fulfilling their many responsibilities: [31]

> Absent constitutional constraints or extremely compelling circumstances, "the administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties." (Citations omitted.)

Even the fact that our current ratemaking policies were developed for the most part in trial-type proceedings does not bind us to those same procedures for modifying the policies or establishing new ones.[32]

We also reject the argument that an adjudicatory proceeding is necessary to satisfy the hearing requirements of section 1002(d), the relevant provisions of the APA;[33] or due process. The policy issues involved are simply not adjudicatory in nature, and do not require a trial-type hearing for their resolution. Indeed, this proceeding clearly meets the criteria the courts consider to be rulemaking.[34] First, it deals with the development of future ratemaking policies; and under the express terms of the APA, therefore, is defined as rulemaking.[35] Second, it involves the entire airline industry, not a particular carrier or carriers;[36] and, finally, the issues we are dealing with are legislative not adjudicative in nature;[37] they are the kinds of issues:

> * * * involving expert opinions and forecasts, which cannot be decisively resolved by testimony. [They are] the kind(s) of issue(s) where a month of experience is wroth a year of hearings. American Airlines, supra at 633.[38]

Clearly, this proceeding must be classified as a rulemaking; and, while we often conduct such proceedings using the trial-type procedures outlined in sections 556 and 557 of the

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[28] The carriers would be entitled to these increases in addition to the other allowed increases.

[29] They have also challenged the legality of the specific rules, especially the "no suspend" zone. We will deal with these contentions when discussing the particular policies involved.

[30] See, e.g., comments of Braniff, pp. 5-6 ("* * * rulemaking format precludes the kind of thorough consideration * * * which due process, simple concepts of fairness and the Federal Aviation Act require"); comments of Delta, p. 9 ("The Board's attempt to ignore recent history and, in fact, to erase it without opportunity for hearing are (sic) * * * open to serious challenge"); comments of Eastern, pp. 24-41 ("Without such a formal factual record, the Board cannot make certain that a court will regard the Board's conclusions as supported by 'substantial evidence in the record' "); reply comments of National, p. 1 ("* * * inconceivable to National that the Board would attempt to reach such final decisions without an oral evidentiary hearing on the factual consequences of the Board's pricing proposals * * *"); reply comments of Southern, p. 2 ("proper [legal] foundation cannot be laid in absence of a full evidentiary proceeding"); comments of World, p. 7 ("* * * what the Board is really doing is once again engaging in agency ratemaking without following the statutory procedures"); and ACTOA, p. 1 ("The Board has mechanistically walked through the rulemaking procedures prescribed by sec. 4 of the APA while ignoring the purpose of this law").

[31] *Vermont Yankee Nuclear Power Corporation* v. *Natural Resources Defense Council, Inc. et al.*, 98 S. Ct. 1197, 1211 (1978). See also *SEC* v. *Chenery Corp.*, 332 U.S. 194, 203 (1947) "[T]he choice made between proceeding by general rule or by individual ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency"); *American Airlines, Inc.* v. *CAB*, 359 F. 2d 624, 629 (D.C. Cir. 1966), cert. denied, 385 U.S. 843 (1966) ("rulemaking is a vital part of the administrative process * * * and * * * is not to be shackled, in the absence of clear and specific congressional requirement, by importation of formalities developed for the adjudicatory process and basically unsuited for pol- icy rulemaking"); *Federal Power Commission and City of Chicago* v. *FPC*, 458 F. 2d 731, 744 (D.C. Cir. 1971), cert. denied, 405 U.S. 1074 (1972) ("The ability to choose with relative freedom the procedure it will use to acquire relevant information gives the Commission power to realistically tailor the proceedings to fit the issues before it * * *.").

[32] *FPC* v. *Texaco*, 377 U.S. 33, 39, 44 (1964); Permian Basin Area Rate Cases, 390 U.S. 747, 790 (1968); *National Petroleum Refiners Ass'n* v. *FTC*, 482 F. 2d 672, 689 (D.C. Cir. 1973), cert. denied, 414 U.S. 11446 (1974); *Mobil Oil Corp.* v. *FPC* (Mobil I), 483 F. 2d 1238, 1251 (D.C. Cir. 1973); *Pennsylvania* v. *ICC*, No. 76-1558 (D.C. Cir. June 20, 1977), Slip Opinion at 25; Vermont Yankee, *supra* at 1211 n. 17.

[33] Secs. 553, 556, and 557.

[34] Generally, when a statute does not require adjudicatory proceedings, a court may insist upon one on due process grounds. Its determination of whether one is required usually involves a three-part analysis: (1) Whether the agency's determination will govern future action or judge past conduct; (2) whether the decision will single out a particular person or apply broadly to a class of persons; and (3) whether the primary issues involve policy questions more akin to legislative choices (legislative facts) or the resolution of disputed facts of the kind that go to a jury in a jury case (adjudicatory facts).

[35] Sec. 551(4) includes the following description in the definition of a rule: "The approval of a prescription for the future of rates * * *." Courts have adopted the validity of this classification despite the claim that certain rights established in a statutorily required adjudication are affected. See, e.g., *American Airlines, Inc.* v. *CAB*, 359 F. 2d 624, 628 (D.C. Cir.), cert. denied, 385 U.S. 843 (1966); *Law Motor Freight, Inc.* v. *CAB*, 364F. 2d 139, 142 (1st Cir. 1973).

[36] Even actions involving one or a few parties have been labeled rulemaking where, as here, broad principles are being developed. See, e.g., *U.S.* v. *Florida East Coast Railways*, 410 U.S. 224, 242 (1973); Law Motor Freight, *supra* at 143; K. Davis, *Administrative Law Treatise*, sections 5.02, 6.05 (1958). Also, the fact that under these policies some may suffer economically, does not require an adjudicatory hearing. A rulemaking is "valid even if its effect is to drive some operators out of business" (*American Trucking Association* v. *United States*, 344 U.S. 298, 322), or the results are "of immediate and grave economic import to petitioner" [*Willapoint Oysters, Inc.* v. *Ewing*, 174 F. 2d 676, 694 (9th Cir. 1949) cert. denied, 339 U.S. 860, rehear. den., 399 U.S. 945], or some "will be easily able to survive under these rules; some will not" [*Capitol Airways, Inc.* v. *CAB*, 292 F. 2d 755, 758 (D.C. Cir. 1961)].

[37] In describing the difference between legislative and adjudicatory facts, Professor Davis writes: Adjudicative facts usually answer the questions of who did what, where, when, how, why, with what motive or intent, adjudicative facts are roughly the kinds of facts that go to a jury in a jury case. Legislative facts do not usually concern the immediate parties but are generally facts which help the tribunal decide questions of law and policy and discretion. K. Davis, *Administrative Law Treatise*, section 7.02 (1958).

[38] See, also, *National Air Carrier Assoc.* v. *CAB*, 426 F. 2d 185 (D.C. Cir. 1970). (Anticompetitive effects of low-fare proposals may be dealt with through rulemaking); *Saturn Airways, Inc.* v. *CAB.*, 483 F. 2d 1284 (D.C. Cir. 1973) (traffic generation/diversion questions are properly dealt wth in informal rulemaking).

APA,[39] it is equally clear that we are not required to do so. The Supreme Court has limited this requirement to instances where the agency's statute specifically provides for a "hearing on the record."[40] Since section 1002(d) does not contain these words, the Board has the discretion to use either the notice and comment procedures of section 553 of the APA relating to rulemaking or a more formal method for developing its ratemaking policies.[41]

At the minimum, the Board may establish the policies by publishing a notice of the proposal in the FEDERAL REGISTER and providing all interested persons the opportunity for presenting their written views (section 553 of the APA).[42] In this proceeding, of course, we have gone far beyond what is minimally required, giving all persons a significantly greater opportunity to present their views. In an advanced notice of proposed rulemaking, we sought advice about the areas to be explored, and provided an opportunity for reply to the suggestions received. The notice of proposed rulemaking provided a second opportunity to submit direct and reply comments; and, finally, we attempted to maximize the benefits from oral presentations by holding panel discussions before the Board en banc.[43] This latter procedure permitted oral statements by interested persons followed by a give-and-take discussion among the panel members themselves and between the panel members and members of the Board. Thus, the due process rights of the commenters have been more than adequately protected.

Nevertheless, some have challenged the Board's informal rulemaking format as legally inadequate. World and ACTOA argue,[44] for example, that oral evidentiary hearings are necessary so as not to run afoul of the *Moss* doctrine.[45] Their reliance on *Moss* is, however, misplaced; for unlike the situation confronting the *Moss* court, the Board's action here does not involve using its suspension powers for the detailed prescription of fares, thereby leaving the carriers little choice over what to file. If anything, the carriers will have greater flexibility to set their own fares than they have now. Moreover, the ex parte proceedings condemned in *Moss* as a violation of the Act are not present here. These policies have been developed under procedures which gave all members of the public three opportunities to present their views to the Board. Thus, these commenters' reliance on *Moss* "merely emphasizes by comparison the weakness of their argument."[46]

Eastern challenges the informal rulemaking procedures used here by arguing that the "notice and hearing" provisions of section 1002(d), when read in the light of the "substantial evidence" judicial review standard of section 1006 of the act, require a full-scale adjudicatory type proceeding.[47] We cannot accept the inflexibility implied by this reading of the statute. To do so would seriously hamper our discretion to fashion suitable procedures for developing policies in an expeditious and efficient manner. Moreover, this argument is contrary to the clear trend of judicial opinion greatly expanding agencies' flexibility in their choice of procedures.[48]

Eastern points to language in several cases as supporting its thesis.[49] They are, however, simply inapposite. For instance, Eastern cites the *American Airlines, Delta Air Lines,* and *Pillai* cases as showing that courts favor trial-type safeguards in agency proceedings. But the *American* court emphatically approved the informal rulemaking procedures used by the Board;[50] the *Delta* decision dealt with the Board's tariff rejection powers; and, while the *Pillai* court vacated the Board order being reviewed as unsupported and remanded the case for further proceedings, it never reached the question of whether the Board should be required to use trial-type procedures in the remanded proceeding.

Admittedly, in the *Mobil I* decision, also cited by Eastern, the Court implied that in highly controverted informal rulemaking proceedings, something more than written submissions was needed to satisfy the substantial evidence test.[51] But the court did not accept the notion that a full-blown adjudicatory proceeding using the procedures outlined in sections 556 and 557 of the APA was required;[52] and this implication has been explicitly rejected by another panel in the D.C. circuit.[53]

In any event, Eastern has confused the nature of this proceeding as one involving disputed issues of fact subject to the substantial evidence test. As noted, it deals with legislative type policy judgments which are based upon our interpretation of certain fac-

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[39] Trial-type procedures were employed in six of the nine phases of the *DPFI.*

[40] *U.S.* v. *Florida East Coast Railway Co., supra; U.S.* v. *Allegheny-Ludlum Steel Corp.,* 406 U.S. 742 (1972).

[41] We emphasize also that the Board's authority to use informal rulemaking procedures is supported by section 204 of the Act which empowers the Board "* * * to make and amend such general or special rules, regulations and procedure * * * as it shall deem necessary * * * to perform the * * * duties under this Act." *City of Chicago* v. *FPC, supra* at 743-744; *Phillips Petroleum* v. *FPC,* 475 F. 2d 842, 848-849 (10 Cir. 1973); *Mobil Oil Corp.* v. *FPC* (Mobil II), 479 F. 2d 130, 138-139 (D.C. Cir.), cert. denied, 412 U.S. 931 (1972); *U.S.* v. *Southwestern Cable Co.,* 392 U.S. 157, 178-181 (1968); *Washington Utilities and Transportation Commission* v. *FPC,* 513 F. 2d 1142, 1165 (9th Cir.), cert. denied, 423 U.S. 836 (1975). Similarly, any agency may develop general policies in rulemakings which then are used in adjudicatory proceedings. *U.S.* v. *Storer Broadcasting,* 351 U.S. 192 (1956); *FPC* v. *Texaco,* 377 U.S. 33, 39 (1964).

[42] In the notice, the Board required any commenter who requested an evidentiary hearing to specify in detail the issues which the commenter felt could not be adequately resolved by written comment. Only Eastern, National, and Southern attempted to provide that information. However, the so-called factual issues they submitted—such as, the basis for a finding that less Government regulation can better serve the traveling public (Eastern's comments, p. 38); the type of air transportation industry the Board expects to evolve under these policies (National's reply comments, p. 3); and the effects of price competition on smaller carriers (Southern's rely comments, p. 2)—involve policy-type judgments and are incapable of meaningful consideration in an oral evidentiary proceeding. Clearly, there is no impediment to resolving them on the basis of written submissions.

[43] We note that our procedures are similar to those recommended by the Administrative Conference of the United States for informal rulemakings to provide additional procedural protections beyond the ones in section 553. 1976 Report of the Administrative Conference of the United States (March 1977) at pp. 43-45.

[44] World's comments, p. 7; ACTOA's comments, p. 2.

[45] *Moss* v. *CAB,* 430 F. 2d 891 (D.C. Cir. 1970).

[46] *National Association of Motor Bus Owners* v. *FCC,* 460 F. 2d 501 (2d Cir. 1972) at 556. See also *United States* v. *Students Challenging Regulatory Agency Procedures (SCRAP),* 412 U.S. 669, 693 n. 17 (1973); *Mobil Alaska Pipeline Co.* v. *U.S.,* 557 F. 2d 775, 782-783 (5th Cir. 1977), aff'd. 46 U.S.L.W. 4587 (June 6, 1978).

[47] Comments of Eastern, pp. 24-31. See also comments and reply comments of National.

[48] Vermont Yankee, *Supra; FPC* v. *Transcontinental Gas Pipe Line Corp.,* 423 U.S. 326 (1976); *Federal Communications Commission* v. *Schreiber,* 381 U.S. 279 (1965); and Permian Basin, supra.

[49] *American Airlines* v. *CAB, supra; Delta Air Lines, Inc.* v. *CAB,* 593 F. 2d 247 (D.C. Cir. 1976); *Pillai* v. *CAB, 485 F. 2d 1018 (D.C. Cir. 1973); Mobil Oil* v. *FPC (Mobil I), supra;* and *Moss* v. *CAB, supra.* As discussed earlier, any reliance on *Moss* is misplaced.

[50] The procedures approved of by the *American Airlines* court were similar to those we have used here including the opportunity for all interested persons "to present their positions to the Board through oral agruments as well as written data, views and rebuttals." *American Airlines, supra* at 626.

[51] *Mobil Oil* v. *FPC, supra* at 1254, 1258-1260.

[52] Id. at 1250.

[53] Second National Natural Gas Route Cases, No. 76-2000, et al., slip opinion at 100-101 (D.C. Cir. June 16, 1977) ("In our view, however, this (substantial evidence) requirement found in the judicial review provision of the act, does not dictate the procedure to be followed, or the nature of the hearing to be held.") See also *Federal Communications Commission* v. *National Citizens Committee for Broadcasting,* 96 S.Ct. 2096, 2116 (June 12, 1978).

tual material and experience under the DPFI. Obviously, Eastern's real complaint is with this intrepretation; however, "a theory of ratemaking must be reasonably explained, and supported, but it is not subject to the same substantiation principle as the substantial evidence test applicable to factfinding. 'Although this is a finding, it is in the area of prediction and projection as to which particular latitude is afforded the agency.'" (citation omitted) *Continental Airlines, Inc.* v. *CAB*, 551 F. 2d. 1293, 1301 (D.C. Cir. 1977). Because our procedures were more than the minimum called for under section 553 of the APA and we have fully explained the reasons for our action, we cannot accept the argument that this proceeding runs afoul of the principle of *Mobil I.*

We also reject the contention espoused by Eastern and other commenters that an evidentiary hearing is necessary because we are updating the record in the DPFI, which was itself developed in adjudicatory type proceedings.[54] The fact that our DPFI policies were developed in evidentiary type proceedings does not bind us to those procedures for changing those policies.[55] Moreover, the characterization of this proceeding as merely a continuation of the DPFI is wrong; it is a separate proceeding and is based upon our continuing evaluation of the competitive nature of the airline industry and the effectiveness of our DPFI policies.

Finally, we establish our policies reflecting the Board's current view of the public interest standards of the act (section 102), exercising our general rulemaking authority under § 204. We intend to apply these policies with regard to particular pricing situations as they are presented to us. This approach has been approved recently by the Supreme Court in a case involving similar statutory provisions under the Federal Communications Act: [56]

> * * * [I]t is now well established that this general rulemaking authority supplies a statutory basis for the Commission to enact regulations codifying its view of the public interest standard, so long as that view is based on consideration of permissable factors and is otherwise reasonable.

* * * * *

It is clear that the regulations at issue are based on permissable public interest goals and, so long as the regulations are not an unreasonable means for seeking to achieve these goals, they fall within the general rulemaking authority.

In sum, the Board has not erred by using its rulemaking powers to consider the issues involved here. Indeed, we are effectuating our statutory responsibilities, rather than abrogating them, by using the most suitable procedure to resolve the issues before us promptly and efficiently. Therefore, we reject the notion that a rulemaking proceeding of this type is improper or even undesirable.

C. The Board's New Ratemaking Policies

1. INTRODUCTION

Our primary objective in this proceeding is the development of a regulatory climate in which carriers will be able to compete in normal fares relatively free from government intervention. While "the possible benefits of (price) competition do not lend themselves to detailed forecast," [57] it cannot be disputed that price competition is the most effective way to encourage efficient operations and provide for the needs of consumers.

The policies we adopt here are designed to encourage this competition by placing the pricing decisions and the consequences of those decisions back where they belong—in the marketplace and hands of carrier management. The Board will no longer dictate the exact normal fare level for all markets; we will, however, prevent excessive fares in those markets where competition is an insufficient check and insure that the new pricing freedom does not lead to inadequate service or predatory behavior.

Some of these policies are controversial, with several commenters raising objections to them. Also, they have produced a great deal of speculation about what changes in the air transportation system will result from their adoption. We, of course, cannot know exactly what will happen; but this much is clear: the ratemaking principles we now establish are not radical; they are, to a large extent, a codification of our current fare policies, which we have been developing during the past year. Nor will these policies destroy the air transportation system; indeed, our current policies have helped create a rather healthy group of air carriers.[58] And, finally, the adoption of these policies is essential, if we are to achieve our goal of producing a more freely competitive air transportation industry. We now turn to a discussion of the policies themselves, focusing on the objections raised against them and the modifications we have made after considering the written comments and oral arguments.[59]

2. CEILING FARE POLICY

a. *Fare uniformity.* The major regulatory obstacle to market-by-market normal-fare competition is the Board's decision in phase 9 that carriers establish an inflexible normal-fare structure for coach service using industry average costs by length of trip on a formula basis.[60] This requires identical fares for all markets by equal distance; and a proposed reduction of normal coach fares in a particular market must be rejected even if it is cost justified.[61] While this requirement is designed to treat passengers moving at various distances equally, it severely restricts competition in normal fares. We therefore proposed in the Notice to eliminate this uniform fare requirement.

Our proposal was supported by most of the commenters. Only Eastern favored continuation of the current system, arguing that the abandonment of fare uniformity would produce inequitable results.[62] According to Eastern, only passengers in high volume markets would benefit from the elimination of this requirement, while passengers in other markets would receive a lower quality of service at higher

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[54] Comments of Eastern, pp. 32-36; comments of National, p. 2; reply comments of Southern, pp. 6-7. Eastern cites three cases as standing for the proposition that the Board cannot selectively update the record in evidentiary proceedings without allowing the parties to test that evidence through cross examination. Since the cases cited involve licensing proceedings, they are clearly distinguishable from the ratemaking proceeding.

[55] See p. 11, n. 32.

[56] *F.C.C.* v. *National Citizens Committee for Broadcasting, supra* at 2111-2112.

[57] *F.C.C.* v. *RCA Communications, Inc.*, 346 U.S. 86, 96 (1953).

[58] A comparison of the financial results for the first 5 months of 1977 and 1978 show that the system operating profits for the trunkline carriers increased over 500 percent. We also note that the results of a recent survey conducted by Business Week Magazine show that the airlines' return on common equity for the 12 months ending June 30, 1978, was among the highest of all the industries surveyed. Business Week, August 21, 1978.

[59] As discussed above, no one specifically disagreed with our proposal to vacate the phase 9 prescription of minimum first-class fares and our decision to remove the requirements that discount fares be justified on the basis of the profit impact test and contain an expiration date not to exceed 18 months. No further discussion of these issues therefore is necessary.

[60] The formula is cost related, producing fares below industry average costs (as computed by the Board) in short-haul markets and fares above these costs in long-haul markets.

[61] The only permissible lower fares under this system are either restricted selective discounts or are tied to a wholly new class of service, e.g., off-peak, higher density seating, or no-frill. Of course, a carrier can seek an exemption from this phase 9 requirement if it desires to engage in price competition by offering lower normal fares in a particular market. This was the strategy employed by Western in its Miami-Los Angeles market (order 78-3-106, March 23, 1978). But this procedure is both cumbersome and costly, stifling the carriers' incentives to engage in normal-fare price competition.

[62] Eastern's comments, p. 16. Apparently National and Allegheny also favored retention of the fare uniformity requirement. But neither advanced any specific argument to support its position.

fares than they now receive. Thus, anomalies would result, severely disrupting the integrated nature of the air transportation system.

This argument is unpersuasive. Indeed, it ignores the fact that the requirement of fare uniformity imposes a harsh penalty on both passengers and carriers. Because it restricts price competition, passengers are denied the opportunity to pay the lowest fares consistent with the cost characteristics of each market and each individual carrier. They are denied also the benefit of the incentive price competition would give carriers constantly to improve their efficiencies. Carriers are denied an important tool—price—with which to improve their market shares and are forced instead to compete for passengers on the basis of schedules and amenities.

Eastern overlooks those rather egregious defects of the current system, choosing instead to concentrate on the equity it assertedly serves. However, it is the elimination of the fare uniformity requirement, rather than its preservation that should contribute to equity, since fares will be based on the actual costs in particular markets rather than on broad industry averages. Eastern's argument in favor of maintaining the status quo, therefore, is without merit, and we have decided to adopt our proposal vacating the fare uniformity requirement of phase 9.

b. *Establishment of ceiling fares.* We have decided also to make final our tentative decision establishing ceiling fares in all markets. Where entry into an industry is restricted, as it is here, price ceilings are necessary to protect the public from monopolistic and oligopolistic overcharging.

The Board, of course, is developing new policies easing the currently severe restrictions on the ability of new and existing carriers to enter and leave markets. Although these policies are just now evolving, some commenters are apparently already prepared to proclaim the industry "workably competitive." These commenters, therefore, oppose the establishment of ceilings, except in monopoly markets, as unnecessary.[63]

Undoubtedly, certain markets may now be workably competitive. We will therefore allow the carriers some upward fare flexibility in those markets that can reasonably be so characterized, partly to show that we fully intend to relax our regulatory controls over price increases as we move toward freer entry. Just as our goal is eventually to eliminate price ceilings as markets become sufficently competitive, so it is logical to take at least a modest step in that direction in markets that it seems may already approximate that standard. At this point, however, we are not prepared to allow the carriers unfettered discretion to raise fares in all markets for the simple reason that there remain substantial residues of monopoly power, which this would leave them free to exploit.[64] Our entry program is still under development,[65] and significant procedural barriers to quick and easy entry still exist. Under section 401 of the act, new and existing carriers wishing to enter new markets must first apply to the Board, and we must then process those applications. Those commenters who argue against the establishment of ceilings would have us ignore these facts; announce that this industry is workably competitive (except in monopoly markets); and remove all regulatory controls over fares. Consistently with our statutory obligation to protect the public, we must closely coordinate our fare and entry policies, as we move from a highly regulated industry to a more freely competitive one; and until we are satisfied that competitive restraints are fully installed, we must impose price ceilings in all markets.

c. *Methodology For Computing Ceiling Fares.* Having decided to impose a fare ceiling in all markets, the next question is how to compute it. In the Notice, the Board tentatively decided to use the current phase 9 fare formula, adjusted by the Board's fare level standards. Although we announced that we would reexamine this ceiling in the second phase of this rulemaking, we felt that its use in the interim was reasonable. Carriers would be able to charge the same fares they are entitled to today under our present fare policies; and passengers would be protected by maxima no higher than the current fare level.

Among the commenters, the Departments of Justice and Transportation, ACAP, and several of those representing civic interests support our tentative decision. On the other hand, most of the carriers oppose it; and while their arguments differ, they all revolve around the same basic theme:[66] The DPFI ratemaking standards and phase 9 fare formula are incompatible with a system of fare flexibility. The ratemaking standards, especially the discount fare adjustment, stifle competition by penalizing innovators. Moreover, the fare formula was never designed to serve as the topside of the fare curve; rather it is based upon industry average costs in both high- and low-cost markets, and together with the Board's "artificial" ratemaking standards produces short-haul fares below and long-haul fares above their respective average costs. Under the Board's present policies, the industry is in a position to recover its costs since long-haul fares cross subsidize service in short-haul markets. Under the new policies, this cross-subsidy would disappear; carriers would reduce their long-haul fares closer to costs while the ceiling would prevent them from increasing their short-haul fares to costs.

These carriers contend, therefore, that our proposal to use the DPFI formula to establish ceiling fares would unlawfully and unfairly deny them the opportunity to earn an adequate overall return, and several have suggested alternatives or modifications to it. For instance, United proposes that the Board simply eliminate all of the DPFI ratemaking standards (except those established in Phases 1, 2, and 3) and instead compute a "standard industry fare level" for each market based upon the actual industry average costs per ASM.[67] Delta suggests that the Board use the DPFI rate of return standard of 12 percent to judge the lawfulness of fare proposals; however, it agrees with United that the remaining DPFI standards (except those established in Phases 1, 2, and 3) should be abolished.[68] Eastern argues that if the DPFI fare formula is converted into a ceiling, then the Board must first calculate the fare level without any discount fare adjust-

[63] See Comments of American, p. 4; Comments of Braniff, p. 2; Oral Argument of Delta, TR. 111. TWA argues that ceilings are incompatible with the Board's rationale for downward fare flexibility, Comments, p. 27; the FTC argues that ceilings are not in the public interest, Comments, pp. 13-17. Other commenters point to the competitive nature of the industry and the developing entry program as justification for upward fare flexibility. See Comments of Eastern, p. 18; Comments of United, pp. 7-11. On the other hand, Seattle, Las Vegas, California, ACAP and DOJ support the establishment of ceilings in all markets.

[64] Several commenters expressed concern about this very possibility. See, e.g., Reply Comments of World; Oral Argument of Continental, TR. 116.

[65] We observe that, paradoxically, some of those who oppose our ceiling fare policy in this proceeding also oppose our entry policies. This combination of views is indefensible.

[66] See Comments of Braniff, pp. 4-5; Oral Argument of Continental, TR. 114; Oral Argument of Delta, TR. 111; Comments of Eastern, pp. 16-17; Comments of National, pp. 5-6; Comments of TWA, pp. 30-34 and Reply Comments of TWA, pp. 16-17; Comments of United, pp. 4-7; and, Comments of Allegheny, p. 2. Frontier, Ozark, and Southern apparently do not oppose using the DPFI as a ceiling but argue that some upward flexibility is required.

[67] United also suggests that "a zone of reasonableness" around this level be created permitting upward fare flexibility of five percent and downward flexibility of 50 percent.

[68] Delta also suggests that the Board adopt two policies regarding fare regulation. First, it would have us look critically at any fare proposal which departs significantly from the rule of equality. Secondly, the Board would be receptive to adjustments in basic fares either up or down within a certain range (TR. 62-63).

ment.[69] As a final example, TWA suggests that the Board remove what it sees as the unfairness in the current fare formula by making a one-time adjustment in the maximum fare level to permit the recovery of a fair rate of return.[70]

We have decided to adopt our tentative proposal to use the phase 9 formula, as adjusted by the Board's fare level standards, for establishing maximum fares. We recognize that this formula, being based on average costs, was never designed to serve as a ceiling in a system of fare flexibility. We also do not ignore the fact that this formula purportedly produces fares below industry average costs in short-haul markets.[71] Nevertheless, in our judgment, it establishes fares in most markets high enough to enable the carriers to provide adequate service and earn an adequate return. There are several bases for this judgment. First, there is no scarcity of applicants willing to provide service in markets in all mileage blocks, some proposing fares significantly below the DPFI level.[72] This supports the inference that these fares, set at average costs, are typically well above the costs of efficient operations. Second, for all distances beyond 500-700 miles, the DPFI fares were designedly set above fully distributed costs—progressively so as distance increases. Third, for the shorter hauls, we will continue to permit local service carriers, who for the most part serve these markets, to price their services in a zone ranging up to 130 percent above the coach fares produced by the phase 9 formula. Fourth, the overall load factor standard of 55 percent, on which these fares are based, is rather low. Carriers in higher cost markets or where yields fall below the ceiling, therefore, can raise load factors in order to recover their costs.[73]

Finally, we are not establishing a rigid ceiling. Carriers will be able to charge fares above it where they can demonstrate higher costs; and, as we will discuss in the next section, we will allow the carriers some additional limited flexibility to raise fares above the ceiling without the likelihood of suspension.

For these reasons, we see no need to adopt any of the fare level proposals of the carriers, all of which would significantly increase the permissible maximum fares. We especially do not believe it necessary to remove the impact of the discount fare adjustment before establishing ceiling fares.[74] Essentially, the carriers' argument for removing its impact is that the discount fare adjustment penalizes them for offering discount fares, thereby inhibiting them from doing so. But this argument has no basis in reality as the great many discount fare offerings over the past year demonstrate. In principle, all the discount fare adjustment does is to raise the load factor the carriers must achieve in the aggregate to earn their target return. Also, since the method we will use for updating the ceiling will be based on costs alone, changes in the ceiling will no longer be affected by the introduction of discount fares.

d. *Fare Flexibility Above the Ceiling.* The most controversial issue in this proceeding, and the one that has given us the most difficulty, is the question of upward fare flexibility. As discussed in the Notice, the Board recognized the force of the argument that in a more competitive environment, some prices must be free to rise as others fall. But we felt that regulatory restraints on price increases were necessary to prevent the carriers from raising coach fares to unreasonable levels in markets where the Board's past entry policies have given them market power. Our maximum ceiling fare proposal, under which we would suspend any coach fare filed above it, but with exceptions permitted on justification, was designed to balance these conflicting considerations.

In addition, we requested comments on the desirability of allowing carriers the flexibility to raise fares above the ceiling in order to assure them sufficient incentive to provide adequate service, especially during peak periods. We suggested two alternatives. Under the first, they would have the discretion to raise their fares by five percent above the ceiling in individual markets without submitting an economic justification. Fares within this range would not be suspended except in extraordinary circumstances. Alternatively, they would be allowed to raise their fares by 15 percent above the ceiling on 52 peak days of the year per market, selected at their discretion.

The positions of the commenters on the issue were divided. California, the Las Vegas Parties, the Seattle Parties, ACAP and DOJ opposed any flexibility above the ceiling.[75] Most of the carriers, as well as the FTC and DOT, favored some form of upward fare flexibility.[76] Their argments were predictable: The opponents believe that entry is not sufficiently liberalized to check monopolistic abuses; the proponents argue that costs vary significantly by market and because the phase 9 formula is based on average costs, it is logical that in some market costs will be above that level; and they also assert that for the Board to permit deviations from the average only on the downside would be to deny them an opportunity to earn the fair return embodied in that average.[77]

The Board concludes that the carriers should be allowed some discretion to raise their fares above the ceiling without first seeking our approval. Essentially, there are two reasons for our decision.

First, in unregulated, competitive industries, the responsibility for pricing decisions, both up and down, is placed in the hands of individual firms and the marketplace, where it belongs. Firms setting prices above costs may encourage new companies to enter the field, offer the same product at a more reasonable price and capture a share of the market. By the same token, price competition will force companies to improve their efficiency or be driven from the market. In other words, in competitive industries, firms will be penalized for unreasonable pricing strategies or inefficient operations.

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[69] See also, Comments of Continental, pp. 2-4.

[70] Alternatively, TWA argues that if the Board adopts a rigid ceiling fare policy, it should be based on the costs incurred in higher cost markets.

[71] The fare curve intersects the trip basis cost curve somewhere between 500 and 700 miles; it intersects the non-stop cost curve at approximately 250 miles.

[72] Chicago-Midway Low-Fare Route Proceeding (Docket 30277), Opinion and Order 78-7-40 (July 14, 1978); Transcontinental Low Fare Route Proceeding (Docket 30356); California-Nevada Low Fare Route Proceeding (Docket 31574); Miami-Los Angeles Low Fare Case (Docket 31976); and Baltimore/Washington-Houston Low Fare Route Case (Docket 31870).

[73] Seattle has suggested that this alternative would be preferable to increased fares (TR 204-205).

[74] To do so would result in a fare increase of about three percent.

[75] Comments of California, pp. 7-8; Oral Argument of Las Vegas (TR. 81); Reply Comments of Seattle, pp. 2-5; Comments of ACAP, pp. 5-6; and Oral Argument of DOJ (TR. 16-17). Also, World apparently believes that upward flexibility should not be allowed since it would allow carriers to cross-subsidize low-fare competition by above-cost fares in other markets. Reply Comments of World, p. 2.

[76] See, e.g., Comments of American, pp. 7-11; Comments of Braniff, p. 2; Comments of Continental, pp. 4-6; Oral Argument of Delta, TR. 62-63; Comments of Eastern, pp. 20-23; Oral Argument of National (TR. 123); Reply Comments of TWA, pp. 16-17; Comments of United, p. 2; Comments of Frontier, p. 2; Comments of Ozark, pp. 2-3; Comments of Southern, pp. 2-3; Comments of FTC, pp. 13-17; and Comments of DOT, p. 6.

[77] The FTC takes a somewhat different approach, arguing that three or more carrier markets are "workably competitive" and do not require maximum fare regulation. It suggests, therefore, that the Board adopt a so-called "bright line" test to determine whether to relax regulatory controls over price increases either completely or partially. Carriers in "workably competitive" markets would not be subject to ceiling fares or at the very least would be given additional discretion to raise and lower fares. In other markets, ceilings would be imposed; but the FTC believes that in these markets upward fare flexibility is also desirable.

As our entry program develops and we move over time toward easing entry, we expect that most markets will become workably competitive. Carriers in them will begin to behave like their counterparts in competitive industries; they will be required to maintain reasonable prices and improve efficiency or face immediate competition from lower cost carriers. Thus, the imposition of ceilings in those markets will become unnecessary and, as we stated in the notice, we will begin allowing upward pricing flexibility.

The development of our entry policies will, of course, take time; but we see no need to wait until they are finally established and working to begin easing constraints on upward pricing. Our entry and pricing programs should evolve together, and as we authorize more carriers to enter particular markets, we should begin easing upward pricing restrictions in them. As we have already observed, if we intend to permit upward pricing flexibility as, over time, markets become effectively competitive, it is logical that we do so in markets that have already achieved that status. This will have the additional advantage of permitting us to observe how prices behave in these circumstances and test the validity of the criterion of competitiveness that we apply.

The second reason for permitting some upward pricing flexibility is to encourage the carriers to develop peak/off-peak pricing schemes. Although charging all passengers the same average fare has the appearance of fairness, it is both economically discriminatory and inefficient. It costs more to supply users at the peak than off-peak. Passengers flying during peak periods, therefore, should be required to pay these higher costs; otherwise, off-peak passengers will be forced unfairly to subsidize peak period travelers.

Higher prices at the peak will, or course, cause some passengers to shift to off-peak periods, reducing peak period demand and costs. By the same token, demand in off-peak periods will rise, increasing utilization of capacity, thereby reducing unit costs in these periods. Thus, peak/off-peak pricing plans will enable the carriers to reduce their overall costs and, with our policies promoting competitive pricing, they will be able to pass those cost savings on to all passengers.

The rule has been carefully designed to balance the desirability of allowing upward flexibility with the fact that barriers to entry into this industry still exist. Specifically, carriers in markets that appear to be workably competitive will be permitted to establish fares up to 10 percent above the ceiling without submitting an economic justification. As with our downward zone, fares within this upward range will not be suspended on grounds of the reasonableness of the level absent extraordinary circumstances. To be as conservative as possible, we will define workably competitive markets as those in which four or more interstate and intrastate carriers are authorized to provide nonstop service, either on an unrestricted or restricted basis.[78] In markets where two or three carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, we will allow carriers to establish fares up to five percent above the ceiling on 110 days per year;[79] and in monopoly markets, carriers will have the discretion to establish fares up to five percent above the ceiling on 58 days per year.[80] Finally, upon proper justifiation,[81] carriers will be able to charge peak fares above these levels.[82]

We will, of course, closely monitor the behavior of prices in this upward zone; but we conclude that upward pricing flexibility is necessary, both as the consequence of our policy of moving this industry into a more competitive environment and as a means of encouraging the carriers to develop more efficient pricing schemes, thereby helping us achieve our goal of reducing the overall normal fare level.

e. *Adjustment of the Fare Ceiling.* The last aspect of our ceiling fare policy requiring discussion is the method we will use to adjust the ceiling for changes in costs. As we stated in the Notice, the current method of comparing revenues (adjusted to remove discount fare dilution) with expenses (adjusted to reflect load factor, seating, utilization and depreciation standards) to determine whether a fare increase is needed is not adaptable to a system of fare flexibility without undue complication.[83] We therefore proposed to adjust the ceiling on the basis of changes in costs alone, adjusted for ratemaking standards. We found that this method would produce approximately the same results as the current one, achieving them in a far less complex fashion.[84]

Only a few commenters discussed this issue; and they generally opposed our proposed method.[85] For instance, Eastern argues that the Board's decision to update the ceiling on the basis of costs alone is inconsistent with section 1002(e)(5) of the act, which enjoins us to consider the "need of each carrier for revenue." [86] Similarly, California urges us not to ignore carrier revenue in adjusting the ceiling, suggesting that increases in the ceiling fare levels be based on the cost of service and revenue needs of the particular carriers involved.[87] United suggests that the Board adjust the fare level in each market on the basis of unadjusted costs per ASM excluding any rate of return element,[88] while Delta asks us to abolish the DPFI fare level standards of load factor, seats and utilization and judge the reasonableness of carrier-initiated fares on the basis of the 12 percent DPFI rate of return standard.[89]

The Board has decided to adopt the updating technique proposed in the notice. It is a relatively simple method, well suited to a system of fare flexibility. And, as noted, it produces approxi-

[78] See appendix D for an illustrative list of these markets. The number and identity of these markets will, of course, change over time. Those carriers who have fill-up authority only or cannot carry local traffic will not be counted. We have decided to include intrastate carriers in our definition because it is the total number of scheduled carriers in a market, not merely the number of federally certificated ones, that determines whether or not the market is workably competitive.

[79] Carriers will therefore be able to charge peak fares on two days per week and on the peak days surrounding various national holidays.

[80] Thus, carriers in these markets will be able to charge peak fares on one day per week plus the peak holidays surrounding various national holidays.

[81] This justification should include a showing that off-peak fares were available in the market. However, we reject as unworkable the suggestion of California that a carrier offering a peak fare above the ceiling be required to offer an off-peak one below the ceiling so that the average is the ceiling fare. Adopting this proposal would destroy the very flexibility the rule is designed to achieve and would entangle the Board in a regulatory web of traffic projections, weightings and peak/off-peak definitions (TR. 23-24).

[82] Of course, carriers will be able also to offer fares above the ceiling or any of these upper levels when they can demonstrate higher costs. The 130 percent zone for local service carriers will be based upon ceiling fares, not these new upper limits.

[83] The only way it could be used would be to compute hypothetical normal revenues in each market where carriers' fares are below the ceiling or by making ad hoc adjustments to the load factor standard to reflect the higher load factors in reduced fare markets.

[84] This would be true as long as the relationship between the average full-fare yield and average ceiling fare stayed the same. When the relationship changes, use of the old adjustment method would lead to change in the ceiling. This would be a distortion, because we intend the ceiling to reflect the costs of providing adequate air service, not the pricing behavior of the providers.

[85] Continental states that it would prefer having the economy fare treated through ad hoc adjustments to the load factor standard but is willing to accept our conclusion that our method will achieve the same results.

[86] Comments of Eastern, pp. 20-21.

[87] Comments of California, pp. 6-7.

[88] Comments of United, p. 3; Oral Argument of United, TR. 168.

[89] Oral Argument of Delta, TR. 61-62.

mately the same result as the rather complex approach used today. Nor is the fact that we will base increases on costs alone at odds with section 1002(e)(5) of the act. Our updating technique is not confiscatory; indeed, carriers will continue to enjoy the same opportunity they now have to charge fares high enough to recover their costs reasonably incurred plus a 12 percent return on investment.

3. FARE FLEXIBILITY BELOW THE CEILING

a. *Legality of the "Suspend-Free" Zone.* In addition to eliminating the uniform fare requirement of Phase 9, the major change in our ratemaking policies proposed in the notice was the creation of a "suspend-free" zone ranging to 50 percent below the ceiling fare level. Under this policy, carriers would be free to either lower or raise their fares within the zone without submitting the data now required by our economic regulations (14 CFR Parts 221-165) to justify them; and fares would not be suspended on grounds of the reasonableness of the level,[90] unless a complainant could demonstrate that the injury to competition from allowing the allegedly uneconomic fares to be effective during investigation was greater than the injury to the traveling public from depriving them of the benefit of the reduced fares.[91] In order to make this demonstration and secure the suspension of a fare, the complainant would have to show: (1) That there was a high probability that it would be found to be unlawful (i.e., that the complainant would prevail on the merits) after investigation; (2) that there is a substantial reason to believe it is predatory, so that allowing it to go into effect could create the substantial likelihood of immediate and irreparable harm to competition (as distinguished from the harm to an individual competing carrier); (3) that such harm to competition would be more substantial than the injury to the traveling public arising from the unavailability of the proposed fare; and (4) that the suspension would not otherwise be contrary to the public interest.[92]

As explained in the notice, the zone would remove several of the direct impediments to normal-fare competition, at least over a limited range. Carriers would no longer have the burden of justifying their fare proposals in advance to the Board, revealing their pricing strategies and analyses to their competitors. And carriers would no longer face the threat of suspension of reduced fares on level grounds, unless the fares presented an immediate and irreparable danger to competition.

Most of the commenters generally support our proposal to establish a "no-suspend" zone,[93] although some have suggested certain modifications.[94] A few, however, challenge both the wisdom and legality of various aspects of it, particularly our proposal eliminating the requirement that fares be accompanied by an economic justification and our proposed suspension standard. These arguments, however, are without merit and clearly do not prevent us from adopting the proposals.

For example, ACTOA argues that the elimination of fare justifications violates the burden of proof provision of section 556 of the APA.[95] According to it, this burden would shift from the proponent of a fare to the complainant, who would have the responsibility for showing that a fare is unreasonable.[96] But complainants have this responsibility today; they must show why a particular fare proposal may be unlawful and should be suspended pending investigation. Similarly, in an evidentiary investigation, while a proponent of a fare has the burden of producing all the evidence in its possession on the issue of lawfulness,[97] an opponent must rebut that evidence, demonstrating that the fare is unlawful.[98] Thus, the elimination of fare justifications will not shift the relative evidentiary burden between the parties.

It will, however, relieve the carriers of the burden of attempting to predict the results of innovative fare proposals to the Board's satisfaction; and it will relieve them also of an unnecessary burden since experience over the past year has shown that fares within the zone are economically viable in scheduled operations without any deterioration in service to the traveling public.[99] We would abdicate our public interest responsibilities by refusing to change policies which experience and our continuing evaluation of the airline industry have taught us are no longer needed. Indeed, "[o]ne of the most significant advantages of the administrative process is its ability to adapt to new circumstances in a flexible manner."[100] Thus, we have decided to adopt our tentative finding in the notice eliminating the requirement for filing economic justifications for fares within the zone.[101]

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[90] Fares that may be unjustly discriminatory or unduly preferential or prejudicial would still be subject to suspension on those grounds.

[91] If this demonstration was not made, the Board would nevertheless consider whether the fares should be investigated, either on the basis of the complaint or on its own initiative.

[92] As noted in the Notice, this four part test is similar to the one used by the courts in determining whether to grant a stay or preliminary injunction. See *Fortune* v. *Molpus*, 431 F.2d 799, 804 (5th Cir. 1970); *Virginia Jobbers Association* v. *Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958); *Resident Advisory Board* v. *Rizzo*, 429 F. Supp. 222, 224 (E.D. Pa. 1977).

[93] The Commonwealth of Puerto Rico requests that we extend the policies we adopt for the 48 contiguous States to the mainland-Puerto Rico/Virgin Islands market. We have decided not to do so in this proceeding primarily because we did not propose it in the notice. We will, however, institute a separate proceeding leading toward the establishment of these policies in other ratemaking entities, including Puerto Rico/Virgin Islands.

[94] We will deal with these suggestions below.

[95] This section provides, in part, that a proponent of a rule or order has the burden of proof. Its terms, however, apply to hearings which are required by the agency's statute to be held on the record. *American Trucking Ass'n* v. *U.S.*, 344 U.S. 298, 318-320 (1953). This is not the case under the Federal Aviation Act in rulemaking proceedings such as this one. For a more complete discussion, see pages 10 through 19 above.

[96] Comments of ACTOA, pp. 3-6; oral argument of ACTOA, tr. 235. Eastern argues that without justifications, an opponent of a fare will be unable to demonstrate the unreasonableness of a fare, Comments of Eastern, p. 5; Southern makes a similar argument, Comments of Southern, pp. 5-6. Because we will allow complainants the opportunity to file replies to a proponent carrier's answer, this argument is without merit.

[97] Section 506 of the Board's Procedural Regulations (14 CFR 302.506) places the burden of going forward with the evidence at a hearing upon the proponent of a fare. We are reviewing that section in order to determine whether any change is necessary to make it absolutely clear that the burden is as we have stated.

[98] While a fare within a zone is presumed to be lawful, this presumption is rebuttable.

[99] ACTOA contends that we would ignore our ratemaking responsibilities by adopting the no-suspend zone, apparently assuming that we have established a conclusive presumption that fares within the zone are reasonable. See also comments of Eastern, pp. 11-12; comments of Southern, pp. 5-7; comments of World, p. 9. This assumption is simply wrong. We will continue to review these fares for reasonableness under the new standards as complaints are filed; and while we will consider fares within the zone to be prima facie reasonable in deciding whether to suspend them, we will conduct investigations when we believe it necessary to do so. Of course, our ceiling protects against unreasonably high fares.

[100] *FCC* v. *National Citizens Com. for Broadcasting, supra* at 2120. As noted above, an agency may develop statutory standards through the rulemaking process which are then used in subsequent proceedings. *U.S.* v. *Storer Broadcasting, supra; FPC* v. *Texaco, supra; Washington Utilities & Transportation Commission* v. *FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 838 (1975).

[101] We also will adopt our proposal amending subpart E of our procedural regulations (14 CFR 302.500) so as to allow the complaining party the opportunity to file a reply to the proponent's answer. Because no justification will be filed, a complaining party will not have the necessary information with which to file a detailed complaint until the proponent's answer. We, therefore, believe that fairness requires that a com-

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Eastern challenges our proposed standard for deciding whether to suspend a fare within the zone arguing that the four-part test is vaguely defined and impossible to prove.[102] Yet, it is no more indefinite or difficult than the test on which it is modeled, that is, the one used by the courts in determining whether to grant a stay or preliminary injunction. And, after all, a suspension is not unlike these judicial remedies. Litigants seemingly have little difficulty in arguing to a court of law that a stay or preliminary injunction should be granted; and we would expect that opponents of a fare proposal will experience little trouble in devising similar arguments to us in their complaints and replies.

Eastern also complains that our suspension standard is rather harsh, exceeding even the standards of prevailing antitrust laws. The thrust of its complaint appears to be the fact that we will consider only immediate and irreparable harm to competition as distinguished from harm to individual competing carriers in deciding whether to suspend a fare.[103] It relies on language in three cases to show that the antitrust laws are concerned with harm to individual competitors and reach discriminatory pricing that gradually erodes competiton.[104]

Eastern's reliance on these cases is misplaced. In fact, in one of the cases it cites—*Utah Pie* v. *Continental Baking*—the Supreme Court emphasized that the antitrust laws "[do] not forbid price competition which will probably injure or lessen competition by eliminating competitors, discouraging entry into the market or enhancing the market shares of dominant sellers."[105] Similarly, the 10th circuit has recently interpreted its decision in *Atlas Building Products, supra*, which Eastern cites for the proposition that Board must concern itself with harm to individual competitors, stating:

> We believe there are fundamental flaws in the trial court's application of the Sherman Act. The court's holding that [defendant's] conduct was predatory is based on its effect as a competitor rather than its effect on competition. As we said in *Atlas Building Products Co.* v. *Diamond Block & Gravel Company:* "Antitrust legislation is concerned primarily with the health of the competitive process, not with the health of the individual competitor who must sink or swim in the competitive enterprise." • • • In a two firm industry, the exclusion of one firm necessarily results in a monopoly. That does not mean the survivor necessarily violates the antitrust laws. (Footnote and citation omitted.)[106]

We therefore do not accept the contention that our suspension standard is at odds with the antitrust laws.

We also reject as premature at best the notion implied in Eastern's argument that our new policies will inevitably lead to destructive price competition or even unreasonable and unjust fares. We will, of course, closely monitor this new policy;[107] but as we explained in the notice, we do not believe the fear of destructive price competition is a realistic one in this industry. In any event, rather than prevent price competition on the basis of speculation that it will injure the competitive process, we will take action when and as harm to that process becomes imminent or actually occurs.

Finally, we admit that our suspension standard for fares within the zone may be difficult to meet. But its relative difficulty does not render it illegal.[108] Indeed, it has been purposely designed to discourage frivolous complaints. In our view, carrier managements should devote their time and energies in devising new and innovative pricing strategies for competing in the marketplace, rather than in complaining against each other's fares.

For these reasons, we have decided to adapt the suspension standards proposed in the notice.

B. MODIFICATIONS TO THE "NO SUSPEND" ZONE BELOW THE CEILING

The Board's objective in this proceeding of relaxing the pervasive regulatory control over the pricing behavior of the industry and encouraging normal-fare price competition must, of course, be balanced by our duty to insure that too rapid a transition to competitive pricing does not result in the inability of carriers in the market to provide adequate service to the public. Our no-suspend zone represents this trade-off. It is a modest transitional step from the present rigid regulatory system to a more freely competitive one.

Some of the commenters believe that we should go further, suggesting, for example, that we lower the floor or eliminate it completely, or that we tighten the standards for obtaining suspensions on grounds of unjust discrimination and undue preference and prejudice. Others argue that the zone represents too radical a step and suggest that we retrench by narrowing the zone, limiting it to discount fares, or placing restrictions on the carrier's ability to change fares within it. With the exception of lowering the floor for off-peak periods, we have decided to reject these various suggestions. Our reasons are set forth below.

1. *Level of the floor*—As explained in the notice, we have chosen a 50 percent reduction from DPFI fares as the floor of the zone because existing discount fares and intrastate fares down to and below this level have been used successfully by interstate and intrastate carriers.[109] Establishing a narrow-

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plainant be given the opportunity for reply. American (comments, p. 10), Delta (comments, p. 8), and TWA (comments, pp. 40-41) oppose this proposal because it means that the time period for complaints has to be shortened, and an opponent of a fare may not be able to prepare a meaningful complaint. However, under our new procedures, complainants will have an opportunity for reply.

[102] Comments of Eastern, p. 4. Similar arguments were raised by Allegheny (comments, p. 4); National (oral argument, tr. 122); Southern (comments, pp. 3-5); and World (comments, p. 9).

[103] Comments of Eastern, pp. 5-12. Similar objections have been raised by Allegheny (comments, pp. 4-5) and Southern (comments, pp. 3-5).

[104] *Atlas Building properties Co.* v. *Diamond Block and Gravel Co.*, 269 F.2d 950 (10th Cir. 1959), *cert. denied*, 363 U.S. 843 (1960); *Porto Rican American Tobacco Co.* v. *American Tobacco Company*, 30 F.2d 234 (2d Cir.), *cert. denied*, 279 U.S. 858 (1929); and *Utah Pie Co.* v. *Continental Baking Co.*, 386 U.S. 685 (1967).

[105] *Utah Pie Co.* v. *Continental Baking Co., supra* at 702. The court, however, went on to state that the laws establish some ground rules for the game.

[106] *Pacific Engineering & Production Company of Nevada* v. *Kerr-McGee Corporation*, 551 F.2d 790, 795 (10th Cir. 1977), *cert. denied*, 98 S.Ct. 234 (1977), *reh. denied*, 98 S.Ct. 543 (1977). See also *International Air Industries, Inc.* v. *American Excelsior Co.*, 517 F.2d 714 at 721 (5th cir. 1978), *cert. denied*, 424 U.S. 943). ("• • • [N]either the [Robinson-Patman Act] nor any social value compels the sheltering of an individual competitor, at the expense of the public interest, from the competitive process".)

[107] We, however, reject TWA's suggestion that we adopt these rules on an interim basis and at the same time institute a formal investigation of the impact they will have on the air transportation system. (Comments of TWA, pp. 25-26; reply comments of TWA, p. 4). TWA believes that these procedures are necessary so as not to run afoul of the Supreme Court's decision in *FPC* v. *Texaco*, 417 U.S. 380 (1974), which, according to it, established the doctrine that an administrative agency charged with regulating just and reasonable rates cannot sit back and leave prices to be set by market forces. Assuming that TWA's characterization of this finding in this case is correct, it simply does not follow that our new policies are inconsistent with it. The fact that we establish a prima facie zone of reasonableness for suspension purposes only cannot be equated with abandoning our ratemaking responsibilities under the Act.

[108] As we observe in the notice, the determination as to whether the Board's powers of suspension under section 1002(g) of the Act should be invoked is a matter which Congress has left to the discretion of the Board. See *United States* v. *Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U.S. 669, 690-691 (1973); *Arrow Transportation Co.* v. *Southern R. Co.*, 372 U.S. 658 (1963).

[109] Appendix C attached to the notice shows the relationship of a number of then effective discount and intrastate fares to the proposed floor and ceiling. This experience is also corroborated by studies which show that profitable operations could be conducted at fares representing reductions from the DPFI equal to or greater than the 50-percent level we have chosen. See appendix B of the notice.

er zone by raising the floor, therefore, could inhibit the offering of many fares which we know from this experience are sustainable in scheduled service, and are beneficial to the traveling public and the carriers.

Some commenters suggest, however, that we establish a higher floor,[110] arguing, generally, that it is necessary to guard against predation.[111] This argument ignores the fact that fares at or even below the 50-percent level are offered today in scheduled service, are extremely profitable and have not harmed the competitive process. It ignores, also, that our new rules provide sufficient protection against anticompetitive behavior since parties will be able to secure suspensions or investigations of fares they can show are likely to be predatory. And, in any event, we have tools to deal with predatory behavior if it occurs. Such an approach is far preferable to constricting competition from the start.

American, on the other hand, recommends that the Board not establish a floor at all. It points out that a lower limit on fares creates a natural impetus for carriers to set fares at that level, whether they are justified or not.[112]

As we discussed in the notice, a "suspend-free" zone should go as low as possible, since there are wide differences in the costs of different flights and in the nature of demand in different markets.[113] A zone of flexibility gives the carriers the ability to fine-tune their prices accordingly. Thus, American's suggestion has some appeal. Nevertheless, we believe a floor is necessary[114] as we introduce our new policies, so that we can be satisfied that the movement toward competitive pricing does not result in a deterioration in service. We, of course, do not expect it to occur; and, once we are assured by experience that fares below the floor will not lead to inadequate service, we should be able to eliminate the floor completely.

We recognize, of course, that service in many markets may be profitable at fares below this level, especially during off-peak periods. Southwest points out, for example, that it typically offers off-peak fares on a profitable basis at levels 60 to 70 percent below DPFI fares on about 40 percent of its seats.[115] It suggests, therefore, that we lower the floor of the zone for these periods.[116] We agree. Off-peak pricing will enable the carriers to increase their efficiency during these periods, thereby decreasing their unit costs and reducing the overall normal fare level. Indeed, Southwest observes that were it not for its increased productivity during these periods, its overall fare level would be significantly higher.[117]

For this reason, we have decided to widen the "no-suspend" zone for off-peak pricing, allowing the carriers the flexibility to reduce their fares down to 70 percent below the ceiling fares on 40 percent of their total weekly available seat miles. We choose the 70-percent floor and the 40-percent limit because we know from Southwest's experience that a fare structure including off-peak fares down to this level and on this share of the ASM's can be highly successful without burdening either the carrier or higher rated traffic.[118] Defining uniform off-peak periods for the entire air transportation system would be a difficult if not impossible task. Rather than attempt it, therefore, we believe it reasonable and far easier to rely upon the ratio of off-peak to total operations observed in Southwest's highly successful experience in its Texas markets.[119]

2. *Scope of the rule.*—As proposed in the notice, the "no-suspend" zone would apply to both normal and discount fares and in all markets in the 48 contiguous States. Eastern and Allegheny suggest that we limit its applicability to discount fares only.[120] This suggestion would simply maintain the status quo and is at odds with our current policies to encourage price competition in normal fares. We therefore reject it.

We also reject World's recommendation that the Board exclude markets receiving low-fare competition from the coverage of the rule.[121] Apparently, World fears that new entrants will be the target of predatory moves by incumbent carriers. Such fears are speculative at best, and we will deal with predation if it occurs. As with any competitive enterprise, World should depend upon the abilities of its management, not a Board rule that would restrict carriers' options to compete. We see no reason to shield World from the rigors of the competitive process, provided we preserve our ability and will to protect it from predation.

3. *Price competition within the zone.*—We have emphasized throughout this proceeding that the purpose of the zone is to encourage price competition by allowing the carriers the freedom to raise and lower fares within it and to experiment with various price/quality options. Some commenters, however, would have us limit this freedom.

For instance, California suggests that we closely control price increases within the zone requiring carriers to justify them. California believes that this rule is necessary to prevent predatory behavior.[122] We will not adopt this recommendation. Only through experimentation will carriers be able to respond to the demand characteristics of the market, arriving at the optimum price/service mix; and in doing so, they will necessarily make mistakes. They must have the freedom promptly to correct these errors. Otherwise, they simply might not engage in price competition at all. In any event, California's fears about predation are premature; the Board fully intends to use its suspension power to

[110] Ozark suggests a 35 percent floor (Comments, pp. 3-4); World recommends a downward zone of 30-35 percent of the DPFI level fares (comments, p. 10); Delta believes that the Board should simply announce that it would be receptive to fare reductions of 25 percent (tr 61-62); and ACTOA argues that fares should be based on fully allocated costs and that any fare more than 30 percent below the basic fare level be considered prima facie predatory (comments, appendix A, pp. 14-15). Although California supports the proposed rule, it believes that a better method for setting minima is to base them on the particular carrier's marginal costs in the market (comments, p. 4).

[111] World also recommends that the Board establish a benchmark for predation in order to protect new entrants. It suggests a rule under which any fare below average variable costs would be considered per se predatory (comments, p. 11). In a similar vein, the FTC (comments, p. 17) and ACAP (comments, p. 4) suggest that we develop standards for judging the lawfulness of fares within the zone upon investigation. We will reject these suggestions. In our judgment, such standards are best developed case by case.

[112] Comments of American, p. 6. Southwest also prefers that no explicit floor on prices be set (comments, p. 1).

[113] We emphasize that carriers will have the flexibility to offer fares within the zone directionally and by flight in individual markets.

[114] We also believe that the floor should vary with the ceiling. Therefore, we reject California's suggestion that the floor be kept at 50 percent of the current ceiling (comments of California, p. 7). On the other hand, we see no need to adopt TWA's suggestion (comments, p. 39) of forcing a carrier to raise or justify any fare that, although originally within the zone, falls below it as the ceiling increases.

[115] Comments of Southwest, pp. 1-2.

[116] Id. at p. 3.

[117] Id. at p. 2.

[118] As documented in the Board's opinion in Chicago-Midway Low Fare Route Proceeding, in the period 1972-1976 Southwest's traffic grew at a compound annual rate of 49.4 percent, its revenues increased from $5.8 million to $30 million, its net income from $−1.6 million to $4.9 million and its earnings per share from $−2.00 to $3.13. Order 78-7-40 at p. 54.

[119] Southwest also suggests that we modify the time requirements for night coach fares established in our decision in the Domestic Night Coach Fare Investigation, order 77-4-133 (reconsideration denied, order 77-6-118). There is simply no need to do so. Under our new rules, carriers will be able to offer off-peak fares during the less busy times of the day, rather than limit these fares to the hours specified in that decision.

[120] Reply comments of Eastern, p. 14; comments of Allegheny, p. 6.

[121] Comments of World, pp. 9-10.

[122] Comments of California, pp. 5-6.

prevent such anticompetitive behavior.

We also reject the suggestion of World that we restrict the ability of carriers to respond to the fares of their competitors by not allowing them to match the price without matching the service.[123] In unregulated industries, of course, companies are free to match the prices of their competitors even though they may offer a slightly different product or service. This is exactly the way competition is supposed to work and the consumer is given a wide range of price/service offerings from which to pick. Adopting a rule such as World suggests would require us to decide in practically every case whether the response of a carrier to an offering of its competitor were sufficiently close so that the same price could be charged. We believe our energies are better spent in developing policies to produce a more freely competitive airline industry. Thus, we affirm our tentative decision to allow carriers the freedom to respond competitively to the low fares of their competitors both within and below the zone.[124]

Finally, Omaha and Nashville argue that the Board must devise some mechanism for insuring that low fares are offered in all markets where they are economically justified;[125] otherwise, the Board would be ignoring its statutory responsibilities of preventing undue preference and prejudice and unjust discrimination.[126]

We recognize, of course, that a low fare offered in selected markets appears to be unfair and discriminatory to passengers in other markets. But we also know from experience that through the competitive process, these low fares tend to spread to other markets where they are economically reasonable.[127] We, therefore, do not believe it necessary to devise elaborate machinery to insure that low fares are offered in all markets where they are justified by costs; we are convinced that competition and the marketplace will achieve that result.[128]

3. JOINT FARES

In the notice, the Board proposed to modify the joint fare prescriptions set forth in phase 4 of the DPFI [129] so that the required joint fares would be based upon ceiling fares (less a terminal charge) or the sum of the actual local fares, whichever is less. While several commenters apparently support this proposal,[130] some have suggested that we should examine the question of whether our current joint fare policies are compatible with a system of fare flexibility.[131] Because we will deal with our entire policy on joint fares in the second phase of this rulemaking, we need not reach this question now. Two matters raised by the commenters require further discussion, however.

First, there appears to be some confusion about the method of division of joint fares based on the sum of the actual local fares. The local service carriers argue that the application of the current cost-prorate division formula to these joint fares produces an unfair and inequitable result, since a carrier reducing its local fare could receive more than that fare as its share of the joint fare revenue, with the other carrier receiving substantially less.[132] The local service carriers have simply misread our proposal. We never prescribed a method of division for joint fares based on the sum of the locals, preferring instead to leave it to negotiation between the carriers involved. To avoid any doubt, however, we will prescribe that, in the absence of an agreement, each carrier should receive its local fare as its share of these joint fares when they are based on the sum of the actual fares.[133]

The second issue deals with the question of the point beyond and hidden city fare construction rules now required to be used to construct joint fares.[134] An explanation of these rules (with examples) is set forth in appendix C; but, generally, they work to constrain the maximum permissible joint fares. The point beyond rule requires that a joint fare to a point cannot be higher than a joint fare to a point more distant via the same routing; the hidden city rule requires that in constructing joint fares, a carrier must use the combination of fares that produces the lowest fare regardless of routing.

We have decided to adopt policies leading toward the elimination of these rules.[135] while their use under a uniform mileage-related fare formula is perhaps logical and equitable, these rules are simply inconsistent with a policy of allowing the carriers the discretion to price their services on a market-by-market basis. Their application in a system of fare flexibility may lead to fare reductions in a large number of markets which are not related to the costs incurred in those markets. Not only could this inhibit the carriers from exercising the pricing flexibility we are extending to them, it may even reduce their ability to provide adequate service.

We are concerned, however, that the immediate elimination of these rules may lead to sudden increases in fares in many markets creating a financial burden for a great number of passengers. We, therefore, will eliminate them gradually over the next 2 years. Carriers will be required to maintain for 2 years joint fares no higher than those currently constrained by the point beyond and hidden city construction rules, except that they will be allowed to raise any of them by up to 5 percent in each year in addition to any other allowed increases (not to exceed other fare ceilings). Otherwise,

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[123] Comments of World, p. 6; oral argument of World, TR. 7-8. See also oral argument of Delta, TR. 105.

[124] A carrier will not, however, be allowed to match the fare of its competitor on short notice. See comments of TWA, p. 41. The innovator of a low-fare service should be allowed to enjoy the fruits of his innovation albeit for a short time.

[125] Comments of Omaha and Nashville, passim. They particularly oppose our intention to allow carriers to propose fares below the floor based on specialized marketing needs. While standards to judge the lawfulness of fares below the floor will be developed on a case-by-case basis, we see no need to limit the carrier's ability to offer fares to fit the peculiarities of its individual markets.

[126] On the other hand, the FTC (comments, appendix A, p. 8) and Southwest (reply comments, p. 3) fear that the Board's tightening of the standards for suspension on grounds of reasonableness may lead to increases in complaints seeking suspensions on grounds of unjust discrimination, and undue preference and prejudice. Thus, they suggest that we develop standards making it difficult for complainants to have fares suspended on these grounds. We will not do so. This rulemaking goes only to the question of reasonableness of fares within the zone; strict standards to evaluate claims of unjust discrimination and undue preference and prejudice have not been proposed, and we believe it would be unfair to adopt any in this final rule.

[127] Super Saver fares were at first limited to the New York/Los Angeles-San Francisco markets; they are now offered nationwide.

[128] In any event, fares that may be unjustly discriminatory or unduly preferential may still be suspended or investigated on those grounds.

[129] Phase 4 (joint fares), order 74-3-80 (March 13, 1975) and order 74-12-103 (Dec. 27, 1974). These joint fare prescriptions are set forth in order 74-12-103 as modified by order 75-8-126.

[130] Comments of American, p. 9; comments of Eastern, pp. 23-24; comments of TWA, pp. 36-38; comments of United, pp. 15-16; reply comments of North Central, p. 1; comments of Ozark, p. 4; and reply comments of ACAP, pp. 1-2.

[131] Comments of American, p. 9; comments of Continental, pp. 6-12; comments of Eastern, pp. 23-24; and comments of TWA, pp. 36-38.

[132] Comments of Frontier, p. 3; reply comments of North Central, pp. 4-6; and comments of the Local Service Carriers, pp. 4-8.

[133] We will reject Southwest's request (comments, p. 4) that joint fares not be required in markets where fares are at least one-third below the maximum local fares. The entire question of mandatory joint fares will be taken up in the next phase of this rulemaking.

[134] Order 74-12-103, p. 25 n. 54. Also printed in CAB DPFI vol. at 212 n. 54.

[135] Several commenters have pointed out the inequities produced from the application of these rules and requested that they be eliminated. See comments of United, pp. 15-16; reply comments of North Central, pp. 1-4; and comments of Local Service Carriers, pp. 9-12.

the point beyond and hidden city rules will not longer apply.

In sum, we have decided to adopt the joint fare policy as proposed in the notice, as modified here.[136]

D. Environment and Energy

NEPA establishes broad national goals to promote efforts for protecting and enhancing the environment. The Board, like other Federal agencies, is committed to developing and administering its policies in a manner consistent with these goals (part 312 of the Board's procedural regulations). Section 102(2)(c) of NEPA requires a detailed environmental impact statement (EIS) for every major Federal action significantly affecting the quality of the human environment. Under § 312.13, the staff must prepare an EIS when the proposed major action may reasonably be expected to have this effect.

While the Board has always considered the environmental consequences emanating from the award of new route authority (see, e.g., Chicago-Midway Low-Fare Route Proceeding, order 78-7-40), it generally has not viewed changes in fares as having any measurable environmental impact [see 312.9(a)(2)]. Nonetheless, a staff committee decided that an analysis of the environmental consequences appeared to be necessary, since the rule, by permitting the carriers to restructure their fares, could have an impact on both the volume and flow of traffic. The Board, therefore, delayed its decision until this evaluation could be prepared.

The staff, with the assistance of Greiner Engineering Sciences, Inc. (environmental consultants to the Board), has now completed this analysis and has prepared an environmental impact assessment report (report).[137] After careful review of the analysis contained in the report, the staff has concluded that the proposed DPFI rule is not a major Federal action, significantly affecting the environment.

The Board affirms and adopts this conclusion, and we incorporate by reference the report prepared by the staff into this rule.

National Airlines was the only commenter to challenge the Board's action on environmental grounds.[138] It postulates that the shift from uniform mileage tariffs to individual city-pairing pricing "accommodated to costs and densities will have enormous consequences for the structure of air transportation system" (National's comments at p. 7). National contends that the Board is obliged to consider these changes not only by sections 102(a) and 1002(e)(1) of the Federal Aviation Act, but also by the NEPA. In support of this thesis, National submitted an environmental analysis intended to demonstrate that if fares dropped 25 percent, the change in noise and pollutant emissions would exceed the thresholds established by part 312 of the Board's regulations at about 25 major hub airports.

Just what the impact of greater pricing flexibility will be on the system is difficult to predict. The analysis contained in the Report indicates that, at most, passenger traffic could increase about 13 percent as a result of this rule. This could result in a 4.5 percent increase in aircraft operations over the number likely to result from the Board's current application of DPFI. A more realistic projection based on a demand elasticity of −1.0 shows that aircraft departures should be less than they would be if the Board continued its current policy or even applied a more restrictive one. This does not mean that traffic will not increase dramatically in particular markets and possibly create additional environmental burdens at certain airports. We will, of course, closely monitor the environmental impact of these rules. Clearly, they are not irreversible and if this pricing flexibility has serious and uncorrectable environment consequences, the Board can always take remedial action. Also, as discussed in the Report, the Federal Aviation Administration, local airport proprietors and the airlines themselves can take action to reduce any adverse environmental impacts.[139] In any event, any possible negative environmental impact at certain airports is balanced by the fact that these rules will promote economic efficiency.[140]

As the Board recently pointed out in the Chicago-Midway Low-Fair Route Proceeding, order 78-7-40, July 14, 1978, much of today's system is the product of yesterday's aircraft technology reinforced by a regulatory environment that fosters service competition, which in turn creates disincentives for individual carriers to break from the pack and perhaps lose out on connecting traffic. The Board further noted that under a system of limited price competition, this concentration of operations was perfectly rational management behavior, but did not necessarily represent the best pattern of service for travelers. The experience of Southwest Airlines at underutilized airports at Dallas and Houston and the similar experience of PSA at Oakland indicate that many travellers would prefer to use less crowded and more convenient facilities. To the extent that increased service to underutilized airports reduces service to highly congested ones, it would be an important environmental benefit.

We are already starting to see the beginnings of a changing system in response to the Board's current pricing and entry policies. We have, for example, two new carriers planning to institute service at Chicago's Midway Airport, the announcement of United Airlines that it intends to establish new hubs at Kansas City and Memphis, and a recent application by Piedmont to use Nashville as a gateway hub from its points in the south to Denver, Phoenix and Las Vegas. Changes of this type will be encouraged by the DPFI revision for several reasons. First, market pricing should tend to lower fares in the long-haul dense markets. As fares in these markets go down, there will be less cross-subsidization of feeder traffic. This could lead to more nonstop service in the longer haul markets, fed by more turnaround hub-to-spoke service markets, rather than the current extended linear routings. On the other hand, service with smaller, less noisy aircraft may replace existing nonstop service with four-engine jets for that smaller segment of the market willing to pay a differential to go direct or nonstop. Second, carriers will likely shift some service to lower cost and less congested airports (secondary or satellite airports) at multi-airport communities. While consumers may have fewer connecting opportunities at these terminals, the fares should be commensurately lower.

We also anticipate a general restructuring of fares away from restrictive discounts to more generalized peak and off-peak pricing. This should tend to reduce traffic at peak hours and days, thereby relieving ground and air congestion at those times while

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[136] In conjunction with our decision to require that joint fares be no higher than the sum of the actual local fares, we will provide that in constructing joint fares, a carrier must use its lowest unrestricted fare for the same class of service in the market. When it does so, no fare which is otherwise unrestricted may be made noncombinable. This will avoid the situation where a carrier publishes two unrestricted fares in a market using the higher one for connecting passengers only.

[137] The report is being issued concurrently with this final rule. Copies will be available for inspection at the CAB's Public Reference Room, Room 710, 1825 Connecticut Avenue, Washington, D.C. Those interested persons not residing in the Washington Area may obtain a copy by sending a postcard request for PS-80. Distribution Section Publications Services Division. Civil Aeronautics Board, Washington, D.C. 20428.

[138] Comments of National, p. 8.

[139] See section VIII of the report. Because the Board is prohibited by the act from directly regulating airline scheduling or equipment used at the airports, the Board's ability to control environmental impacts is limited.

[140] We should also point out that the changes in price and service will, in all likelihood, result whether or not these rules are adopted. This is evidenced by the changes that have already taken place in the system over the last year.

prompting people to travel at less busy hours and days.

It is impossible to predict the changes that will occur across the system or at particular airports with a substantial degree of assurance. Nonetheless, certainly in the generic terms that we are evaluating here, we can reasonably conclude that a regulatory change that promotes efficiency, all else held constant, will be environmentally beneficial. This is clearly true for energy consumption.

Section 382(b) of the Energy Policy and Conservation Act (EPCA) of 1975 requires that the Board include in any major regulatory action "a statement of the probable impact * * * on energy efficiency and energy conservation." The Board's regulations implementing EPCA (Part 313 of the procedural regulations) define a major regulatory action as one that "may cause a near-term net annual change in aircraft fuel consumption of 10 million gallons or more compared to the probable consumption of fuel were the action not to be taken."

The report contains an analysis of the projected fuel consumption of the year 1980 with and without adoption of these new policies. It indicates that fuel consumption could possibly increase by approximately 415 million gallons as a result of this rule. This is based, however, on a demand elasticity of −2.0. A more realistic projection using a demand elasticity of −1.0 shows that fuel consumption would actually decline by approximately 148 million gallons if these rules are adopted.

There is little doubt that the adoption of these rules will lead to more efficient operations, and will, therefore, promote greater energy conservation. In the first place, they will promote physical efficiency—getting the maximum output from a unit of input. Price competition will raise breakeven load factors leading to more passenger miles per gallon in the long run. In the second place, these rules will lead to the most economical use of scarce resources since competition will result in prices for air transportation which reflect their marginal costs.

Finally, even if under these rules net fuel consumption should rise, this does not mean that our adoption of these rules will violate the Energy Act. Energy conservation simply does not mean nonuse, as we observed in our Midway decision: [141]

The Energy Act * * * does not suggest any such narrow conception of conservation. For one thing, Congress recognized that simple nonuse does not make sense as a social policy. Not using a particular resource is not costless; typically, it merely means using some other resource; in this sense, absolute conservation proves to be impossible. On the contrary, the only possible intelligent social policy is wise use, including a balancing of the respective values of using more today and having less for tomorrow, on the one hand, and using somewhat less today and having more tomorrow—a process that is already accomplished in the market.

* * * [I]t would obviously be totally irrational to pursue such a conception of conservation simply by prohibiting all future additional uses of fuel, while leaving all existing uses untouched. If society decides it wishes to cut back on its total use, the only rational policy would be one that scrutinized the entire range of uses, existing as well as proposed, and eliminated the ones conferring the lesser benefits while permitting the ones with the greater benefits. Such policy cannot be achieved simply by prohibiting new or additional uses. (Footnote omitted.)

For these reasons, we find that the adoption of these rules is fully consistent with the national energy policy as set forth in the EPCA.

Accordingly, the Board amends part 399 of its policy statements (14 CFR Part 390) as set forth below.

1. Section 399.31 is amended to read as follows:

§ 399.31 Domestic passenger fare-level policies.

It is the policy of the Board that the basic test of the reasonableness of the maximum level of passenger fares for scheduled services by trunk and local service carriers in markets within the 48-contiguous states and the District of Columbia is that it produces revenues sufficient to meet the costs, including a fair return on investment, of the operations of the domestic trunkline industry as a whole (as long as the bulk of the carriers fall within a reasonable range of the standard rate of return and industry data are not distorted by the results of unrepresentative carriers). The revenues, costs, and investment used to determine the reasonableness of the maximum fare level shall reflect the following policies and standards:

* * * * *

(f) Each carrier should have the opportunity to set fares in each market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70-percent level below the ceiling. Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent the following extraordinary circumstances:

(1) The high probability that the fare would be found to be unlawful after investigation;

(2) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(3) The harm to competition would be greater than the injury to the traveling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest;

(g) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level the proposed fare reductions will result in an inability of the carriers in the market to provide adequate service to the public or the fares are otherwise unlawful; and

(h) Each carrier should have the opportunity to set fares above the ceiling fares as follows:

(1) In markets where four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[142] each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(2) In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[143] each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 110 days throughout the year; and

(3) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extraordinary circumstances.

2. Section 399.33 is amended to read as follows:

§ 399.33 Domestic passenger fare-structure policies.

The Board's policy on the structure of passenger fares for scheduled services by trunk and local service carriers in markets within the 48-contiguous states and the District of Columbia is as follows:

[141] Chicago-Midway Low-Fare Route Proceeding, supra at 72-73.

[142] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[143] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

(a) Ceiling trunk coach fares [144] for trips of any given distance should be based upon the fare formula established by the Board in phase 9 of the Domestic Passenger-Fare Investigation (docket 21866-9) as adjusted by the Board's fare level standards and for cost increases; coach fare proposals priced above this ceiling or the upper limits specified under section 399.31(h) should be suspended unless otherwise justified; [145] carriers may propose fares lower than the ceiling in individual markets.

(b) Carriers should be free to set the level of first class fares; and

(c) There should be joint fares in all markets over all routings at a level not to exceed the sum of the maximum local fares permitted by this policy statement minus one tax-rounded coach ceiling terminal charge for each interline connection. All required joint fares should be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement, provided, however, that where joint fares are based on the actual sum of the local fares, each carrier should get the local fare as its share of these joint fares.

(Sec. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765 and 788, as amended; 49 U.S.C. 1324, 1373, 1374, 1482; 5 U.S.C. 555)

By the Civil Aeronautics Board.[146]

PHYLLIS T. KAYLOR,
Secretary.

[6320-01]

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1072; Amdt. No. 46; Dockets 30891, 31290]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 25, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: for the reasons set forth in PS-80, published elsewhere in this part II, the Board is modifying the fare policies developed in the domestic passenger fare investigation to allow carriers the flexibility to engage in normal-fare price competition in individual markets. In conjunction with these policies, the Board has decided to relieve the carriers from the burden of submitting economic justifications for fares filed within specified zones. This amendment of § 221.16, of the Board's economic regulations reflects that decision.

DATES: Adopted: August 25, 1978. Effective: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael B. Fingerhut, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5023.

Accordingly, the Civil Aeronautics Board amends part 221 of the economic regulations (14 CFR Part 221) as set forth below. The Board finds that because this amendment relieves restrictions on competition and public benefits will be derived from putting it into effect without delay, an immediate effective date is in the public interest.

Section 221.165 is amended by adding a new subparagraph (d)(4) to read as follows:

§ 221.165 Explanations and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) Exceptions: * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to fares for scheduled passenger service within the 48-contiguous States and the District of Columbia which are within the zones set forth under part 339.31 of this title.

(Secs. 204, 403, 404, 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765, and 788, as amended; 49 U.S.C. 1324, 1373, 1374, 1482; and 5 U.S.C. 553.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24852 Filed 9-1-78; 8:45 am]

[6320-01]

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Regulation PR-177; Amdt. No. 40; Dockets 31290, 30891]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 25, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in PS-80, published elsewhere in this part II, the board is modifying the fare policies developed in the domestic passenger fare investigation to allow the carriers the flexibility to engage in normal-fare price competition in individual markets. In conjunction with these policies, the Board has decided that fairness requires that to allow a party complaining against a fare proposed within specified zones be allowed the opportunity to file a reply to the proponent's answer. This amendment to § 302.505 of the Board's procedural regulations reflects that decision.

DATES: Adopted: August 25, 1978. Effective: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael B. Fingerhut, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5023.

Accordingly, the Civil Aeronautics Board amends part 302 of the procedural regulations (14 CFR 302) as set forth below. The Board finds that this amendment is a necessary corollary to the procompetitive policies established in PS-80. Thus, public benefit will be derived from putting it into effect without delay and an immediate effective date is in the public interest.

1. Amend the table of contents by modifying § 302.505 as follows:

Sec.
302.505 Complaints requesting suspension of tariffs—answers to such complaints; replies to such answers.

2. Section 302.505 is amended by revising paragraphs (b) and (f) and by adding a new paragraph (g) as follows:

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints; replies to such answers.

* * * * *

(b)(1) Except as provided by subparagraph (b)(2) below, as complaint requesting suspension, pursuant to sec-

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[144] The Board's policy with regard to the coach, regional or jet custom fares of local service carriers appears on §339.32 of this part.

[145] For peak fares above any of these levels, the justification should include a showing that off-peak fares are available in the market.

[146] "Appendices are on file as part of the original document. Copies will also be available for inspection at the CAP's Public Reference Room, Room 710, 1825 Connecticut Avenue, Washington, D.C. Those interested persons not residing in the Washington Area may obtain a copy by sending a postcard request for PS-80. Distribution Section Publications Services Division. Civil Aeronautics Board, Washington, D.C. 20428.

tion 1002(g) of the act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed at least thirty-three (33) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date.

(b)(2) A complaint requesting suspension pursuant to 1002(g) of the act of a fare for the scheduled air transportation of persons within the 48-contiguous States and the District of Columbia which is within the zones set forth in § 399.31 of this title, will not be considered unless made in conformity with this section and filed at least thirty-nine (39) days before the effective date of the tariff or, in the event a posting date is printed on the tariff, unless a complaint is filed six (6) days after said posting date.

* * * * *

(f) Answers to complaints shall be filed within six (6) days after the complaint is filed: *Provided, however,* That answer to complaints seeking suspension of a tariff pursuant to section 1002 (j) of the act shall be filed within five (5) calendar days after the complaint is filed: [1] *Provided, further,* That answers to complaints requesting suspension of a fare for scheduled air transportation of persons within the 48-continuous States and the District of Columbia which is within the zones set forth in § 399.31 of this title, shall be filed within seven (7) calendar days after the complaint is filed.

(g) Within seven (7) calendar days after service of an answer submitted under the second proviso in subparagraph (f) above, a complainant may file a reply to the answer.

(Secs. 204, 403, 404, 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765, and 788, as amended; 49 U.S.C. 1324, 1373, 1374, and 1482; and 5 U.S.C. 553.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24853 Filed 9-1-78; 8:45 am]

TUESDAY, SEPTEMBER 5, 1978
PART III

federal register

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

■

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority with Respect to the Comprehensive Planning Assistance Program

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-78-506]

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority with Respect to the Comprehensive Planning Assistance Program

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development is amending the redelegation of authority published February 27, 1976 (41 FR 8526) with respect to the Comprehensive Planning Assistance Program pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461), and as amended by the Housing and Community Development Act of 1974 (42 U.S.C. 5301), to facilitate the carrying out of various program requirements in the HUD area offices.

EFFECTIVE DATES: This redelegation of authority shall be effective upon publication.

FOR FURTHER INFORMATION CONTACT:

Betsy B. Tibbs or Robert Rusin, Dir. Org. and Mgmt. Div. Off. of Mgmt. Community Planning and Development, U.S. Department of Housing and Urban Development, Room 7254, Area Code (202) 755-5649.

SUPPLEMENTARY INFORMATION: A redelegation of authority from the Assistant Secretary for Community Planning and Development was publishe in the FEDERAL REGISTER February 27, 1976, at (41 FR 8526) with respect to the Comprehensive Planning Assistance Program pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461), and as amended, pursuant to the Housing and Community Development Act of 1974 (42 U.S.C. 5301), which withdrew certain authority and responsibility from the area offices and conferred the authority upon the Assistant Regional Administrators for Community Planning and Development. This redelegation of authority is thus issued to amend the February 27, 1976, redelegation of authority and to facilitate the carrying out of various program requirements in HUD area offices by authorizing the Regional Administrator, Deputy Regional Administrator, Director of Regional Community Planning and Development, each Area Manager and Deputy Area Manager, except the Area Manager and Deputy Area Manager in regions IV and VIII, to exercise the power and authority of the Assistant Secretary for Community Planning and Development. Accordingly, the Assistant Secretary for Community Planning and Development redelegates authority as follows:

Section A. Authority redelegated: In regions I, II, III, V, VI VII, IX, and X, each Regional Administrator, Deputy Regional Administrator, Director of Regional Community Planning and Development, each Area Manager and Deputy Area Manager and in regions IV and VIII, the Regional Administrator, Deputy Administrator and the Director of Regional Community Planning and Development are hereby authorized to exercise the power and authority of the Assistant Secretary for Community Planning and Development with respect to the Comprehensive Planning Assistance Program pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461) and as amended by the Housing and Community Development Act of 1974 (42 U.S.C. 5301) to:

(a) Approve grants and establish the terms thereof;

(b) Execute agreements for grants and amendments thereof;

(c) Approve requisitions for funds and third-party contracts;

(d) Approve authorizations for letters of credit and amendments thereto; and

(e) To take such action as required by statutory or administrative regulations including approval and disapproval of land use and housing elements authorized under section 600.73(g).

Each Regional Administrator is further authorized to suspend the power and authority specified in this section, of any area manager within the region through execution and publication of appropriate notice.

Section B. Authority excepted. There is excepted from the authority redelegated under section A of this redelegation the authority under section 701(f).

(Section 701, of the Housing Act of 1954 (40 U.S.C. 461), the Housing and Community Development Act of 1974 (42 U.S.C. 5301) and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., August 28, 1978.

ROBERT C. EMBRY, Jr.
Assistant, Secretary for Community Planning and Development.

[FR Doc. 78-24787 Filed 9-1-78; 8:45 am]

Federal Register

TUESDAY, SEPTEMBER 5, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Tentative Final Order

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Adminstration

[21 CFR Part 337]

[Docket No. 78N-0036]

EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Tentative Final Order

AGENCY: Food and Drug Administration.

ACTION: Tentative final order.

SUMMARY: This tentative final order contains a monograph establishing conditions under which over-the-counter (OTC) emetic drug products are generally recognized as safe and effective and not misbranded. The Commissioner of Food and Drugs is issuing this tentative final order after considering the report and recommendations of the OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Panel and public comments on the proposed rule that was based on these recommendations. This tentative final order is part of the agency's ongoing review of OTC drug products.

DATE: Objections and/or requests for an oral hearing before the Commissioner by October 5, 1978.

ADDRESS: Written objections and/or requests for oral hearing to the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 21, 1975 (40 FR 12902), the Commissioner, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), published a proposal to establish monographs for over-the-counter (OTC) laxative, antidiarrheal, emetic, and antiemetic drug products, together with the recommendations of the OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Panel (Panel), which is the advisory review Panel responsible for evaluating data on drugs in these categories. Interested persons were invited to submit comments on the propoal within 90 days. For 30 days after the final day for submission of comments, reply comments could be filed with the hearing clerk in response to comments filed in the initial 90-day period.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the office of the hearing clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, after deletion of a small amount of trade secret information.

The Commissioner presents his conclusions and recommendations for OTC emetic active ingredients in this document. The conclusions include a restatement of the Panel's recommendations and constitute the Commissioner's adoption of the Panel's findings, as modified by him on the basis of the comments and the Food and Drug Administration's (FDA) independent evaluation of the Panel's report. In addition to substantive modifications in the Panel's findings, the restatement includes changes for clarity and regulatory accuracy, and also include any new data or information that has come to the Commissioner's attention. The Commissioner advises that the conditions included in the monograph on the basis that OTC emetic drug products are generally recognized as safe and effective and are not misbranded (category I) will become effective 30 days after the date of publication of the final monograph in the FEDERAL REGISTER. The Commissioner's conclusions for laxative, antidiarrheal, and antiemetic active ingredients will be published in a later issue of the FEDERAL REGISTER.

I. THE COMMISSIONER'S CONCLUSIONS ON THE COMMENTS AND REPLY COMMENTS

A. GENERAL COMMENTS

In response to the proposal, 10 comments and reply comments were received, including 9 comments from drug manufacturers and 1 from a consumer. A summary of these comments and the Commissioner's conclusions are as follows:

1. One comment objected to the Panel's recommendation that the quantity of each active ingredient be stated in OTC drug labeling, on the grounds that section 502(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)(1)(A)) provides for quantitative ingredient labeling only for prescription drugs.

The Commissioner agrees that other than for certain specifically named substances the act currently requires quantitative ingredient labeling only for prescription drugs. The tentative final monograph does not require quantitative active ingredient labeling. However, the Commissioner advises that the Panel's recommendation is consistent with that of the National Advisory Drug Committee, which advocates that all OTC drugs be labeled with a quantitative statement of the active ingredients. It is also consistent with the recommendation in 21 CFR 330.1(j) that the labeling of an OTC product contain the quantitative amount of each active ingredient, expressed in terms of the dosage unit stated in the directions for use. Thus, the Commissioner also urges manufacturers to comply voluntarily with this recommendation because of its intrinsic merit.

2. Several comments objected to the Panel's recommendation that all inactive ingredients be listed on the labeling, arguing that such a listing would be meaningless to most consumers, confusing, and misleading.

The Commissioner advises that neither the March 21, 1975 proposed monograph nor the monograph in this tentative final order requires that all inactive ingredients be listed in OTC drug labeling. However, the Commissioner agrees with the Panel's recommendation for full inactive ingredient labeling. Consumers may need to know about the ingredients in OTC drugs because they may be allergic to certain ingredients or unable to tolerate them for other reasons. The Commissioner urges manufacturers to voluntarily list all inactive ingredients, as suggested by the Panel.

3. One comment stated that the proposed monographs violate the objectives and philosophy of the OTC Drug Review in that this Panel appeared to be intent on undermining the concept of self-medication with OTC laxatives, antidiarrheals, antiemetics, or emetics, and that the Panel failed to discharge its obligations.

The comment provides no basis for its allegations and the Commissioner rejects the comment. the Commissioner believes the Panel's recommendations and this tentative final monograph for OTC emetic drug products are fully in accord with the objectives of the OTC Drug Review to develop monographs based on the most up-to-date scientific knowledge and data available.

4. Two comments contend that FDA does not have the authority to establish substantive rules.

This subject was dealt with in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drugs published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), and the Commissioner reaffirms the conclusions stated there. Subsequent court decisions have confirmed the Commissioner's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696-98 (2d Cir. 1976).

5. Several comments urged a greater role for pharmacists in the sale of OTC drugs. One comment recommended that OTC drugs be available

only through pharmacies, and two suggested that any labeling suggesting consultation with a physician should mention a pharmacist as a viable alternative.

The Commissioner fully discussed these issues in the preamble to the proposal to revise requirements for drug interaction warnings on OTC drugs (see the FEDERAL REGISTER of June 4, 1974 (39 FR 19880)). These views will not be restated here. However, the Commissioner notes that § 330.1(g) requires that labeling for OTC drugs include a warning to seek professional assistance in case of accidental overdose. The pharmacist is one of the health professionals that a consumer might choose to consult.

B. GENERAL COMMENTS ON EMETICS

6. A comment asserted that infants under 1 year of age do not have a developed gag reflex. For infants in this age group, the comment stated that emesis should be attempted only under the supervision of a physician.

The Commissioner concurs that professional advice should be sought before administering ipecac syrup, but disagrees with the contention that a physician must be present when ipecac syrup is administered to an infant under 1 year of age. The existence or nonexistence of a gag reflex in infants has not been positively established, but the issue is irrelevant because ipecac acts directly on the vomiting reflex center in the brain to produce vomiting. More important, the Commissioner believes that the immediate availability of an emetic for use in poisoning (including in infants) is critical because rapid treatment may be the difference between life and death. The Commissioner finds that the proposed § 337.50(c)(1) (21 CFR 337.50(c)(1)) label statement warning persons to seek professional advice before administering ipecac is adequate to protect from irrational use of ipecac syrup in infants.

7. Proposed § 337.50(c)(1) contained the warning "Before using, call physician, Poison Control Center, or hospital emergency room for advice." The Advisory Review Panel on OTC Miscellaneous Internal Drug Products, while reviewing drug products for acute toxic ingestion at its meeting on May 5, 6, and 7, 1978, recommended that the word hospital be deleted from this warning because of the current trend of some emergency rooms being established outside of hospitals and because some hospitals do not have emergency rooms. the Commissioner concurs that the word hospital is not needed in this warning, and proposed § 337.50(c)(1) has been revised accordingly.

8. Proposed § 337.50(c)(2) contained the warning "Do not use in unconscious persons." The Commissioner concludes that the labeling for ipecac syrup should also warn against use in persons who are semiconscious. Proposed § 337.50(c)(2) has been revised accordingly.

9. A comment suggested that the term "gastric lavage" may not be well understood by some consumers. Even if it is understood, the comment expressed doubt that the average consumer would be able to perform the procedure. The comment asserted that the term is not appropriate on consumer labeling and that the labeling of the product should refer the consumer to either a physician or a poison control center.

The Commissioner recognizes that consumers would be unable to perform a "gastric lavage" procedure. Accordingly, the reference to "gastric lavage" has been deleted and instead the consumer is directed to call a physician, Poison Control Center, or emergency room immediately if vomiting does not occur within 20 minutes after a second dose of ipecac syrup is given.

10. At its May 5, 6, and 7, 1978 meeting, the Advisory Review Panel on OTC Miscellaneous Internal Drug Products also recommended that an additional warning be added to the labeling of ipecac syrup, i.e., "Do not administer milk or carbonated beverages with this product." Milk has been reported to reduce the effectiveness of ipecac syrup and carbonated beverages could cause distention of the stomach.

The Commissioner concurs, and proposed § 337.50(c) has been revised accordingly.

11. The Commissioner is aware that activated charcoal is recognized by some people as a general purpose antidote for drug poisoning and that some physicians may recommend its use following use of ipecac syrup. Activated charcoal adsorbs ipecac syrup and may reduce its effectiveness. The Commissioner therefore concludes that a drug interaction statement in the labeling should warn that if both ipecac syrup and activated charcoal are to be used, vomiting must be induced with the ipecac syrup before administering activated charcoal. Proposed § 337.50(d) is added to require such a statement in the "Drug Interaction Precautions" section of the labeling.

12. A comment suggested that labeling information include the need to follow the administration of ipecac with water, because emesis may not occur if the stomach is empty.

The Commissioner agrees that to obtain best results, water should be taken following the administration of ipecac syrup and has revised the directions for use in proposed § 337.50(e) (originally proposed as § 337.50(b)).

II. THE COMMISSIONER'S CONCLUSIONS ON EMETICS

A. GENERAL DISCUSSION

A notice was published in the FEDERAL REGISTER of February 8, 1973 (38 FR 3614) requesting data and information on OTC emetic drugs. No submissions were made. The Commissioner notes that although the Panel received no submissions from the pharmaceutical industry or other sources, it elected to review ipecac syrup as an OTC emetic drug. Based on the Panel review, the comments discussed above, and other data available to him, the Commissioner concludes that ipecac syrup is safe and effective when used in the recommended dose of 1 tablespoonful (15 milliliters (ml)) in persons more than 1 year of age and a dose of 1 teaspoonful (5 ml) to a maximum of 2 teaspoonsful (10 ml) in infants under 1 year of age.

B. SAFETY AND EFFECTIVENESS

An emetic is often used to induce vomiting in poisoning victims, who ingest systemic poisons, to prevent absorption of the chemicals from the gastrointestinal tract. The Commissioner concludes that the most effective and dependable emetic for such use is ipecac syrup and that it is in the interest of the public health for ipecac syrup to be readily available for sale without prescription for the emergency treatment of poisonings.

Ipecac syrup is an official article in the United States Pharmacopeia (U.S.P.) XIX and is prepared from powdered ipecac, which is obtained from the plant *Cephaelis acuminata*. The syrup contains not less than 123 milligrams (mg) and not more than 157 mg of the total ether-soluble alkaloids of ipecac per 100 ml. These alkaloids are emetine and cephaeline, and they act on the vomiting reflex center in the brain to cause vomiting.

An overdose of an ipecac preparation may cause serious poisoning. Thus, existing FDA regulations (21 CFR 201.308(c)) and the conditions to be established in this part 337 limit ipecac syrup to a 30-ml container for OTC sale.

The recommended dose of 1 tablespoonful (15 ml) of ipecac syrup for persons over 1 year of age usually induces vomiting within 20 minutes, but in the event vomiting does not occur by this time, it is recommended that the same dose be repeated once. The ipecac should be recovered by gastric lavage (stomach pumping) if vomiting does not occur after the second dose.

The Commissioner also concludes that labeling for ipecac syrup should identify the product as an emetic (agent to cause vomiting) to be used in case of poisoning and warn the user to call a physician, poison control center,

or emergency room for advice before using the product and to call immediately if vomiting does not occur within 20 minutes after a second dose has been given. To conform with existing FDA regulations (21 CFR 201.308(c)(1)), the warning is to be conspicuously boxed and in red letters. The labeling also warns against the use of ipecac in semiconscious or unconscious persons, or in cases where strychnine, corrosives (alkalies (lye) and strong acids), or petroleum distillates (kerosene, gasoline, paint thinner, or cleaning fluid) have been ingested.

The labeling for all OTC drugs used for oral administration is required to contain the general warning "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." In view of the fact that the labeling for ipecac syrup already requires a warning about contacting a physician, Poison Control Center, or emergency room (see proposed § 337.50(c)(1)), the Commissioner believes that the warning required by § 330.1(g) concerning overdoses would be repetitive and thus will not be required on the labeling for ipecac syrup.

The Commissioner advises that the existing regulation in § 201.308 will be superseded and withdrawn at the time this monograph becomes effective.

REFERENCES

1. Cashman, T. M. and H. C. Shirkey, "Emergency Management of Poisoning," *Pediatric Clinics of North America*, 17:525-534, 1970.

2. "The Pharmacopeia of the United States of America," 19th Rev., The United States Pharmacopeial Convention, Inc., Rockville, Md., p. 266-268, 1975.

3. Robertson, W. O., "Syrup of Ipecac—A Slow or Fast Emetic?," *American Journal of Diseases of Children*, 103:136-139, 1962.

4. "Handbook of Nonprescription Drugs," 5th Ed., American Pharmaceutical Association, Washington, D.C., pp. 57-58, 1977.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is issuing as a tentative final order new part 337 to read as follows:

PART 337—EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
337.1 Scope.
337.3 Definitions.

Subpart B—Active Ingredient

337.10 Emetic active ingredient.

Subpart C—[Reserved]

Subpart D—Labeling

337.50 Labeling of emetic products.

AUTHORITY: Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 337.1 Scope.

An over-the-counter emetic drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part 337 in addition to each of the general conditions established in § 330.1 of this chapter.

§ 337.3 Definitions.

(a) *Age.* Infant (under 2 years of age), child (2 years to under 12 years of age), and adult (12 years of age and older).

(b) *Emetic.* An agent that causes vomiting (emesis).

Subpart B—Active Ingredient

§ 337.10 Emetic active ingredient.

The active ingredient of the product is powdered ipecac. It is marketed as ipecac syrup, U.S.P. XIX, in the quantity of 1 fluid ounce (30 milliliters) only.

Subpart C—[Reserved]

Subpart D—Labeling

§ 337.50 Labeling of emetic products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "emetic."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase "to cause vomiting (emesis) in case of poisoning." This phrase is conspicuously boxed and in red letters.

(c) *Warnings.* The labeling of the product contains the following warnings, under the heading *"Warnings":*

(1) "Call a physician, Poison Control Center, or emergency room for advice before using, and call immediately if vomiting does not occur within 20 minutes after a second dose has been given." This warning should be conspicuously boxed and in red letters.

(2) "Do not use in semiconscious or unconsicious persons."

(3) "Ordinarily, this product should not be used if strychnine, corrosives such as alkalies (lye) and strong acids, or petroleum distillates such as kerosene, gasoline, paint thinner, or cleaning fluid have been ingested."

(4) "Do not administer milk or carbonated beverages with this product."

(5) the warning required by § 330.1(g) concerning overdoses is not required on ipecac syrup products.

(d) *Drug interaction precautions.* The labeling of the product contains the following statement under the heading "Drug Interaction Precautions": "Activated charcoal will absorb ipecac syrup. If both activated charcoal and ipecac syrup are to be used, give the activated charcoal only after successful vomiting has been produced by the ipecac syrup."

(e) *Directions.* The labeling of the product contains the following statements under the heading "Directions":

(i) *Infants under 1 year of age:* Oral dosage of ipecac syrup is 1 teaspoonful (5 milliliters) to a maximum of 2 teaspoonsful (10 milliliters) followed by ½ to 1 glass of water (4 to 8 ounces) or as directed by a physician. If vomiting does not occur within 20 minutes, the dose is repeated once.

(ii) *Infants over 1 year of age, children, and adults:* Oral dosage of ipecac syrup is 1 tablespoonful (15 milliliters) followed by 1 to 2 glasses of water (8 to 16 ounces) or as directed by a physician. If vomiting does not occur within 20 minutes, the dose is repeated once.

Interested persons may file written objections and/or request an oral hearing before the Commissioner regarding this tentative final order on or before October 5, 1978. Requests for an oral hearing must specify points to be covered and time requested. All objections and requests shall be submitted (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) to the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and shall be supported by a brief statement of the grounds therefor. Objections and requests may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the FEDERAL REGISTER.

NOTE.—The Food and Drug Administration has determined that this document will not have a major ecomomic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the hearing clerk, Food and Drug Administration.

Dated: August 25, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-24841 Filed 9-1-78; 8:45 am]

Federal Register

TUESDAY, SEPTEMBER 5, 1978
PART V

SECURITIES AND EXCHANGE COMMISSION

■

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Revision of Forms, Reports and Regulation

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5964, 34-15094, IC-10378, File No. S7-697]

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Revision of Forms, Reports, and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rule and forms.

SUMMARY: The Commission is adopting a rule and forms which create an integrated registration and reporting system designed to reduce both the number of forms and the duplicative information filed by management investment companies. Specifically, the Commission is adopting a revised notification of registration under the Investment Company Act of 1940 ("1940 Act"), new registration statement forms for registration of open and closed end management investment companies under the 1940 Act and of their securities under the Securities Act of 1933, a revised annual report form for submission of annual reports under the Securities Exchange Act of 1934 and the 1940 Act, and a new rule under the 1940 Act requiring an annual update of the 1940 Act registration statement. The Commission is also soliciting public comment on certain items in the registration statement forms which have been substantially rewritten from the version proposed for comment. In addition, the Commission is notifying registrants of its intention to make public, pursuant to requests under the Freedom of Information Act and without further notice, all information contained in part II of the current annual report form under the 1940 Act, with the sole exception of the information contained in the item relating to the 10 largest dealers in an investment company's shares.

EFFECTIVE DATE: January 1, 1979, for management investment companies registering with the Commission after that date. Effective for fiscal years ending after January 1, 1979, for those management investment companies registered with the Commission before that date. Comments on the items specified below by October 16, 1978.

ADDRESSES: Interested persons should submit their views and comments on the items of forms N-1 and N-2 specified below in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to file No. S7-697, and will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C. 20005. Registrants that object to release of the information reported in part II of current form N-1R should file their objections with Ms. Alice Latimer, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Esq., Special Counsel, 202-755-1739, or Dianne E. O'Donnell, Esq., 202-755-1796, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting:

(1) Revised form N-8A (17 CFR 274.10), a revision of the present form for notification of registration under the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a et seq. as amended by Pub. L. 91-547 (December 14, 1970));

(2) Revised form N-1R (17 CFR 249.330, 274.101), a revision of the present form used by most management investment companies for filing annual reports under section 30(a) of the 1940 Act and/or section 13 or 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq. as amended by Pub. L. 94-29 (June 4, 1975));

(3) New forms N-1 and N-2 (17 CFR 239.15 and 239.14), which are to replace existing forms S-4 and S-5 for the purpose of registration of the securities of management investment companies (other than small business investment companies) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq. as amended by Pub. L. 94-29 (June 4, 1975)). Forms N-1 and N-2 also replace form N-8B-1 (17 CFR 274.11), the present registration statement form under the 1940 Act for most management investment companies;

(4) New rule 8b-16 (17 CFR 270.8b-16) under the 1940 Act which will require submission of annual amendments of form N-1 or N-2 by those management investment companies that file form N-1R.

This release contains a summary of the integrated reporting system and an appendix which discusses the changes made to the above forms pursuant to comments received by the Commission on the proposed integrated reporting system, which was released for public comment in Securities Act Release No. 5829 (May 31, 1977) (42 FR 29716, June 9, 1977).

The text of the forms is printed in full in the SEC docket in which this release is published.

Background and Purpose

The Commission is adopting an integrated registration and reporting sytem under the Investment Company Act of 1940 and the Securities Act of 1933 for most managment investment companies.[1] The system is designed to reduce the number of filings made with, and duplicative information reported to, the commission, while at the same time improving the availability to both the public and the commission of material information about such companies.[2] The object of today's action by the Commission is to change the structure of the reporting and registration requirements to which management investment companies are subject. In the future, the Commission will propose more substantive revisions in the disclosure requirements contained within this structure.

Management investment companies currently must file a notification of registration on form N-8A under the 1940 Act (17 CFR 274.10), a registration statement on form N-8B-1 under the 1940 Act (17 CFR 274.11), and a registration statement on form S-4 (17 CFR 239.14) (closed end companies) or S-5 (17 CFR 239.15) (open end companies) under the 1933 Act. Thereafter, they must file quarterly (form N-1Q) (17 CFR 274.106), semiannual, and annual reports (a two-part form N-1R with a narrative and an EDP section (17 CFR 274.101, 101a-1 and 101a-2)) as well as proxy material, if applicable, and sales literature. In addition, open end companies making a continuous offering of their shares must normally update their 1933 Act registration statements annually.

The basic reporting requirements for management investment companies now have three areas of extensive duplication. First, the separate registration statement forms under each Act require much of the same information in different formats. Second, most of the information required in a notifica-

[1] The Commission's actions set forth herein, other than revised form N-8A, are not intended to apply to small business investment companies licensed as such by the U.S. Small Business Administration.

[2] To a large extent, the actions being taken by the Commission result from recommendations made by the SEC Advisory Committee on Investment Companies and Investment Advisers to Improve Reporting and Reduce Paperwork (December 1972).

tion of registration under section 8(a) of the 1940 Act (15 U.S.C. 80a-8(a)) (form N-8A) is repeated in the registration statement required under section 8(b) of the 1940 Act (15 U.S.C. 80a-8(b)) (form N-8B-1). Finally, the annual update of 1933 Act registration statements filed by management investment companies making a continuous offering of their shares requires disclosure of many of the same items of information required by the annual report form for management companies (form N-1R) under the 1934 Act and 1940 Act; this information is, for the most part, again included in the computerized EDP attachment to form N-1R.

The integrated registration and reporting system being adopted is based on the use of a unified registration statement form (form N-1 for open end companies and form N-2 for closed end companies) which may be used both to register securities under the 1933 Act and to meet the requirements of section 8(b) for filing a registration statement under the 1940 Act. In addition, the revised form N-8A will permit investment companies filing a notification of registration simultaneously with a registration statement to file only a short-form notification of registration. The unified registration statements will be required to be updated annually under the 1940 Act[3] and will include most of the information currently contained in registration statement forms N-8B-1, S-4, and S-5. In addition, the unified registration statements will include some of the information currently required in the narrative portion of form N-1R. Form N—1R has been completely revised in structure to make it a computerized form analogous to the current EDP attachment to form N-1R, thereby eliminating the narrative part of the form, although some exhibits may be required. Current requirements for filing quarterly and semiannual reports, as well as proxy material and sales literature, are not affected by these actions.[4]

[3] As noted below, this is a new reporting requirement for closed end companies. Open end companies, which must revise their registration statements under the 1933 Act on an annual basis in order to offer their securities continuously to the public, can simply file their form N-1 simultaneously under both the 1933 and 1940 Acts on an annual basis.

[4] The Commission is not at this time taking action on whether the information required to be filed in form N-1Q should continue to be filed on a quarterly basis. In Securities Exchange Act Release No. 14852 (June 13, 1978) (43 FR 26700, June 22, 1978) adopting rule 13f-1 (17 CFR 240.13f-1) and form 13F (17 CFR 249.375) governing reporting by institutional investors, the Commission invited comments on the usefulness, as well as the burdens and costs, of quarterly reporting. After review by the staff of the Division of Investment Management of the comments submitted on these issues, the Commission will determine whether any modifications should be made to form N-1Q.

The primary purpose of today's action by the Commission is to establish a workable structure to avoid unnecessary paperwork and duplicative reporting. The need to integrate the various registration and reporting requirements under the 1933 and 1940 Acts has been recognized since 1941.[5] Today's action achieves that important goal.

Although many commentators urged a significant reduction in disclosure requirements, generally few changes have been made in the substance of disclosure. In the future, the Commission will examine specific disclosure requirements contained in the forms now being adopted and, where appropriate, will propose substantive changes in the scope and quantity of disclosure required by these forms. In terms of method, it would appear preferable to concentrate on selected areas of related disclosures, thus avoiding a piecemeal approach of examining each item individually, on the one hand, and, on the other, the impracticality of examining all the items at once. This approach would also permit better coordination of revisions in disclosure requirements with any changes that may result from the current staff review of the regulatory structure under the 1940 Act.

The Commission expresses the hope that the substantive revisions that have been made in the forms making up the integrated reporting system will encourage increased freedom of expression and format on the part of registrants. In many cases, significant disclosure items (but not examples of "acceptable" disclosure) from the guidelines for the preparation of forms S-4 and S-5 ("S-5 guidelines") (Investment Company Act Release No. 7720, June 9, 1972) (37 FR 12790, June 29, 1972) and the guidelines for the preparation of form N-8B-1 ("N-8B-1 guidelines") (Investment Company Act Release No. 7221, June 9, 1972) (37 FR 12790, June 29, 1972) have been integrated into the forms. It should be noted that the S-5 guidelines and the N-8B-1 guidelines by their terms do not apply to forms N-1 and N-2. Thus, registrants in completing these new forms should not feel compelled to follow the "acceptable" disclosure language set forth in these guidelines. Furthermore, registrants completing new forms N-1 and N-2 will no longer be requested to include in those forms the undertaking specified in the S-5 guidelines. However, since these guidelines set forth a number of regulatory positions that will be applicable to forms N-1 and N-2, and because forms S-4, S-5, and N-8B-1 will continue to be filed until the effective date of the integrated reporting system, the Commission at this time is not withdrawing these guidelines. In addition, certain disclosure items from the checklist for forms N-8A, N-8B-1, S-4, and S-5 (Investment Company Act Release No. 5632, March 12, 1969) (34 FR 5547, March 22, 1969) have been integrated into the forms adopted today.

[5] See 7 SEC Annual Report 10 (1941).

Integrated Reporting System for Management Investment Companies

Form N-8A

Revised form N-8A, the notification of registration, is an instructional form which is structured so as to require the registrant to furnish only that information which the Commission has determined to be necessary or appropriate at the time of initial filing under the 1940 Act. An investment company filing its registration statement concurrently with its form N-8A will be required to state in the revised form N-8A only its name, principal business address and telephone number, and to indicate that a full registration statement is being filed simultaneously. Where the form N-8A is filed without the accompanying registration statement, the revised form will require some additional information. The informational requirements which have been deleted from current form N-8A have been included in the new registration statement forms.

A new instruction (instruction 6) has been added to form N-8A to put registrants on notice that the staff may take action to terminate the registration of any investment company which does not file its registration statement within 90 days of the filing of form N-8A, as required by rule 8b-15 under the 1940 Act (17 CFR 270.8b-15). The possible consequences of a failure to file a registration statement include a proceeding to revoke or suspend the registration of a registered management investment company under section 8(e) of the 1940 Act (15 U.S.C. 80a-8(e)) or deregistration of the company under section 8(f) of the 1940 Act (15 U.S.C. 80a-8(f)).

The Commission received comments from one commentator concerning the content of the proposed revision of form N-8A. The revised form adopted today contains two changes from the proposed form made as a result of comments. First, the language in general instruction 4(i) of the form has been revised to state that an investment company cannot change from the status of a diversified to a nondiversified investment company without "the vote of a majority of its outstanding voting securities." Second, a definition of the term "sub-adviser" has been added to footnote 2 of the form.

FORMS N-1 AND N-2

The Commission is adopting two new registration statement forms: (1) Form N-1 to be used by open end management investment companies and (2) form N-2 to be used by closed end management investment companies. These forms are the vehicles by which management investment companies may (a) register securities under the 1933 Act, (b) file a registration statement under the 1940 Act or (c) accomplish both of the above objectives.[6]

As with existing 1933 Act registration statement forms, new forms N-1 and N-2 consist of two parts. Part I contains the prospectus which requires most of the items of information currently required in investment company prospectuses by forms S-4 and S-5. Part II is similar to part II of current forms S-4 and S-5 and consists of a list of exhibits, list of financial statements and other information currently required in a registration statement filed by investment companies with the Commission, but not required in the prospectus. In addition, there are summary prospectus instructions.

With the exception of a few items of additional information which are included in a registration statement filed only under the 1933 Act, all management investment companies filing a registration statement with the Commission on new form N-1 or N-2 will complete both part I and part II of the forms whether they are being filed under the 1933 or 1940 Act, or both of these acts.

Forms N-1 and N-2 have been designed to give registrants increased freedom to develop their own disclosure format. Notable changes are the elimination of much of the prospectus cover page disclosure required by the "S-5 guidelines," the imposition of a requirement that a synopsis of information concerning the key investment policies, operations, and activities of the company appear in the forepart of the prospectus, and relaxation of requirements for placement in the prospectus of other information. In addition, the summary prospectus instructions no longer require that the registration statement be effective prior to use of the summary prospectus.

The new forms both include items which will require increased disclosure about investment advisers and other entities that provide services to investment companies as advisers or otherwise (item 13 in part I of form N-1 and item 15 in part I of form N-2). The public should also note that the items in the registration statement forms relating to brokerage allocation practices (item 7 in part I of form N-1 and item 9 in part I of form N-2)—which require disclosure of brokerage information substantially similar to that which currently appears in investment company registration statements—may be changed upon adoption of rules under section 28(e) of the 1934 Act (15 U.S.C. 78bb(e)), or in light of other developments in this area.[7]

Several items which now appear in form N-8B-1 have been deleted from the new registration statement forms.[8] It does not appear that the investing public needs the detailed, technical information specified in these items in order to make an informed investment decision; the information is, however, useful to the Commission in the performance of its regulatory function and most of the information is thus included in the revised computerized annual report form for management investment companies (form N-1R).

The Commission received comments from 29 commentators concerning the content of proposed forms N-1 and N-2. The registration statement forms adopted today contain a number of changes from the proposed registration statement forms. The specific changes which have been made in forms N-1 and N-2 pursuant to comments received by the Commission are discussed in the appendix to this release. There have also been some rearrangements and minor modifications of items since proposed forms N-1 and N-2 were issued for comment, which are set forth in the appendix.

RULE 8b-16

The integrated reporting system adopted today is based on the assumption that there will be annual updating of 1940 Act registration statements. This will be required by new rule 8b-16 under the 1940 Act, which provides that all management investment companies that file form N-1R must update their form N-1 or N-2 filed under the 1940 Act within 120 days of the end of their fiscal year. The main impact of this requirement will be on closed end companies, since they will now have to amend their registration statement on form N-2 on an annual basis. Because most open-end companies currently update their registration statements under the 1933 Act on an annual basis in order to be able to offer their securities continuously to the public, there should be no significant additional registration burden on them. They will simply file the update of their form N-1 simultaneously under both the 1933 and 1940 Acts on an annual basis. The annual amendments of the 1940 Act registration statements required by rule 8b-16 will permit elimination of the separate narrative annual reports currently required to be filed as part of form N-1R. The annual update required by rule 8b-16 will also help insure that the staff and the public will have access to complete and reasonably up-to-date information about all open-and closed end management investment companies registered with the Commission.

In order to lessen the increased reporting burden that may be associated with the requirements of rule 8b-16, general instruction E of forms N-1 and N-2 has been revised to make it clear that incorporation by reference of information into forms N-1 and N-2 will be allowed in accordance with rules 411, 412, 422, and 447 of the general rules and regulations under the 1933 Act (17 CFR 230.411, 230.412, 230.422, and 230.447), and rules 0-4, 8b-23 and 8b-32 of the general rules and regulations under the 1940 Act (17 CFR 270.0-4, 270.8b-23, and 270.8b-32). In general, a registrant may incorporate by reference, in answer or partial answer to any item in a registration statement on form N-1 or N-2 not required to be included in a prospectus, any information contained elsewhere in the registration statement or any information contained in other statements, applications or reports filed with the Commission. Thus, in submitting the annual updates of their form N-1 or N-2, registrants using this liberal incorporation by reference procedure will have to report only the changes that have occurred in their operations. This should significantly reduce the increased reporting burden connected with filing the updates required by rule 8b-16.

The Commission received comments from ten commentators concerning the adoption of rule 8b-16. In general, the commentators objected to the increased reporting burden which would be imposed on the investment company industry by rule 8b-16, particularly that on closed end companies. The commentators stated that the additional information which would be filed pursuant to the requirements of rule 8b-16 did not justify the additional costs which will be incurred as a result of gathering and reporting such information. Several commentators also stated that the deadline for submitting the annual update of forms N-1 and N-2 contained in proposed rule 8b-16 (90 days after the close of the

[6] Form N-1, rather than form S-14, can also be used by open end companies to register securities issued in connection with a merger. See Securities Act Release No. 5510 (July 3, 1974) (39 FR 26719, July 23, 1974).

[7] In this regard, investment companies are advised that in the near future the Commission may publish for comment proposed revisions of the items in the registration statement forms relating to brokerage allocation practices.

[8] Specifically, current items 6, 7, 20, 24, and 29 have been deleted. These were the items dealing with diversification of assets, underwriting commitments, employees of the investment company, personnel of investment advisers, and States where securities of the company may be sold.

fiscal year) did not allow management investment companies sufficient time for preparation of the necessary amendments to their registration statements. The Commission has carefully considered these comments. While recognizing the heavier reporting burden imposed by the rule, the Commission believes that the benefits resulting from the rule, particularly the increased availability of current information about closed end companies, justify its adoption. In addition, by allowing investment companies to make use of a liberal incorporation by reference procedure in meeting the requirements of rule 8b-16, the Commission has taken action to reduce any additional reporting burden to a minimum. In order to further ease the reporting burden resulting from compliance with the requirements of rule 8b-16, and to insure that all management investment companies will have sufficient time to prepare the necessary amendments to their registration statements, the Commission has decided to set the filing deadline contained in the rule at 120 days after the close of the fiscal year.

FORM N-1R

Form N-1R has been revised to develop a computerized reporting format that will generate the statistical and regulatory information needed by the staff to fulfill its regulatory responsibilities under the 1940 Act without imposing an undue burden upon the investment company industry by requiring the filing of unnecessary or duplicative information. The Commission received comments from 14 commentators concerning the content of proposed form N-1R as revised. The revised Form N-1R contains a number of changes from the proposed form. The specific changes which have been made pursuant to comments received by the Commission are discussed in the appendix to this release.

In essence, the present EDP attachment is to be substituted for the current form N-1R. The narrative reporting section of the present form has been eliminated and some of the information presently appearing in the narrative section of form N-1R, which could not easily be placed in computerized format, is now required to be set forth in registration statements on form N-1 and N-2. Narrative answers to revised form N-1R items are to be made only as exhibits in circumstances in which the answer to the computerized item indicates a possible regulatory problem or a situation that needs further explanation.

One set of audited financial statements of a registrant, filed with the registration statement or amendment thereto, will satisfy the requirements of forms N-1 or N-2 and the requirements of revised form N-1R. In responding to items in form N-1R, registrants will be free to incorporate by reference any information contained in the registration statement.

Revised form N-1R is a blank form to be filled in by the registrant. A separate instruction book will be supplied with the form. As adopted, the revised form substantially eliminates the current public-nonpublic format of form N-1R. Only the information required by Item 66 of revised form N-1R, concerning idenfication of the ten dealers selling the largest number of shares of a registrant, can be withheld as being nonpublic under rule 45a-1 (17 CFR 270.45a-1).[9] The Commission believes that this approach is consistent with the policy articulated in the Freedom of Information Act (5 U.S.C. 552), as reflected in the Commission's rules on information and requests (17 CFR Subpart D, 200.80). Although a number of commentators requested that nonpublic treatment be extended to the information required by form N-1R items concerning portfolio transactions by the registrant with brokers and dealers acting as principals or brokers, and participation of affiliated brokers and dealers in brokerage commissions on registrant's portfolio transactions (new items 30, 31 and 33), the Commission has determined to make these form N-1R items public. The allegations of harm to the competitive positions of investment companies vis-a-vis each other, and money managers other than investment companies, that would result from making these items public do not appear to justify the restriction of public access to that information.

In connection with the adoption of revised form N-1R and the elimination of the public-nonpublic format of the form, the Commission hereby notifies all registrants, as required by general instruction F of current form N-1R, that it intends to release to the public, pursuant to requests under the Freedom of Information Act, all information contained in part II of current form N-1R except item 2.28 (ten largest dealers in registrant's shares). This information will be released by the Commission without further notice to registrants. Registrants that object to release of their part II information should set forth their objections in letters to the Commission. Such letters should state the reasons why withholding this information from the public is consistent with the Freedom of Information Act and is necessary or appropriate in the public interest or for the protection of investors. Registrants' objections will be placed in the Commission's files and considered in connection with any request for public release under the Freedom of Information Act. However, registrants should note that the Commission has granted a number of such requests, notwithstanding filing of objections by registrants.

Requests under the Freedom of Information Act for nonpublic part II information which are received within 30 days after the date of this release will continue to be handled as they are now, that is, the Commission will notify registrants of the request and of its intention to release the information in order to give them an opportunity to object. It should be emphasized that this new procedure for registrants to file their objections in advance applies only to information that has been, or will be, filed on current form N-1R, not to information filed on revised form N-1R as adopted today.

Concurrently with the publication for comment of the proposed revision of form N-1R, the Commission proposed that rule 30a-1 (17 CFR 270.30a-1) under the 1940 Act be amended to reduce the filing deadline for form N-1R from the present 120 days after the close of the fiscal year to 90 days after the close of the fiscal year (Investment Company Act release No. 9783, May 31, 1977) (42 FR 29328, June 9, 1977). The Commission has decided to withdraw this proposed amendment to rule 30a-1 (Investment Company Act release No. 10379). However, the Commission has directed the staff of the Division of Investment Management to examine how the filing of revised form N-1R fits into the integrated reporting system adopted today, and after the integrated system has been in operation for a reasonable period of time, to reconsider whether the deadline for filing the form should be changed. Thus, the filing deadline for revised form N-1R will remain 120 days after the close of the fiscal year.[10]

COSTS AND BENEFITS OF AN INTEGRATED REPORTING SYSTEM

The forms adopted today constitute the cornerstone of an integrated filing

[9] Rule 45a-1, in pertinent part, provides for confidential treatment of the names and addresses of dealers to or through whom principal underwriters of registered investment companies are currently offering securities, which information is required to be furnished in periodic reports filed pursuant to section 30(a) of the 1940 Act. The Commission, in connection with its decision to retain nonpublic treatment for information in Item 66, has determined to retain rule 45a-1 at this time and thus the instructions to revised form N-1R state that the information required by item 66 will be nonpublic. A proposal to rescind rule 45a-1 may be released for public comment shortly. If in the future rule 45a-1 were to be rescinded, the item 66 information also would become public information.

[10] This, of course, should be distinguished from the filing deadline imposed by new rule 8b-16 under the 1940 Act for submission of the annual update of 1940 Act registration statements, which is also 120 days after the close of the fiscal year.

system for management investment companies. Although implementation of an integrated investment company reporting system may initially result in additional costs to both the Commission and the investment company industry, the Commission believes that the benefits of such a system to the Commission, the industry and investors will in the long run far exceed those additional costs.

From the viewpoint of the Commission, adoption of an integrated system will significantly reduce the paperwork which must be reviewed and processed. Adoption of an integrated system should also benefit the investment company industry. Once the industry becomes accustomed to operating under the integrated system, the costs of preparing the forms and reports required to be filed with the Commission should be significantly reduced. While investment companies will be required under the new integrated reporting system to update annually their registration statements, this requirement, as noted above, should impose little added burden on most open-end companies, and the additional burden imposed on closed-end companies should prove comparatively minor since, under the liberal incorporation by reference procedure, they will have to report in the annual amendment only the changes which have occurred in their operations. The industry also should benefit from having to submit only one form of annual report (a computerized document) rather than the current narrative form N-1R and computerized EDP attachment.

Adoption of the proposed integrated investment company reporting system should also benefit the investing public by improving the quality and comprehensibility of information disclosed. Requiring all management investment companies to update annually their registration statements will help ensure that accurate and reasonably up-to-date information is available to the investing public on all management investment companies registered with the Commission. Moreover, we believe that the substantive changes being made in investment company registration statements will improve the utility of the prospectus to investors. Elimination of excess verbiage and "legalese" from investment company prospectuses together with the requirement that a synopsis appear in the forepart of the prospectus should make the prospectus a more useful document to investors.

When to File

The new reporting system will become effective on January 1, 1979, for management investment companies registering with the Commission after that date. However, management investment companies registered with the Commission before January 1, 1979, must comply with the requirements of the new reporting system for the reports filed with the Commission containing information about fiscal years ending after January 1, 1979. Upon the effective date of the new reporting system, all registrants seeking to register securities under the 1933 Act or to file a registration statement under the 1940 act, or both, will be required to use form N-1 or form N-2, as applicable. In addition, when the new reporting system becomes effective, management investment companies which file revised form N-1R will have to meet the requirements of rule 8b-16. When management investment companies currently registered with the Commission become subject to the requirements of rule 8b-16, they should update their existing 1940 Act registration statements within 120 days of the close of their fiscal years on form N-1 (for open-end companies) or form N-2 (for closed-end companies). Furthermore, management investment companies currently registered with the Commission may use form N-1 or N-2 to update their existing 1933 Act registration statements.[11] Companies filing form N-1 or N-2 for purposes of updating their existing 1933 or 1940 Act registration statements will be deemed to be filing amendments to form N-1 or N-2, and should so state on the facing sheet of such form.

Request for Comment, Forms N-1 and N-2

While, as noted herein, the Commission is of the view that the changes in the forms adopted today from those published for comment in Securities Act release No. 5829 are either technical in nature or are less burdensome than current requirements, the Commission desires to provide interested persons an opportunity to comment on the requirements of items 8, 12, and 13(c) of part I and items 1(b)(14) and 8 of part II of form N-1, and items 10, 14, and 15(c) of part I and items 4(b)(15) and 9 of part II of form N-2.

Item 13(c) of part I and item 8 of part II of form N-1 and item 15(c) of part I and item 9 of part II of form N-2 specify the disclosure that should appear in registration statements of open-end and closed-end management investment companies concerning management-related service contracts under which administrative services are provided to such companies. The disclosure mandated by these items has been revised in response to comments on items 13(c) and 15(c) of part I of proposed forms N-1 and N-2, which questioned the need for the detailed disclosure specified therein in investment company registration statements. Based on these comments, significant revisions have been made in the disclosure of management-related service contracts which must appear in registration statements. The above items of forms N-1 and N-2 adopted today provide that a summary of the substantive provisions of such management-related service contracts should appear in either part I or part II of the registration statement depending on whether such contracts may be deemed material to a purchaser of securities of the registrant. A definition of "management-related service contract" has been added to clarify the types of services of which disclosure is required. Custodian, transfer agency, and dividend-paying agency services, which are excluded from items 13(c) and 15(c), are to be disclosed in item 12 of part I of form N-1 and item 14 of part I of form N-2. These items ask for disclosure of the name and principal business address of the person providing such services, with additional information required if such person is affiliated with the registrant.

Item 8 of part I of form N-1 and item 10 of part I of form N-2 specify the disclosure that should appear in registration statements of open-end and closed-end management investment companies concerning pending legal proceedings. The content of these items has been changed in its entirety in response to numerous comments on the content of the comparable items included in proposed forms N-1 and N-2. As a result of these comments, the disclosure scheme for pending legal proceedings contained in the proposed forms has been abandoned, and in its place the disclosure pattern contained in item 9 of current form N-8B-1 has been substituted. The only substantive modification made in the current disclosure requirements is that items 8 and 10, unlike item 9 of current form N-8B-1, will require disclosure of material pending legal proceedings to which the investment adviser or principal underwriter of a registrant is a party, in addition to material pending legal proceedings to which a registrant or any of its subsidiaries is a party. It should be noted that this modification of the provisions of item 9 of current form N-8B-1 was included in the pending legal proceeding items of proposed forms N-1 and N-2 on which public comments were solicited.

Item 1(b)(14) of part II of form N-1 and item 4(b)(15) of part II of form N-2 require additional exhibits to be

[11] Those registrants utilizing form N-1 or N-2 to update their existing 1933 Act registration statements should follow the two part filing procedure outlined in Securities Act release No. 5738 (September 3, 1976) (41 FR 39012, September 14, 1976).

filed as part of registration statements on those forms. In response to the comments received on item 16(a)(5) of proposed form N-1, which questioned the need for disclosure in registration statements of open-end management investment companies of the costs and fees charged in connection with retirement plans using shares of such companies as the funding medium, such disclosure has been eliminated from the information which must appear in registration statements of forms N-1 and N-2, and, in adopting these forms, the Commission has instead decided to specify only that such costs and fees be contained in model retirement plans filed as exhibits to registration statements of open- and closed-end management investment companies.

All interested persons are invited to submit their written comments on the above items of forms N-1 and N-2 by October 16, 1978. However, it should be noted that, notwithstanding the opportunity to comment on the requirements contained in the above items, all of them have been adopted today by the Commission and will go into effect unless modified prior to the effective date of forms N-1 and N-2.

CERTAIN FINDINGS

As required by section 23(a)(2) of the 1934 Act (15 U.S.C. 78w(a)(2)), the Commission has considered the impact that form N-1R adopted herein under the 1934 and 1940 Acts would have on competition and has concluded that it imposes no significant burden on competition. Furthermore, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of this form to investors and registrants.

AUTHORITY, EFFECTIVE DATE

The Commission hereby adopts forms N-1 and N-2, revised forms N-8A and N-1R and rule 8b-16, pursuant to the provisions of sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a)), sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d) and 78w(a)) and sections 8, 30, and 38(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29 and 80a-37(a)).

The Commission is aware that new reporting and disclosure provisions adopted shortly before the end of the calendar year may impose certain additional burdens on registrants. Therefore, with respect to management investment companies which have registered with the Commission before January 1, 1979, the Commission is making rule 8b-16, forms N-1 and N-2 and revised form N-1R effective only for reports filed with the Commission containing information about fiscal years ending after January 1, 1979, so that such companies will not be subject to unreasonable reporting requirements. However, those management investment companies which register with the Commission after January 1, 1979, will have to comply with the requirements of rule 8b-16, forms N-1 and N-2 and revised forms N-8A and N-1R for all reports they file with the Commission.

The Commission strongly encourages early compliance with the disclosure requirements of forms N-1 and N-2, and believes that where practicable registrants should follow the requirements of those forms prior to their effective date because of their usefulness to investors. Thus, when filing registration statements on forms S-4 and S-5 or posteffective amendments to such registration statements, registrants will be deemed to comply with the requirements of forms S-4 and S-5 to the extent they follow the requirements of forms N-1 and N-2.

The Commission finds that the changes in the forms adopted today from those published in Securities Act Release No. 5829 have already been generally subject to comment and are either technical in nature or less burdensome than current requirements so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

COMMISSION ACTION

1. In consideration of the above, part 270 of chapter II of title 17 of the Code of Federal Regulations, rules and regulations, Investment Company Act of 1940, is hereby amended by adding a new § 270.8b-16 as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§ 270.8b-16 Amendments to registration statements.

Every registered management investment company which is required to file an annual report on the form prescribed in rule 30a-2(a) (17 CFR 270.30a-2(a)) shall amend the registration statement required pursuant to section 8(b) by filing, not more than 120 days after the close of each fiscal year ending on or after the date upon which such registration statement was filed, the appropriate form prescribed for such amendments.

2. In consideration of the above, the Commission is amending and revising the following sections of part 274, chapter II, title 17 of the Code of Federal Regulations, under the Investment Company Act of 1940:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

A

§ 274.10 Revised form N-8A, for notification of registration [Amended]

(By amending (1) the facing sheet of form N-8A; (2) revising and renumbering general instructions, 1, 2, 4, and 5, and adding new general instructions 3 and 6 to form N-8A; (3) revising and renumbering items 1, 2, 3, 4, 5, 6, 7, 8, 9(a), 9(b), and 13 to form N-8A; (4) deleting items 4, 9, 10, 11(b), 11(c), and 12 of current form N-8A; (5) adding new items 9(c), 9(d), 9(e), 10, and 11 to form N-8A; and (6) revising the signature page.)

The text of the revised form is printed in the SEC Docket in which this release is published.

* * * * * *

B

§ 274.11 Form N-1, registration statement of open end management investment companies.

Form N-1 shall be used as the registration statement to be filed pursuant to section (b) of the Investment Company Act of 1940 by open end management investment companies other than companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form shall also be used for registration under the Securities Act of 1933 of the securities of all open end management investment companies. This form is not applicable for small business investment companies which register pursuant to §§ 293.24 and 274.5 of this chapter.

C

§ 274.11a-1 Form N-2, registration statement of closed end management investment companies.

This form shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by closed end management investment companies other than companies which isssue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form also shall be used for registration under the Securities Act of 1933 of the securities of all closed end management investment companies. This form is not applicable for small business investment companies which register pursuant to §§ 239.24 and 274.5 of this chapter.

§ 274.11 [Rescinded]

(Section 274.11, form N-8B-1, is hereby rescinded. The text of forms N-1 and N-2 is printed in the SEC docket in which this release is published.)

D

§ 274.101 [Amended]

Section 274.101 form N-1R, revised annual report of registered management investment companies under the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

(By amending (1) the facing sheet of form N-1R; (2) deleting all general instructions to form N-1R; (3) deleting items 1.01 through 1.33 of form N-1R, and the instructions thereto; (4) deleting part II of form N-1R, including the deletion of items 2.01 through 2.32 and the instructions thereto; (5) deleting the EDP attachment for form N-1R of registered open end management investment companies; (6) deleting the EDP attachment for form N-1R of registered closed end management investment companies; (7) adding EDP items 1 through 65 to form N-1R; (8) adding EDP item 66 (which will receive confidential treatment) to form N-1R; (9) adding EDP items 67 through 69 to form N-1R; and (10) removing all instructions in a separate instruction book. The narrative public and nonpublic N-1R forms, including EDP attachments, are hereby rescinded.)

The text of the revised form N-1R and the instruction booklet are printed in the SEC docket in which this release is published.

* * * * *

E

§§ 274.101a-1 and 274.101a-2 [Deleted]

Section 274.101a-1 and § 274.101a-2 are deleted.

3. Further, in consideration of the above, the Commission is amending and revising the following sections of part 239, chapter II, title 17 of the Code of Federal Regulations under the Securities Act of 1933:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

A

§ 239.14 Form N-2 for closed end management investment companies registered on form N-8A.

Form N-2 shall be used for registration under the Securities Act of 1933 of securities of all closed end management investment companies registered under the Investment Company Act of 1940 on form N-8A (§ 274.10 of this chapter). This form is also to be used for the registration statement of such companies pursuant to section 8(b) of the Investment Company Act of 1940 (§ 274.11a-1 of this chapter). This form is not applicable for small business investment companies which register pursuant to §§ 239.24 and 274.5 of this chapter.

B

§ 239.15 Form N-1 for open-end management investment companies registered on form N-8A.

Form N-1 shall be used for the registration under the Securities Act of 1933 of securities of all open-end management investment companies registered under the Investment Company Act of 1940 on form N-8A (§ 274.10 of this chapter). This form is also to be used for the registration statement of such companies pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11 of this chapter). This form is not applicable for small business investment companies which register pursuant to § 239.24 and § 274.5 of this chapter. (Forms S-4 and S-5 are hereby rescinded. The text of forms N-1 and N-2 are printed in the SEC docket in which this release is published.)

* * * * *

4. Further, in consideration of the above, the Commission is amending and revising the following sections of Part 249, Chapter II, Title 17 of the Code of Federal Regulations under the Securities Exchange Act of 1934.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

A

§ 249.330 Form N-1R, revised annual report of registered management investment companies under the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

(By amending (1) the facing sheet of form N-1R; (2) deleting all general instructions to form N-1R; (3) deleting items 1.01 through 1.33 of form N-1R and the instructions thereto; (4) deleting part II of form N-1R, including the deletion of items 2.01 through 2.32 and the instructions thereto; (5) deleting the EDP attachment for form N-1R of registered open-end management investment companies; (6) deleting the EDP attachment for form N-1R of registered closed end management investment companies; (7) adding EDP items 1 through 65 to form N-1R; (8) adding EDP item 66 (which will receive confidential treatment) to form N-1R; (9) adding EDP items 67 through 69 to form N-1R; and (10) removing all instructions to the items of form N-1R and enclosing new instructions in a separate instruction book. The narrative public and nonpublic N-1R forms, including EDP attachments, are hereby rescinded.)

The text of the revised form N-1R and the instruction booklet are printed in the SEC docket in which this release is published.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 28, 1978.

SUMMARY OF CHANGES [12]

FORM N-1

General Instructions

With respect to the general instructions, six changes have been made. First, a paragraph has been added to general instruction E specifying what information can be incorporated by reference into form N-1. This addition has been made to call registrants' attention to the large volume of information that can be incorporated by reference into the form. Second, the requirement that disclosure regarding tax status follow the condensed financial information (item 3) has been deleted. This deletion has been made to allow registrants more flexibility in the design and format of their prospectuses, and because there is no compelling reason for such a requirement.

The third change made in the general instructions is to add a reference to section 24(f) of the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a-24(f)) to general instruction F. 2 and 3, thereby allowing amendments to a registration statement under the Securities Act of 1933 ("1933 Act") filed on form N-1 to contain only the information specified in these instructions.

The fourth change, again made pursuant to comments, is with respect to instruction G.1.a., preparation of the registration statement or amendment. The wording of the instruction has been rearranged in order to clarify its meaning. The instruction now contains a blanket statement that the information required by the form N-1 items need not be set forth in any particular order, with two exceptions: (1) Items 1, 2, and 3 of part I must be presented in the prospectus in the same order in which those items appear in the N-1, and (2) item 3, "Condensed Financial Information," must appear with the first five pages of the prospectus, and must not be preceded by any other chart or table. An insertion

[12] Unless otherwise noted, references to item numbers are to items in the forms as adopted.

has also been made for clarification purposes that the condensed financial information may be preceded by the table of contents.

The fifth change made in the general instructions relates to instruction G.4.a., which sets forth the instructions for charts, graphs, tables, and sales literature. The instruction as originally proposed contained a reference to the *Statement of Policy of the Commission Relating to Advertising and Sales Literature Used in the Sale of Investment Company Shares* ("Statement of Policy"), to the effect that a registration statement should not contain any charts or graphs prohibited by the Statement of Policy. The reference to the Statement of Policy has been deleted because the Statement of Policy, as letters of comment noted, is a set of guidelines rather than a prohibition against certain types of disclosure formats. The language of the instruction has been revised to state that no chart or graph presented should be misleading. Finally, instructions on how to use form N-1 to register an indefinite number of shares under the 1933 Act have been added to the instructions on the facing sheet and the general instructions.

Part I

Item 1 (cover page). Three basic changes have been made pursuant to comments. Added to subpart (a) of the item, which asks for the name, address, and investment objectives of the registrant, is a requirement that the registrant furnish a brief statement as to how it proposes to achieve its investment objective(s). Second, subpart (e) of the item has been amended to allow registrants, at their discretion, to include on the cover page the name of each principal underwriter of the registrant and/or such attention-getting devices that are not misleading. Third, the reference in subpart (e) of the item to the Statement of Policy has been deleted, for the reasons set forth above.

Item 2 (Synopsis). Two phrases have been deleted from the opening paragraph of the item. The opening statement to the item, which stated that the information required by the item was to be set forth immediately following the cover page and table of contents, has been deleted since this requirement is already stated in the general instructions to the form. In addition, the instruction contained in the proposed form N-1 stating that the synopsis should be set forth "in a carefully organized series of concise paragraphs" has been deleted, in order to allow a registrant at its discretion to use a question and answer format. A reference to the question and answer format has been inserted in the last part of the paragraph in order specifically to allow such a format.

Another change made in item 2 is the omission of the requirement in subpart 2(g) that the registrant disclose the investment adviser's experience and fee schedule. This information has been deleted because it would require too much detail in the synopsis, and because such information is adequately dealt with in the body of the prospectus. Subpart 2(i), which originally called for disclosure concerning principal risk or speculative factors concerning the registrant, is further clarified so as to require disclosure of only those factors that are "peculiar to the registrant." Subpart 2(j) has been revised to permit inclusion in the synopsis of any additional material information describing the operations of the registrant that the registrant wants to highlight. The subpart originally called for disclosure of all material or unusual features that the registrant wanted to disclose.

Item 3 (condensed financial information). The instructive language as to the first five page requirement contained in subpart 3(a) was deleted to avoid duplication of the instruction already contained in general instruction G.1.d. In addition, pursuant to letters of comment which pointed out that the American Institute of Certified Public Accountants Industry Audit Guide ("Audit Guide") contained certain language to which the form N-1 should conform, lines 5 and 6, which contained the term "net realized profits," have been revised to contain the term "net realized gains." Another more significant revision in item 3 has been made, pursuant to comments which recommended conforming the audit requirements of the form N-1 to the Audit Guide with respect to the 10-year audit requirement. Pursuant to these comments, the audit period required by item 3 has been reduced to a period of not less than 5 years. However, the reduction of this audit period is not meant to encourage those registrants which currently have their item 3 information audited for more than 5 years to reduce the number of years for which such information is audited. Those portions of instruction 11 and instruction 12(a) of item 3, which deal with average net assets and portfolio turnover rate, respectively, have been modified. The new instructions contain no exception for valuation as of the end of the preceding quarter because, as a number of letters of comment pointed out, such exception is not applicable to open end investment companies. In addition, a new subinstruction 12(d) has been added specifying that short sales and put and call options expiring more than 1 year from the date of acquisition are to be included in purchases and sales for purposes of calculating portfolio turnover rate.

Item 4 (general information and history). Originally the item called for disclosure of information on the State in which the registrant "was" organized. The item has been revised to call for disclosure of the State in which the registrant "is" organized.

Item 5 (investment objectives and policies). Subpart 5(b) has been in part modified by deleting the requirement that the registrant disclose the extent to which it has engaged in activities pursuant to its fundamental policies. This deletion has been made in response to a number of letters of comment which noted the great difficulty that would be involved in summarizing this information, with little corresponding return to the investor in the way of useful information. The clause in subpart 5(b)(5) of proposed form N-1 which stated, "no information need be given in response to this item as to securities of companies whose investments in real estate are incidental to their primary line of business (i.e., banks)," has also been deleted. In addition, subpart 5(b)(1) of proposed form N-1 has been split into two parts: clause (b)(1) now asks for disclosure regarding a registrant's fundamental policy with respect to issuance of senior securities, and new clause (b)(2) requires disclosure on any particular fundamental policy with respect to short sales, purchases on margin and option writing, even though they may be considered "senior securities."

Subpart 5(c) no longer calls for a recital of the registrant's "investment activities and techniques," but now asks for a description of the registrant's "significant investment policies which are not deemed fundamental and which may be changed without shareholder approval." This change has been made because numerous commentators noted that the phrase "investment activities and techniques" was unduly vague and could not be easily defined. In addition, the instruction to this subpart has been modified to require only disclosure of the extent to which the registrant may engage in its significant investment policies. Under the new instruction the registrant is not locked into a set formula with regard to following its investment policies. In addition, a number of letters of comment properly pointed out that requiring disclosure as to the extent to which the registrant will engage in each investment policy (as the proposed form N-1 mandated) required an underlying forecast of future market conditions which was inappropriate for inclusion in a registration statement. Subpart 5(d), "Portfolio Turnover," has been revised so as to require an explanation of any sig-

nificant variation in the registrant's portfolio turnover rates over the last 2 fiscal years, and, if the registrant anticipates a significant variation in the portfolio turnover rate from that reported for its most recent fiscal year, a statement to that effect. In addition, in the case of a new registration, this subpart requires the registrant to state its policy with respect to portfolio turnover.

Item 6 (tax status). A subpart has been added which was originally placed in item 14(c), capital stock and other securities, calling for disclosure of the registrant's policy in deciding when to pay dividends from its net investment income and when to make distributions of any realized capital gains. This subpart has been moved intact from item 14(c) without any changes in its text, in response to a comment that it fit better into item 6 disclosure. In addition, item 6(a) has been revised to obtain disclosure in the case of a new registration of a registrant's proposed tax status.

Item 7 (brokerage allocation). Subpart (a)(1) of the item set forth in proposed form N-1 requiring disclosure of the aggregate dollar amount of purchases and sales of the registrant's portfolio securities other than Government securities has been deleted in its entirety. In addition, the last sentence of Instruction 1 to clause (a)(2) has been deleted because it merely repeated the requirement of the text.

Item 8 (pending legal proceedings).[13] In response to numerous comments, the Commission has chosen to abandon the disclosure pattern for pending legal proceedings contained in item 8 of proposd form N-1, and in its place to substitute the disclosure scheme of item 9 of current form N-8B-1. The only substantive modification made in the current disclosure requirements is that new item 8, unlike item 9 of current form N-8B-1, will require disclosure of material pending legal proceedings to which the investment adviser or principal underwriter of the registrant is a party, in addition to material pending legal proceedings to which the registrant or any of its subsidiaries is a party. As a result of this change, registrants should be able to provide the information requested by this item with a minimum of difficulty.

Item 9 (control persons and principal holders of securities). The last part of subsection (a), requiring disclosure of the basis of control by parents of each control person and the basis of control by the parent of each parent, has been deleted. In addition, clause (ii) of the definition of control set forth in the instruction to subpart 9(a) has been revised to read "the acknowledgement or assertion by either the controlled or controlling party of the existence of control."

Item 10 (directors, officers, and advisory board members). An additional instruction has been added to obtain disclosure of those directors who are interested persons of the registrant within the definition of section 2(a)(19) of the 1940 Act (15 U.S.C. 80 a-2(a)(19)). This instruction was added in response to a comment noting that this information is appropriate for prospectus disclosure. In addition, the item has been revised to require disclosure of "officer" positions instead of "executive officer" positions, in response to a comment that the same terms should be used throughout the forms. Furthermore, column No. 4 in the table required by item 10 has been deleted, and in its place subpart (b) has been added to the item, requiring a description either in the table or in separate text following the table of any positions held with affiliated persons or principal underwriters of the registrant by each officer, director, and member of the advisory board.

Item 11 (remuneration of directors and others). Disclosure concerning officer remuneration has been limited to the three highest paid officers. The purpose of this change is to bring the item into line with current Commission disclosure practice, as evidenced by other registration statement forms currently in effect.[14] The other change has been the deletion of subpart 11(c) which called for disclosure of remuneration for each principal underwriter. This change was made because the subpart was duplicative of disclosure already called for in item 16 of the form.

Item 12 (custodian of portfolio securities, transfer agent, and dividend-paying agent). The item no longer calls for a description of the services to be provided by a depository if, in fact, the registrant's custodian arrangements authorize the use of a central depository. This was accomplished by the deletion of old instruction 1 in the form. Letters of comment properly pointed out that the mere authorization in the custodian agreement of a central depository is not per se a material fact. Second, the item has been modified to require disclosure about transfer agents and dividend-paying agents similar to that required of custodians. This change was made because it was believed that this information was material to investors, and it was required nowhere else in the prospectus.

Item 13 (investment advisers). Several changes have been made to subpart 13(a)(2). The requirement that the adviser disclose the number of years it has been in the advisory business, the total amount of assets it managed, and the type of portfolios it managed, has been deleted. This deletion has been made because such disclosure could be misleading with regard to new investment advisers with experienced personnel but no business history. Second, since the item still requires a brief description of the adviser's business history and experience, an instruction has been inserted to allow an adviser which has been organized within the last 2 years to note this fact in lieu of a description of its business history. This instruction allows new investment advisers to avoid negative disclosure with regard to the lack of business history. The disclosure required by clause (a)(2) with respect to control persons of the investment adviser has been moved to new clause (a)(3). Old clause (a)(2) required disclosure of how each controling person of the registrant's investment adviser was controled by its immediate controling person; this requirement has been deleted in new clause (a)(3). In addition, clause (a)(4) and the instruction thereto have been revised because the second sentence of the instruction repeated the requirement of the text. Subpart 13(a)(6) has been revised to obtain specific disclosure of all offsets or credits that are applicable to the investment advisory fee. This revision will act to expand the disclosure of offsets or credits to advisory fees beyond disclosure of expense limitations, since as was noted by some commentators, expense limitations are not the only offsets or credits that can be applied against advisory fees.

Subpart 13(c), which originally called for a summary of the material provisions and purposes of any management-related, bookkeeping, or similar service contract between the registrant or any other person performing such contract, has been revised. The new subpart 13(c) requires a summary of the substantive provisions of any management-related service contract "which may be material to a purchaser of securities" and which is not discussed elsewhere in part I of form N-1. The item calls for a statement of the parties to the contract, the total dollars paid and by whom, for the last 3 fiscal years. An instruction has been added to the item which defines the term "management-related service contract." The definition includes in the term most functions associated with the daily administration of a fund, but specifically excludes contracts to provide investment advice,

[13] The Commission solicits additional public comment on this item.

[14] It should be noted that the Commission has recently published for comment proposed amendments to its forms and rules which would revise the required disclosure relating to management remuneration. See Securities Act Release No. 5950 (July 28, 1978) (43 FR 34415, August 3, 1978). These proposed amendments are not applicable to the forms adopted by the Commission today.

custodian, transfer agency services, or dividend disbursing functions. Legal and auditing services are also excluded, as are bona fide contracts for personal employment entered into with the registrant in the ordinary course of business. Finally, no information need be given in response to the item with respect to the services of mailing proxies or periodic reports to shareholders of the registrant.[15]

Revisions have also been made to subpart 13(d). This subpart calls for disclosure of information pertaining to individuals) other than the investment adviser, directors, or officers) who regularly furnish investment advice to the registrant, and has been modified in part to conform to the language in section 2(a)(20) of the 1940 Act (15 U.S.C. 80a-2(a)(20)), which defines the term "investment adviser" of an investment company. It should be noted that information regarding the registrant's investment adviser is not required under this subpart because item 13(a) calls for disclosure of appropriate information regarding such adviser. Item 13(d)(3) has been revised to require that remuneration for individuals described in item 13(d) be disclosed for the previous 3 fiscal years.

The instruction to item 13(d) states when information need not be included in response to the item. New subparts (iii)-(v) have been added to the instruction to exempt companies which are excluded from the section 2(a)(20) definition from having to make the disclosure specified in this item. This exemption was added pursuant to letters of comment which noted that exemptive language to this effect was included in item 1.24 of the form N-1R, the item on which item 13(d) is based.

Item 14 (capital stock and other securities). Pursuant to a number of letters of comment, the negative disclosure requirements contained in the proposed form with regard to stock rights have been deleted. This change was made because negative disclosure in this regard did not appear useful to investors. In addition, an instruction has been added to the item pointing out that disclosure regarding conversion rights, sinking fund provisions and liability to further calls or to assessment by the registrant will be applicable only to those companies which have received orders of the Commission exempting them from the provisions of section 18(f) of the 1940 Act. Furthermore, as pointed out under item 6 above, instruction 3 in item 14 of the proposed form, calling for disclosure of information concerning the registrant's dividend policy, has been moved to item 6.

Item 15 (pricing of registrant's securities). The obligatory language of item 15(c) requiring the registrant to disclose to investors that there will be charges for the sale of its shares through broker-dealers has been changed so that the registrant will state only that charges "may be made" for such sales. This revision was made pursuant to a number of letters of comment which noted that, while a registrant can state that a redemption fee is or is not charged, the registrant does not have access to information concerning what brokers charge their clients. Accordingly, it has been determined that such third-party arrangements and costs should not be subjects of required disclosure.

Item 15(d) originally required registrants whose securities are traded in the marketplace to describe the procedure to be followed by the investor in making a determination to sell his shares in the marketplace or to sell them back to the registrant directly (redemption) or indirectly (repurchase). This item has been deleted pursuant to several letters of comment. The commentators noted that securities of open end investment companies are not traded in the marketplace. In addition, it was argued that registrants should not be required to give advice to investors on whether or not to redeem their shares, since registrants have no knowledge of an individual shareholder's investment needs or desires.

Item 16 (general information as to plan of distribution). Item 16(a)(3), requiring disclosure of the aggregate dollar amount of underwriting commissions, has been revised to require disclosure of the amount of commissions retained by the principal underwriter for each of the last three fiscal years. Item 16(a)(5), which requires disclosure concerning fund retirement plans, has been modified pursuant to letters of comment to require only a statement by the registrant as to where further information on such plans can be obtained. A new instruction has also been added to subpart (a) of the item to require disclosure with respect to withdrawal plans of the minimum purchase requirement for shareholders who seek simultaneously to purchase additional fund shares while having a withdrawal plan in effect. Subpart (b) and the instruction thereto have been rewritten to eliminate the second sentence of the instruction, which repeats the text. Finally, the requirements of subpart (c) of this item have been revised to require the information requested therein only for principal underwriters who are affiliated persons of the registrant or affiliated persons of such affiliated persons.

Item 17 (financial statements). First, the reference to article 6 of regulation S-X in the lead paragraph of the instructions to this item has been deleted. Second, paragraph (d) of instruction 16 has been deleted since the information contained in that paragraph is set forth in the lead paragraph of the instructions to this item.

Part II

Item 1 (financial statements and exhibits). Copies of all powers of attorney are no longer required to be filed as exhibits to the form. Copies of all model retirement plans with which the registrant offers its securities (such model plans to disclose the costs and fees charged in connection with such plans) are now required to be filed as exhibits.[16] The former change was made because rule 402(c) under the 1933 Act (17 CFR 230.402(c)) currently requires powers of attorney to be filed with the registration statement. The latter change came as a result of the above revision to item 16(a)(5) of part I with respect to retirement plan disclosure. The new filing requirement for retirement plans will allow the staff to evaluate proposed retirement plan disclosure more thoroughly. In addition, opinions, appraisals, and rulings and consents to the use thereof which were relied on in the preparation of form N-1 now must be filed as exhibits only if they were also required by section 7 of the 1933 act (15 U.S.C. 77g) (item 1(b)(11)).

Item 3 (number of holders of securities). The item as proposed required disclosure of the number of beneficial holders of the registrant's securities. As a result of a number of letters of comment indicating that this information may not be available to registrants, and since deletion of this information from the form would not adversely affect the work of the staff of the Commission, this requirement has been deleted from the item.

Item 6 (principal underwriters). A new subpart, item 6(c), requires disclosure of certain information respecting all commissions and other compensation received by each principal underwriter who is not an affiliated person of the registrant or an affiliated person of such an affiliated person. This item specifically requires disclosure of all compensation received by such persons, directly or indirectly, from the registrant during the last fiscal year. In addition, item 6(c) includes an instruction which requires information on the nature of the services rendered for the compensation discussed in the item. This item was originally part of item 16 of part I.

Item 8 (management services). New item 8 has been added to obtain the disclosure concerning management-related service contracts which was

[15] The Commission solicits additional public comment on this item (item 13(c)).

[16] The Commission solicits additional public comment on this item (item 1(b)(14)).

originally required in item 13(c) of proposed form N-1. Item 8 requires a summary of the substantive provisions of any management-related service contract under which services are provided to the registrant, which is not discussed in part I of form N-1 because such contract is not believed to be material to a purchaser of securities of the registrant. The item requires disclosure of the parties to the contract, and the total dollar amounts paid and by whom, pursuant to such contract for the last 3 fiscal years.[17]

Item 9 (undertakings). Undertaking (b) contained in item 9 has been revised to require that the posteffective amendment specified therein be filed within 4 to 6 months from the effective date of the registrant's 1933 Act registration statement. The language of the instruction to this undertaking has also been revised to clarify the fact that the financial statements included in such posteffective amendment should be as of and for the time period reasonably close or as soon as practicable to the date of the amendment.

FORM N-2[18]

Part I

Item 1 (cover page). As proposed, item 1(i) required disclosure of the name and address of each principal underwriter of the registrant. This requirement has been revised to eliminate disclosure of the address of each principal underwriter.

Item 2 (synopsis). As proposed, item 2(c) requested information on the extent of and marketplace for registrant's securities. This requirement has been revised so as to request a brief description of the principal trading market for the registrant's securities and, if available, the weekly trading volume of the registrant's securities on such principal trading market during its most recent fiscal year. Comments were made that the meaning of the term "marketplace" was unclear and could be construed to mean that all trading markets for registrant's shares should be listed, which would be inappropriate for the synopsis, and that the term "extent of * * * the marketplace" could be construed as requiring registrant to furnish historical periodic volume data, which might not be available if registrant's shares are traded on the over-the-counter market.

Item 4 (plan of distribution). Subsection (g) has been added to item 4 in order to require that closed end management investment companies make the same disclosure as open end companies regarding retirement plans using their shares as the funding vehicle.

Item 5 (use of proceeds). The phrase "although details of proposed expenditures need not be given" has been added to the end of the item, since this language appears in the comparable item in current form S-4, and the comment was made that its deletion from form N-2 might give rise to the inference that disclosure of such details was required.

Item 6 (general information and history). Subsection 6(d) has been amended to require disclosure of the per share high and low market price and per share high and low net asset value by quarters for the last 3 fiscal years. This change was made pursuant to a comment that the requirements of the market price and net asset value disclosure originally called for was not clear.

Item 17 (capital stock). A new instruction 1 has been added to item 17(a), calling for only a "brief summary" of the pertinent provisions of the governing instrument from an investment standpoint rather than a complete legal description of the rights and restrictions of the various classes of stock. This instruction was added because it currently appears as an instruction to item 26 of form N-8B-1, and its omission from the comparable item in form N-2 might give rise to an inference that such a "complete legal description" was required by the item. In addition, instruction 1 to item 17(b) in proposed form N-2 has been moved to item 17(a), and appears there as instruction 2. Finally, instruction 2 to item 17(b) in proposed form N-2, stating that "a negative response is required if any of the above rights or restrictions do not apply to any class of stock," has been deleted, and in its place subsection (a)(2) has been added to the item stating that registrants need only respond to the applicable items. It was believed that no useful purpose would be served by requiring negative disclosure concerning those items of information.

Item 18 (long-term debt). Subsection (a)(2) has been revised to delete the phrase "with respect to any lien" from the wording of the subsection, in order to clarify the disclosure required by this subsection.

Item 19 (other securities). The wording of the item has been revised to require disclosure of the "terms" of any class of other securities of the registrant rather than disclosure of the "rights evidenced" by such other securities, in order to clarify the disclosure required by this item.

FORM N-1R

General instructions (definitions). A definition of "money market fund" has been added, pursuant to a comment that the concept needed definition. The definition was added here because the term is used in several places in form N-1R (e.g., instructions to items 37 and 40). "Money market fund," for purposes of form N-1R, is defined as any open end management investment company which invests primarily in short-term debt securities (debt securities with maturities of 1 year or less), and has an investment objective of high current yield consistent with preservation of capital (or a substantially similar objective).

Item 1 (classification). Several changes have been made in this item as a result of comments that this item is an area in which greater specificity was required. A category for municipal bond funds and a reference to the definition of "money market fund" in the general instructions have been added to item 1 and the instructions. In addition, the separate categories for issuers of variable annuities and issuers of variable life insurance have been combined into one, separate account of insurance companies, because two categories for insurance products appeared unnecessary.

Item 2 (diversification of assets). As a result of comments, statements about the satisfaction of diversification requirements by diversified investment companies now need only be made as of the end of any quarter during the fiscal year, rather than at all times during the fiscal year. In addition, item 2(b) has been changed so as to require an answer only if the answer to item 2.a.(2) is in the affirmative. This change has been made because it was believed that departure from the diversification requirements normally takes place only as a result of an acquisition of securities or other property, and only then will the information in item 2.b. be of any regulatory value. In addition, the term "company" has been changed to "issuer," as a result of a comment that the term "issuer" was more accurate. Finally, item 2.c. has been revised so as to require disclosure of the date when a registrant first acquired more than 5 percent of the outstanding voting securities, directly or indirectly, of an issuer.

Item 3 (condensed financial information) (in form N-1R as proposed). A review of the necessity of inclusion of the per share information item in revised form N-1R was made as a result of comments. In light of the cost to registrants of preparing the information specified in the item, compared to its benefit to and use by the Commission, the staff and the public, the item has been deleted. It should be noted,

[17] The Commission solicits additional public comment on this item.

[18] This summary of changes analyzes those changes made only to form N-2, not those changes common to both forms N-1 and N-2.

however, that even though most of the information shown in the item is also contained in form N-1 or N-2, not all of it is duplicative—the basis on which most commentators requested deletion. Nevertheless, it was felt that the item could be deleted in its entirety without adversely affecting the ability of the Commission and the staff to fulfill their regulatory responsibilities under the Federal securities laws.

Item 4 (directors, officers, and members of advisory board). The term "statutory provisions" has been added to the note to the instruction to item 4 as an acceptable explanation to an affirmative answer to this item.

Item 7 (indebtedness of officers and certain noninterested directors to certain other persons). The phrase "during the fiscal year" has been added to this item pursuant to comments that the reporting period of this item was unclear.

Item 10 (remuneration received by registrant's directors, officers, and advisory board members). The term "dividends" has been deleted from the definition of remuneration in the Instructions to this item, pursuant to a comment.

Item 11 (remuneration of certain affiliated persons acting as agent in property transactions or as broker in securities transactions). The phrase "to the knowledge of the registrant" has been added to item 11.c. pursuant to comments that the registrant should not be held to knowledge of whether the compensation in question was paid to any affiliated person of the registrant or any affiliated person of such person by a person other than the registrant.

Items 13 and 14 (joint enterprises involving registrant or a controlled company and transactions between registrant and certain affiliated persons of directors or officers of registrant's investment adviser or principal underwriter). The term "affiliated person" has been substituted for the term "affiliated company" in both the items and the instructions thereto.

Item 15 (direct or indirect ownership which certain affiliated persons of the registrant had during the fiscal year in registrant's investment adviser, principal underwriter, or certain broker-dealers). A new symbol "DT" has been added to the last paragraph of the instructions to this Item to cover holdings in convertible debt securities.

Item 20 (investment advisory contract and fees). A new subsection c. has been added requesting specific information concerning any limitation on expenses to which the registrant may be subject, as a result of comments that subsection c in the proposed form N-1R would not obtain complete information concerning the registrant's expense limitation. In addition, subsection b has been revised to reflect the fact that expense limitation provisions can be based on a fixed amount as well as on a percentage limitation.

Item 21 (entry into or renewal of investment advisory contract). Subsection e., on the beginning and ending dates of the period for which the contract was renewed, has been deleted because this information was believed to be of slight regulatory value. In addition, a comment was received to the effect that often such contracts are renewed without the specification of such dates.

Item 23 (services supplied by investment adviser). Several changes have been made in this item as a result of comment. First, items 23. a. and b. have been revised to read "wholly or in substantial part" so that the item could be covered in the auditor's report. Second, subsections a. (4) and (5) have been rewritten to make it clear that information as to independent auditors and outside counsel, respectively, was sought by the Item. Third, a new subsection (9) has been added for salaries of registrant's noninterested directors, and the word "interested" has been added to subsection (8). Finally, the phrase "who are not directors" has been added to subsection (10) in order to make clear that this subsection does not duplicate the services covered by subsection (8).

Item 24 (direct or indirect ownership interest which certain affiliated persons of the registrant's investment adviser had during the fiscal year in registrant's investment adviser, principal underwriter, or certain broker-dealers). A new symbol "DT" has been added to the last paragraph of the instructions to this item to cover holdings of convertible debt securities.

Item 25 (management-related services). Several changes have been made to this item to make it consistent with comparable items in the registration statement forms (items 13(c) of part I and 8 of part II in form N-1, and items 15(c) of part I and 9 of part II in form N-2). Briefly, the term "administrative, bookkeeping, and similar services" has been changed to "management-related services" and the item has been renamed accordingly. The definition of "management-related services" in the instructions tracks the language of the definition in instruction 1 to items 13(c) and 15(c) in forms N-1 and N-2, respectively.

Item 26 (other persons furnishing investment advice) (in form N-1R as proposed). After reviewing the need to obtain the information specified in this item, it has been decided that this item could be deleted from the form without adversely affecting the ability of the Commission to fulfill its regulatory responsibilities under the Federal securities laws.

Item 27 (portfolio trading practices). The definition of "repurchase agreement" in the instructions has been revised as a result of a comment that the definition in the revised form N-1R as proposed was unnecessarily restrictive. As amended, the definition includes such agreements with any person and does not specify the type of securities subject to repurchase agreements or the motive behind such agreements.

Item 29 (purchase and sale transactions within 6-month period) (in form N-1R as proposed). This item has been deleted in its entirety. Many commentators questioned the continued regulatory value of this item in view of negotiated brokerage commissions and the lengthening of the holding period for long-term capital gains in the Internal Revenue Code. Based on the comments, it has been determined that the recordkeeping burden of the item exceeded its continued utility.

Item 32 ("restricted securities"). Pursuant to a comment, a symbol for straight debt security has been added to the instructions for the chart.

Item 37 (monthly sales of registrant's shares, dividends, capital gains, and other distributions). Pursuant to a comment, additional instructions for money market funds declaring daily dividends have been added, permitting such funds to include the capital gains portion of monthly distributions in the total for the month under column (C) and permitting them to complete column (D) with the word "daily." Also pursuant to a comment, an instruction has been added to the effect that shares issued in payment of distributions are not considered sales for purposes of this Item.

Item 39 (confirmations, share balance statements, and other communications). As a result of a comment, language has been added to this item clarifying the meaning of the phrase "other designated persons" as persons "acting as agent of the registrant or involved in a distribution of shares to the public on behalf of the registrant." In addition, the sentence "if registrant acts as its own underwriter or distributor, it must send confirmations of transactions in its shares in order to avoid being deemed an underwriter for purposes of the act" has been deleted from the instructions to the item, as it does not assist a registrant in answering this item.

Item 40 (dividends or distributions requiring a written statement to shareholders of registrant). The item has been divided into two subsections: (a) Was the payment or distribution accompanied by a written statement disclosing the source thereof; (b) was the payment or distribution accompanied by a written statement otherwise com-

plying with the provisions of rule 19a-1 under the 1940 Act (17 CFR 270.19a-1). This change was made so that the auditor's report would cover only subsection (a), and not be required to extend to the legal determination of subsection (b). In addition, a sentence has been added to the instructions to this item stating that money market funds which declare dividends daily will be deemed to meet the reporting requirements of rule 19a-1 under the 1940 Act if they send the required source notice on a quarterly basis.

Item 47 (employees). The caption of the item contained in revised form N-1R as proposed, "employees of registrant," has been revised to read "employees," to describe more accurately the information requested in this item.

Item 55 (securities of registrant registered on a national securities exchange or listed on NASDAQ). The designation of exchanges set forth in the instruction to the item has been revised to contain a current listing of exchanges.

Item 56 (sales, redemptions, and repurchases of securities) (open end companies). In subsection d.2., the term "forced" redemptions has been changed to "involuntary" redemptions, pursuant to a comment that the meaning of "forced" in this context was not clear. In addition, a sentence has been added to subsection (a) of the instructions to the item stating how registrants which have registered an indefinite number of their securities under rule 24f-2 of the 1940 Act (17 CFR 270.24f-2) should report that fact.

Item 60 (pricing of registrant's shares for distribution, redemption, and repurchase). The phrase "to the knowledge of the registrant" has been added to the item, as a result of a comment that the registrant may not be aware of pricing practices followed by persons other than the registrant.

Item 63 (sales load and distribution information). The wording of subsection e. of the item has been revised to clarify its meaning. In addition, subsection 63f., which requested information as to the approximate percent of shares sold to the public through dealers, retail sales staff, by registrant, through voluntary accumulation plans, or others, has been deleted because the information was thought to have slight regulatory value. This subsection was also the subject of a comment that the specified categories were not mutually exclusive and would total more than 100 percent, thereby rendering the information meaningless.

Item 64 (Entry into or renewal of principal underwriting contract). Subsection e., on the beginning and ending dates of the period for which the contract was renewed, has been deleted because this information was believed to be of slight regulatory value. In addition, a comment was received to the effect that often such contracts are renewed without the specification of such dates.

Item 67 (direct or indirect ownership interest which certain affiliated persons of the registrant's principal underwriter had during the fiscal year in registrant's investment adviser, principal underwriter, or certain broker-dealers). A new symbol "DT" has been added to the last paragraph of the instructions to this item to cover holdings of convertible debt securities.

Report of independent public accountants. There has been a significant reduction in the number of items contained in the form which are required to be reviewed and reported upon by the accountant. This was precipitated by the statement made by a number of commentators that the proposed revision of form N-1R significantly increased, for no apparent reason, the number of items upon which the accountant was to review and report. However, the proposed revision of form N-1R reflected the view that the cost to the registrant of this increase in the work of the independent accountant was offset by the potential benefits of having the independent accountant specifically review and report on the additional items. The Commission, after consideration of the above comments, has decided to reduce the reporting requirements of the accountants. There were objections to the inclusion in the accountants' report of 27 of the 71 items contained in the form. Changes to the items specified in the independent accountants' report because of the above objections resulted in the elimination from the report of a significant number of those items, in whole or in substantial part.

Two arguments were made most frequently as grounds for requesting that specific items not be reported on by independent accountants. One was that the accountant was being asked to make a legal determination; the other was that the review of the financial statements and the present review of the form N-1R did not embrace information or review sufficient in scope to enable the accountant to express an opinion on the required information. These comments prompted the staff to review the items in the form which were proposed to be subject to review and report by the accountant. This review resulted in the elimination from the audit report of the following items: 3, 4, 11, 12, 15, 17(b), 20(f), 20(g), 21(a), 21(c), 21(e), 21(f), 23, 42, and 67.

While there should be concern with any increase in audit responsibility by the independent accountant, the Commission is of the view that audits of financial statements are not performed in a vacuum. Therefore, various items, though not strictly financial statement-oriented, are not only auditable but also available to the auditor as a logical and sometimes necessary extension of the audit tests performed to render an opinion on the financial statements. For example, an objection was made that item 6 (indemnification of directors or officers) would require not only a legal determination but a test of all transactions to determine whether any such payments were made. The Commission believes that generally accepted auditing standards should uncover those transactions which would result in answers to this item.

Where commentators suggested wording changes in specific items so that the independent accountants could include those items in their report, such an accommodation was made, as in, for example, item 40. Where an objection was made by commentators that specific information in the form was largely statistical and of questionable regulatory value (though its susceptibility to audit was not questioned), the staff closely reviewed the items. This resulted in the elimination from the audit report of a number of the questioned items, such as items 27, 30, 31, 47(a)(1), and 63(c)-(h).

Signature. In response to a comment, the form of signature has been revised so as not to require the chief executive officer of the registrant, depositor, or trustee to sign form N-1R. As revised, any person authorized to do so may sign the form on behalf of the registrant, depositor, or trustee.

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